

**MEMBERS PRESENT:** Chairman Laurie Robinson, Patrick Reading, Michael Solis, Bob Setschinsky and Patricia Hayn;  
**Selectman's Liaison:** Stan Soby; **Staff:** Craig Grimord, Assistant Town Planner/Zoning Enforcement Officer; Gail Therian, Clerk

**MEMBERS ABSENT:** None

1. CALL MEETING TO ORDER.

Chairman Robinson called this meeting to order at 7:00 p.m.

2. ADDITIONS TO AGENDA None

3. PUBLIC HEARINGS -

- A. ZBA#11-001, Leonard & Karen Przekopski, Applicant/Owner, for property located at 36 Pine Road, Tax Map # 05-14, Lot #009-000, R-60 Zone, at the South West corner of the intersection of Pine Road and Pine Brook Road. Applicant is appealing the decision of the Zoning Enforcement Officer to deny Zoning Permit Application ZP#11-290 for a Certificate of Zoning Compliance for existing activities on the site.  
(Public Hearing opened 6/14/11, continued to Special Meeting on 7/12/2011, continued to 8/16/2011)

Chairman Robinson reviewed the ground rules for the hearing. The voting members on this application: L. Robinson, P. Reading, M. Solis, B. Setschinsky, and P. Hayn. The Public Hearing opened at 7:05 p.m. Copies of the Exhibit List which included the items received since the last meeting was distributed to the Commission members and the applicant.

Atty. Ron Ochsner, representing Mr. & Mrs. Przekopski, presented a letter to members of the Board addressing the issues and matters raised during the previous Public Hearings.

Documentation supporting Atty. Ochsner's presentation was provided to the Board members. He submitted Exhibit Items: "TT, UU, VV, XX, YY, & ZZ." (Copy of Exhibit List is attached to the Minutes.)

Atty. Beth Critton, Shipman and Goodwin, representing the Town of Colchester, distributed copies of the Superior Court decision of Leonard Przekopski et a. v. Town of Colchester Zoning and Planning Commission (Item #WW). She also reminded the Board members that their charge is to evaluate the correctness of the decision of the Zoning Enforcement Officer in denying Zoning Permit Application ZP#11-290 and Board members should review all the evidence presented.

A. Turner, Town Planner, explained the criteria for the Town's designation of the Aquifer Protection Zone.

Speaking in Favor - No one spoke

Speaking in Opposition -- No one spoke

Discussion followed regarding the Planning and Zoning Commission's decision on the Special Exception permit application, non-conforming uses, the existing Cease and Desist Order and the Zoning Enforcement Officer's jurisdiction to act on the Application for a Certificate of Zoning Compliance for existing activities on this site.

**Motion by:** Bob Setschinsky  
to close the Public Hearing on ZBA#11-001 at 8:34 p.m.

**Second by:** P. Reading

**Vote:** Motion carried unanimously

4. Pending Applications

A. ZBA#11-001, Leonard & Karen Przekopski

Board members began deliberation. Discussion followed regarding the Zoning Enforcement Officer's lack of authority to act on a Class 2 Site Plan or a Special Exception Permit. It was stated that the applicant could submit a Special Exception application and necessary documentation to the Planning and Zoning Commission for their decision on this activity. By consensus, the Board members decided to continue deliberation until the next meeting in order to review all the material submitted to them.

**Motion by:** P. Reading  
to continue deliberations to the next regularly scheduled meeting on September 20, 2011.

**Second by:** M. Solis

**Vote:** Motion carried unanimously

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2011 AUG 17 PM 2:41  
MAYOR  
TOWN CLERK

5. Minutes of Previous Meeting – Special meeting July 12, 2011

**Motion by:** P. Reading  
to approve the minutes of the Special Meeting of July 12, 2011 as presented.  
**Second by:** P. Hayn  
**Vote:** Motion carried unanimously

6. New Business/Applications Received - None

7. Old Business - None

8. Zoning Enforcement Officer's Report -July 2011

The Zoning Enforcement Officer's Report for July 2011 was included in the Board members packets.

9. Correspondence

Chairman Robinson read the resignation letter of Alternate Board member Christopher Bourque.

10. Adjournment

**Motion by:** P. Reading  
to adjourn the meeting at 9:06 p.m.  
**Second by:** Bob Setschinsky  
**Vote:** Motion carried unanimously

Gail N. Therian, Clerk

ZBA #11-001-Leonard Przekopski-Appeal of ZEO Decision

EXHIBIT ITEMS

- A. ZBA Application for Appeal of the ZEO decision on Zoning Permit ZP#11-001, submitted of 3/28/11;
- B. Copy of the applicants deed with boundary description Vol. 963 Pgs. 20-23;
- C. Application for Zoning Permit submitted by Leonard & Karen Przekopski submitted on 2/15/11 and assigned application number ZP#11-290;
- D. Applicant's Zoning Permit application activity overview and narrative, 11 pages;
- E. Applicants application support attachments:
  - 1. Redacted Przekopski S&G Business records
  - 2. First Selectman Letter dated 11/2/98;
  - 3. Sand/salt stockpile detail;
  - 4. General Permit to construct and operate certain recycling facilities;
  - 5. Manure management and stockpiling guidelines;
  - 6. General Permit for the discharge of storm water;
  - 7. Milone & MacBroom wind born erosion report;
  - 8. Milone & MacBroom sound tests
  - 9. Milone & MacBroom noise monitoring results dated 10/20/08
  - 10. First Selectman Marvin letter dated 10/22/70;
  - 11. Przekopski Quit Claim deed dated 10/26/70
  - 12. Milone & MacBroom bond estimate
  - 13. Site Plan titled-Przekopski Sand & Gravel & Agriculture Operation Mapping, prepared for Przekopski Sand & Gravel, Westchester Rd, Pine Rd, Pine Brook Rd., by Joel M. Fuller, 12 sheets, dated 6/20/07 and revised to 9/11/07;
  - 14. Site restoration soil stockpile locations;
  - 15. Milone & MacBroom temporary sediment basin watershed map;
- F. ZEO's permit response letter denying the application, dated 3/1/11;
- G. Copy of the legal notice from the 3/4/11 issue of the RiverEast News Bulletin with the Notice of Decision on Zoning Permit ZP#11-290;
- H. Copy of letter dated 4/12/11 sent to the applicant (Certified Mail) informing them of the scheduled date of the Public Hearing for this application;
- I. Copy of the legal notice from the May 6<sup>th</sup> issue of the RiverEast News Bulletin;
- J. Copy of the May 2006 Cease & Desist Order, still in effect.
- K. Copy of the letter sent to the applicant with the agenda for the meeting on May 17<sup>th</sup>;
- L. Copy of letter from the Town's Attorney;
- M. Copy of the legal notice from the May 13<sup>th</sup> issue of the RiverEast News Bulletin;
- N. Copy of the Stipulation between Leonard Przekopski and the Colchester ZBA dated 3/7/07;
- O. Copy of the fax dated 5/16/11 from Attorney Ron Ochsner informing the ZEO of an error in the legal notice;
- P. Copy of the fax sent to Attorney Ron Ochsner requesting a 35-day extension in which to hold the Public Hearing on the application;

- Q. Copy of the letter dated 5/25/11 sent to the applicant with the agenda for the Special Meeting to be held on June 14th;
- R. Copy of the legal notice from the June 3rd issue of the RiverEast News Bulletin;
- S. Copy of the Special Meeting Agenda for 6/14/11;
- T. Copy of the legal notice from the June 10<sup>th</sup> issue of the RiverEast News Bulletin;
- U. ZEO defense, decision criteria and justification for denying Zoning Permit application ZP#11-290, dated 6/14/11.

Submitted at the 6/14/11 Public Hearing

- V. Letter dated 6/14/11 from attorney Ochsner;
- W. Six (6) notarized letters in favor of the applicant with cover letter dated 6/14/11 from K. Przekopski;
- X. LexisNexis summary of Keeney V. Town of Old Saybrook, 14 pages;
- Y. Resubmission of Exhibit Item L;
- Z. Site Plan titled-Przekopski Sand & Gravel & Agriculture Operation Mapping, prepared for Przekopski Sand & Gravel, Westchester Rd, Pine Rd, Pine Brook Rd., by Joel M. Fuller, 12 sheets, dated 6/20/07 and revised to 10/10/08;
- AA. Transcript from 2/20/07 superior court testimony of Alicia Watson;
- BB. Copies of previous ZBA appeal applications by the applicant from 6/01/06;

Submitted at the 7/12 Public Hearing

- CC. Copy of the Town of Colchester itemized Selectmen's Expenditures fiscal year ending September 15, 1960;
- DD. Copy of the Town of Colchester itemized Selectmen's Expenditures fiscal year ending September 15, 1966;
- EE. Copy of the Town of Colchester itemized Selectmen's Expenditures fiscal year ending September 15, 1969;
- FF. Copy of the Town of Colchester itemized Selectmen's Expenditures fiscal year ending September 15, 1971;
- GG. Copy of a portion of the Town of Colchester itemized Selectmen's Expenditures fiscal year ending September 15, 1973;
- HH. A copy of the Colchester Board of Education and Town invoices for the dates 11/01/02-8/31/06;
- II. Copy of an Aerial Photo from the CT state library of the sites from 1934;
- JJ. Copy of an Aerial Photo from the CT state library of the sites from 1965;
- KK. Copy of Dept. of Ag "FSA" aerial photo of the sites from 1979;
- LL. Copy of Dept. of Ag "FSA" aerial photo of the sites from 1990;
- MM. Two color photo's from 7/81 & 1/83 of the site;
- NN. Two color photo's taken July 2011 of the site;
- OO. Letter from Attorney Ochsner requesting an extension to keep the public hearing open till August 18, 2011;

Submitted since the Public Hearing on 7/12/11

- PP. LexisNexis case summary Laurel Beach Assoc et al v. ZBA of the City of Milford et al;
- QQ. LexisNexis case summary George Dadukian v. ZBA of the City of Bridgeport;
- RR. LexisNexis case summary Pierre Medoit v. Environmental Protection Board of the City of Stamford;
- SS. Copy of the Town's Aquifer Protection Zone map with the subject parcel outlined;

Submitted at the last day of Public Hearing on 8/16/11

- TT. Copy of the Special Town Meeting minutes of 6/28/77;
- UU. Copy of the State of CT DEP of the Aquifer Protection Areas in Colchester dated 5/25/11;
- VV. Copy of letter dated 8/16/11 from attorney Ochsner addressing points made on the previous public hearing date with attached references;
- WW. LexisNexis Superior Court summary of Prezekopski V. Town of Colchester Zoning 7 Planning Commission decided 10/1/10 and Laurel Beach Association v. ZBA of the city of Milford;
- XX. Copies of permits issued by the DEEP dated 8/5/11 for single item recycling facility and leaf composting;
- YY. Copy of Superior Court case Recycling Inc. v. City of Milford dated 11/20/10;
- ZZ. Applicants synopsis of items entered dated 8/16/11;

End of exhibits.