

**BOROUGH OF FENWICK
PLANNING AND ZONING COMMISSION
INLAND WETLANDS AGENCY
SPECIAL MEETING
THURSDAY, AUGUST 25, 2016
MINUTES**

Present: Chuck Chadwick – Chair, Sallie Boody, Art Wright, Rosalind Shenkman, Bill Christensen, T. Van Itallie (Alternate), Rick Neely (Alternate) Marilyn Ozols – ZEO.

Absent: None.

Members of Public: Hope Proctor, Ethel Davis.

1. Call to Order.

C. Chadwick called the meeting to order at 4:04 p.m. All regular members were present and seated. A quorum was established (Chadwick, Boody, Wright, Shenkman, Christensen).

2. Public Hearing: Proposal to Amend the Zoning Regulations as follows: add a new definition for utility platform and amend the definition of lot coverage to address utility platforms; add a new Section 4.3.13 to address home occupations as accessory uses; amend Section 5.3.4 Setback Infringements to address utility platforms and handicapped access; amend Section 6.9.3 to include the specific term “Elevation Certificate”; and correct section references in Sections 4.3.1, 4.5.6, and 5.2.3.

Chairman Chadwick read the legal notice. Members had discussed the items previously and were familiar with them. He asked for questions or comment from the public and from Commission members. There being none, he closed the public hearing.

3. ZSP16-002, 6-8 Neponset Avenue, map 11, lots 9 & 10. Ethel Davis, owner and applicant; Site Plan and Coastal Site Plan Review application to demolish existing house and construct new single family dwelling with detached garage.

H. Proctor presented. She stated that the proposal is to take down the existing cottage and replace it with a single family house and detached garage; no variances are required and the buildings are outside of the flood zone; the new garage is going essentially where the existing house is; the gutter system goes to a stormwater infiltration system; the driveway is grass paving and a portion of the patio is grass; no specific plantings are proposed at this time – it will all be lawn. She reviewed the responses to T. Metcalf’s letter noting in particular that the water line to the garage will not be connected to any fixtures at this time. In response to a question from T. Van Itallie, she stated that the galleries shown on the plan are the leaching field for the septic system. She reviewed the setbacks indicating that the proposal complies with all requirements, but the existing house to be removed is in the side setback, and noted that coverage is 8%, well under the maximum 15%, and the house is set back from the road slightly further than the adjacent houses.

W. Christensen asked the distance to the adjacent house to the west. H. Proctor stated that it is about 25’; the house at 4 Neponset is 4’ from the property line.

T. Van Itallie asked whether the wetland line shown on the plan was consistent with the vegetation on the site. He was told that the previous owner planted in the wetlands, which are tidal, but the 50’ setback line is shown.

In response to a question about air conditioning, H. Proctor stated that the pad locations, shown between the garage and the house, were on the plan when HDC reviewed it. Since they were not on the elevation

drawings, HDC will review them at the next meeting when other modifications are considered. In response to a different question, she indicated that the lots are not merged at this time and an easement is shown on the plan, but has not been granted at this time.

W. Christensen inquired about the debris line for Storm Sandy. R. Neely stated that logs did not come onto the lot but flotsam did. H. Proctor noted that the house is above elevation 13 and the flood elevation is 11.

In response to a question about the status of Agawam Avenue, it was noted that it is a discontinued road but was not deeded to this property; it remains Borough property with a Lynde Point Land Trust easement.

The applicants indicated that they have reviewed the proposed stipulations and they have no objections or questions.

T. Van Itallie referred to the opinion letter from Attorney Zizka and expressed his concern that the regulations require development to comply with the Lower Connecticut River Conservation Zone; the 2004 Gateway Standards provide for a 100' setback from the CT River and its tributaries but the septic galleries shown on the plan are not 100' from the wetland line. He noted that the legal opinion received from Attorney Zizka indicates that the Borough is not bound by Gateway, but there is a factual error in that, based on the published ordinances, Attorney Zizka was under the impression that Zoning was not constituted in Fenwick until 1992 when in fact the Borough adopted zoning authority in 1946. He indicated that a question remained in his mind as to whether Fenwick is bound by the 100' setback. Chairman Chadwick noted that T. Van Itallie's caution was well taken; the fundamental flaw in the legislation is that it does not recognize boroughs; as pointed out in the opinion letter, there would be a bizarre consequence if another town or Gateway could override local zoning; the Borough did not opt into Gateway and has no representation on the Gateway Commission.

W. Christensen asked the applicants if they could accommodate the 100' setback if necessary. H. Proctor replied that she would have to verify with the engineer, but she believed they could. R. Neely noted that Fenwick is not bound by Old Saybrook's regulations. Chairman Chadwick noted that they could rely on the other points in the opinion letter or they could defer a decision until additional information was obtained. A. Wright noted that the regulations with the 50' setback were reviewed by Gateway when they were put into place. Members agreed to continue with the application.

R. Neely expressed the opinion that the proposal is in scale and in consideration of the neighborhood it is in and the lot it is on; that it is tastefully done; and that there will be only one dwelling where there could be two. S. Boody noted that the proposed coverage is only 8%

Members reviewed the standards in the Regulations:

a. Preservation of Landscape.

No changes are proposed except in the area of the house.

b. Relation of Buildings and Structures to Environment.

The buildings are set back from the street more than the neighboring structures and an attempt has been made to provide a scenic view area on the eastern side.

c. Site Design.

There are no plans to do anything with the sensitive areas of the property.

d. Scenic Views.

Any new house where there has been no house previously will affect views. H. Proctor noted that they have tried to be sensitive in the design; they have turned the buildings so as not to create a "wall"; they are proposing one house on what had previously been two lots; and they are seeking to protect the view with an easement area.

e. Buffer Areas.

No issue.

f. Water Quality and Drainage.

Provision has been made to collect stormwater.

g. Utilities.

Utilities are currently underground and that will remain the case. The house is on public water but the deeded right to the well on the adjacent property will remain.

h. Other Site Features.

The ac units are proposed for an isolated area between the two properties.

i. Natural and Historical Resources.

The demolition has been approved by the Historic District Commission.

Based on the discussion, **S. Boody moved that the Commission finds that the application for Site Plan and Coastal Site Plan Review to remove the existing dwelling and replace it with a new single family dwelling and detached garage at 6-8 Neponset Avenue, with the stipulations noted, is consistent with the goals and policies of the CT Coastal Management Act and that it complies with the review standards in the Borough of Fenwick Zoning Regulations, and approves the application based on the plans and documents submitted with the following stipulations.**

- 1. The driveway shall be permanently maintained as a grass paver surface. If it is determined at the time of installation that the grass pavers abutting the Neponset Avenue pavement edge do not provide sufficient support of the road pavement (to prevent pavement cracking and/or breaking), a paved apron shall be placed from the road pavement edge to the street line.**
- 2. There shall be no change in property topography from what is depicted on the *Site Development Plan*.**
- 3. Additional silt fence shall be installed along side property lines and Neponset Avenue if deemed necessary by the Zoning Enforcement Officer at the time of construction.**
- 4. There shall be no temporary on-site stockpiling of demolition debris. Any demolition debris/material, inclusive of the abandoned septic system, shall be loaded directly into trucks or dumpsters for removal from the site.**
- 5. The applicant shall make every effort to build and finish construction during the 10 month period from September through June or to minimize any disturbed or unfinished appearance of the site and building between July 1 and Labor Day.**
- 6. An existing conditions survey (including the building, septic system, stormwater infiltration chambers, and driveway), certification of finished ridge elevation (calculated from elevation 11'5"), and calculation of post construction coverage shall be submitted prior to issuance of Zoning Compliance for a Certificate of Occupancy. All surveys and certifications shall be prepared by a licensed surveyor.**
- 7. A copy of the Permit to Discharge issued by CRAHD shall be provided prior to issuance of a Certificate of Zoning Compliance. If in the future, the water line to the garage is ever activated for use with a sink, toilet or shower, approval shall be obtained from the Connecticut River Area Health District and possibly the State Health Department as well as approval from the Building Official.**
- 8. The two parcels shall be legally merged prior to issuance of the Zoning Permit. The proposed easement shown on the plan is not a required component of this approval and the approval shall stand with or without the easement.**

9. Revised plans shall be submitted to address the above conditions and the approved site plan shall be endorsed by the Commission chairman and filed on the Land Records of the Town of Old Saybrook prior to issuance of a Zoning Permit.
10. In accordance with the adopted fee schedule, the applicant shall reimburse the Borough for all engineering fees prior to issuance of a Zoning Permit for construction and prior to issuance of Zoning Compliance for a Certificate of Occupancy. Reimbursement shall include all costs incurred to that point in time.
11. Specifications for the air conditioning units shall be submitted prior to issuance of a Zoning Permit.

A. Wright seconded the motion and it was approved unanimously.

Approved 5-0-0.

For: Chadwick, Boody, Wright, Shenkman, Christensen.
Against: None.
Abstain: None.

The record plans for this application are:

- *Site Development Plan Properties of Ethel F. Davis, Trustee & Ethel F. Davis, 6-8 Neponset Avenue*, by Angus McDonald, Gary Sharpe & Associates, Inc. dated February 10, 2016 rev. through 8.23.16
- *Davis Residence, 6 Neponset Avenue, Fenwick, Connecticut* by Proctor Architects, LLC
 - A1.0 *First Floor Plan* dated 06.01.16 rev through 06.18.16
 - A1.2 *Second Floor Plan* dated 06.01.16 rev through 06.18.16
 - A3.0 *Exterior Elevations* (east & north) dated 06.01.16 rev through 08.15.16
 - A3.1 *Exterior Elevations* (west & south) dated 06.01.16 rev through 08.15.16
 - A7.0 *Garage Plans* dated 06.01.16 rev through 08.15.16

4. Possible Action on Proposal to Amend the Zoning Regulations.

Members noted that they had discussed the proposed amendments previously and no concerns were expressed at the public hearing. R. Neely asked about the reason for the home occupation section and it was explained that people had always believed that home occupations were not allowed but since the regulations allowed accessory uses in general, there was no clear prohibition. It was understood that the language proposed was not intended to prohibit working from home.

Based on the discussion, **S. Boody moved to approve the regulation amendments as proposed with an effective date of September 1, 2016.**

A. Wright seconded the motion and it was approved 4-0-1.

For: Chadwick, Boody, Wright, Shenkman.
Against: None.
Abstain: Christensen.

5. Plan of Conservation and Development.

M. Ozols noted that T. Van Itallie had done a great deal of work researching and creating a first draft for the new POCD. She added that she had done a first review of the draft and made some modifications but had not had time to review all of the documents that relate to the plan. She stated that once this is done, an updated draft will be circulated to members. She also noted that this is a plan for both conservation and development, which are often at odds, so there should be provision for some flexibility. Chairman Chadwick noted that previous POCD's had been brief by design and this should be a consideration again this time, although statutory requirements will need to be met. The goal is to complete work on the Plan over the winter so that it can be brought to public hearing next summer and enacted by fall.

At this time, W. Christensen left the meeting. No alternate was seated in his place.

6. **Approval of Minutes** of previous meeting: Planning & Zoning/Inland Wetlands – July 12, 2016.

A. Wright moved to accept the Borough of Fenwick Planning and Zoning Commission minutes for the July 12, 2016 meeting as written. R. Shenkman seconded the motion and it was approved unanimously.

Approved 4-0-0.

For: Chadwick, Boody, Wright, Shenkman.

Against: None.

Abstain: None.

8. Staff Report.

M. Ozols reported that

- ZBA will meet later in the day to hear a request for variances to enclose porches and extend construction above existing one-story portions of the house at 6 Mohegan. The existing construction has been rendered legal non-conforming by the current regulations and so they will now be expanding a non-conforming structure into the Coastal Resource and CJL setbacks. If the variances are granted a Site Plan / CSP application will be required because the proposed construction will change the height of a portion of the building.
- The Training Session with Attorney Zizka was held on Saturday, July 30. The Burgesses have requested that this be scheduled as an annual event.

7. Other Business.

None.

8. Adjournment.

At 5:00 p.m., it was moved by A. Wright and seconded by R. Shenkman to adjourn the meeting. The motion passed unanimously.

Respectfully submitted,

Marilyn Ozols, Acting Secretary