

MINUTES
PUBLIC HEARING
PLANNING AND ZONING COMMISSION
LISBON TOWN HALL
TUESDAY, APRIL 5, 2011
6:30 P.M.

The Planning and Zoning Commission held the following public hearing in the Town Hall, 1 Newent Road, Lisbon, CT beginning at 6:30 PM on Tuesday, April 5, 2011.

1. 6:30 PM – Application for Change of Zoning Regulations or Boundries: PSK Realty, LLC, 28 Ethyl Acres, proposed text amendment to Section 10.4.5g of the Zoning Regulations to allow for the construction/excavation of ponds of 2 acres or less.

MEMBERS PRESENT: Robert Adams, Ronald Giroux, Robert Browne, Kim Sperry,
David Gagnon, John Dempsey, Sharon Gabiga Alternates: Garry Ritacco
STAFF PRESENT: James D Rabbitt, AICP, Senior Planner-SCCOG, Lisbon Town Planner
Attorney Kari Olson, Murtha Cullina, Town Counsel

The following Public Hearing, was called to order by Chairman Robert Adams at 6:26 PM:

1. 6:30 PM – Application for Change of Zoning Regulations or Boundries: PSK Realty, LLC, 28 Ethyl Acres, proposed text amendment to Section 10.4.5g of the Zoning Regulations to allow for the construction/excavation of ponds of 2 acres or less.

Norm Thibeault of Killingly Engineering Associates, Dayville, CT spoke on behalf of the applicant. He stated that he had previously met with Town Planner J. Rabbitt. He then read from his proposed text amendment, which included a proposal for a new section, 10.4.11. He proposed that all ponds be constructed in accordance with the USDA Natural Resource Conservation Service Handbook 590 – Ponds, Planning, Design and Construction. He also suggested that testing should be done over a six-month period rather than a twelve-month as recommended by Staff J Rabbit.

Chairman Adams questioned section 10.4.10b, asking the applicant to explain this section. 10% of up-land area would be able to be excavated as pond area, and used as an example a five-acre property with 2 acres of wetlands, only 10% of three acres can be pond area.

K. Sperry asked if the applicant was expecting the town to adopt the USDA handbook. The applicant suggested that it be used strictly as a reference, and stated that although fourteen years old, the handbook is still up-to-date. K. Sperry then questioned the applicant as to whether or not the CT Department of Environmental Protection and the Federal Department of Agriculture jive. He responded that the CT agency is stricter, even though the two are connected. State of CT is concerned when you want to disturb 5,000 square foot or more of an existing pond. K. Sperry showed concern that the text amendment doesn't actually call for a site plan or drainage computations, and would like the town's text amendment to list all items that are appropriate to our region. Norm Thibeault said that everything in the handbook is based up on a set national standard and the town is responsible for doing the research and constructing appropriately. He states the handbook is a design guideline, not regulations.

Chairman Adams questioned if it is the intent of the application to be interested in earth removal or agricultural/recreational, or if there is any other purpose. Norm Thibeault stated that his client wants it for aesthetic/recreational purposes.

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R. Browne sees nothing in the text amendment in the monitoring of the aquifers. Norm Thibeault gave examples of where leaching may happen. K. Sperry questioned who would do the monitoring, to which the answer was a licensed professional. K. Sperry feels that it must be outlined in the text amendment, and should be monitored over an entire year, not six months as proposed by the applicant. Mr. Thibeault stated that he respectfully disagrees, and that from an engineering perspective, it is not necessary. R. Browne stated that he is also concerned for pond pollution itself, and does not want to see it turn into marshland, citing the pond behind the community center as an example. Mr. Thibeault stated that each pond would have to be evaluated separately.

K. Sperry asked if it should be stated that the site should retain its full use without hardships, at which point Chairman Adams stated that the building area must be maintained on the parcel. K. Sperry also added that the section on monitoring states, "may provide reports or testimony by a professional", and should be "will be submitted as part of site plan" – they must do it. She also questioned how the applicant proposes to protect an abutter if there is not enough of a setback? Mr. Thibeault stated that state codes must be followed. K. Sperry believes that there should be a 100-foot buffer.

Staff J. Rabbitt interjected that it is not the purpose of the hearing to negotiate, and that the thoughts of commission members are not testimony but rather opinion. J. Dempsey asked Staff what would happen in an R-40 zone, to which the answer was that unless there is a 100-foot setback, it could put a restriction on the abutting property. It was then moved by the applicant to strike section 10.4.5b from the proposal, as well as item "D" from "buffers", agreeing with Staff that it could affect the abutting property from a developing standpoint.

Staff J. Rabbitt stated that he felt the comments and testimony may warrant an extension of the hearing to continue to the May hearing. J. Dempsey did not feel it necessary to continue the hearing. K. Sperry felt it should be continued. J. Rabbitt reminded the commission that if closed, the applicant may not submit further testimony or make changes. He recommends the applicant clean up the application. K. Sperry said that the text amendment will impact every property in town, not just the applicant.

The applicant then went through the proposed text amendment one more time, including sections that were removed.

The Chairman asked for public comment in favor of the application.

Peter Gardner of Gales Ferry questioned how it would be determined where the edge of the pond would be.

The Chairman asked for public comment in opposition of the application.

Caroline Bucko of Lisbon, stated that this affects the whole town. Could every five acre lot become a gravel pit? It is her understanding that pools require fencing. What is the responsibility here for having a pond? What about safety in the regulations?

Esther Benjamine, 184 Newent Road, stated that town roads are not sound for gravel removal. Who will be responsible for truck traffic?

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Mr. Thibeault offered rebuttal comments. In reference to Mr. Gardner's question, he stated that a 7-1 slope overflow spillway maintains a certain level of the pond. In regard to size, five acres parcel will be a maximum ½ acre pond. As for safety, the purpose of the 7-1 shelf for first 20 feet, combined with the 3-1 slope afterwards, is for the sake of safety. Overall responsibility will lie with the homeowner.

It was determined by the commission to continue the hearing, and the applicant agreed to an extension. A written statement was submitted on behalf of PSK Realty, LLC by Norm Thibeault of Killingly Engineering Associates, requesting the extension, to continue the hearing to May 3, 2011, 6:30 PM.

Public hearing continued to May 3, 2011 at 6:30 PM.

This public hearing was closed at 7:31 PM.



Elaine Joseph, acting clerk

Approved: _____
Robert D. Adams, Chairman

RECEIVED FOR RECORD AT LISBON.
CT ON 4/12/2011 AT 2:45pm
ATTEST. BETSY M. BARRETT, TOWN CLERK