



TOWN OF OLD SAYBROOK
Zoning Commission

302 Main Street • Old Saybrook, Connecticut 06475-1741
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www.oldsaybrookct.org

Robert C. Friedmann, Chairman
Mark R. Caldarella, Vice Chairman
Geraldine M. Lewis, Secretary
Ann Marie Thorsen
Madeleine B. Fish

Alternate Members
Michael P. Cianfaglione
Joanne Gadon
Justin Terribile

REGULAR MEETING MINUTES

Monday, October 15, 2018
Town Hall, 302 Main Street, 7:00 p.m.
1st Floor Conference Room

I. **CALL TO ORDER 7:00 P.M.**

II. **ROLL CALL**

Attendant Members

Robert Friedmann
Mark Caldarella
Geraldine Lewis
Ann Marie Thorsen
Justine Terribile for Madeline Fish
Joanne Gadon

Absent Members

Madeline Fish
Michael Cianfaglione

Attendant Staff

Christina Costa, Zoning Enforcement Officer
Margaret Paccione, Recording Clerk

There was 1 person in the audience.

III. **REGULAR BUSINESS**

A. **MINUTES**

MOTION to approve the regular meeting minutes of October 1, 2018 **MADE:** M. Caldarella: **SECONDED:** G. Lewis **VOTING IN FAVOR:** R. Friedmann, G. Lewis, M. Caldarella, A. M. Thorsen; J. Terribile **ABSTAINING:** None. **OPPOSED:** None. **APPROVED:** 5-0-0.

IV. **OLD BUSINESS**

A. **“Shops at Oyster River” Application for Special Exception Permit/Coastal Site Plan Review**

2,254 s.f. drive-through restaurant, 22,257 s.f. retail shops and 3,251 s.f. outdoor display
923 Boston Post Road, Assessor’s Map 29/Lot 4

Business B-2 District, Coastal Area Mgmt. Zone, Pedestrian Node, AE 11 Flood Zone
Owners/Applicants: 923 Boston Post Road, LLC Agent: Jim Cassidy, P.E.

ACTION: Decision NLT 12/4/2018

R. Friedmann opened the discussion by confirming with members who had been absent from any recent meeting that they had received and listened to all audio files of missed meetings pertaining to this application. All had listened to the audio recordings and were prepared to deliberate and vote.

The Motion for Approval, drafted by Attorney Mark Branse listing twenty-two findings, conditions, and modifications, was presented. R. Friedmann read aloud each of the twenty-two points in order and the Commission discussed each, noting changes to language and punctuation to be adjusted. After a lengthy conversation on point number fifteen, a request was made at 7:34 P.M. for a two-minute recess.

MOTION for a two-minute recess **MADE:** R. Friedmann **SECONDED:** G. Lewis
VOTING IN FAVOR: R. Friedmann, A. M. Thorsen, M. Caldarella, G. Lewis, J. Terribile; **ABSTAINING:** None. **OPPOSED:** None. **APPROVED:** 5-0-0

The break ended and the Commission, along with the ZEO, resumed the discussion of the motion draft and point number fifteen, which related to signage. The Commission felt that the calculations were reasonable and fair, and reached a consensus to leave the Agway sign as proposed. They continued discussing the remaining points and concluded their deliberation with a motion being made for approval of Special Exception Permit with conditions agreed to by Applicant and motion letter from Mark Branse worked on this evening.

MOVED, that the Zoning Commission finds that application of 923 Boston Post Road, LLC, for “The Shops at Oyster Creek” for Special Exception Permit and Coastal Site Plan for property at 923 Boston Post Road in the B-2 District, as modified by this motion, are consistent with the goals and policies of the Coastal Area Management Act, and approves such Applications subject to the following findings, conditions and modifications:

1. All conditions and modifications stated in the Letter from Dzialo, Pickett & Allen, P.C., dated October 1, 2018 except that reference in item 5 to “candle power” will be amended to “foot candle power.”
2. The landscaping along Boston Post Road shall result in the creation of a more or less continuous row of landscaping that will be at least three feet above street level, as represented by the applicant’s landscape architect.
3. The Commission recognizes an inconsistency between Section 53 and Section 32.2.4, but finds, based on the intent of the Regulations, that a drive-through use is accessory to a “fast food” or “take-out” restaurant, and that the language of Section 53 requiring that take-out only be incidental an establishment “where customers are served *only when seated*” (Emphasis added) was left over from previous provisions which did not allow drive-through as an accessory to fast food or take-out restaurants.
4. Per the testimony of the Applicant, the Commission finds that the detail on Sheet #14 depicts the side view of the enclosure on Sheet #12. The plans shall be modified to clarify this.
5. The Commission finds that the two curb cuts (as opposed to the one required) and the width of those curb cuts (wider than permitted) constitute legal nonconformities which the Applicant can retain. The Commission does not concur with the Applicant’s position that the State Department of Transportation preempts its jurisdiction or authority in such matters.
6. The Commission finds that joint use of parking is suitable on this site for the uses proposed because of their different peak operating schedules. The Commission finds that the 1 space per 400 SF of gross floor area is applicable to the Agway use and also to the outdoor display/storage areas, which would increase the joint use of parking originally requested by the Applicant by 10 more spaces, but the Commission finds that joint use of parking for this

remains reasonable and supported by the evidence in the record. The Commission has determined that number of parking spaces required for proposed uses without reference to other uses that are prohibited in the district. (Section 62.4.4) As established meets the needs of combination of uses by Zoning Commission.

7. The plans shall be modified to depict a future vehicular connection to the property located easterly of the site known as 901 Boston Post Road, to be located adjacent to the future pedestrian access depicted on the plans, both of which connections shall be required at such time as the owner of 901 Boston Post Road provides access from that side of the property line.
8. The Commission finds that the two rear loading areas are suitably screened by existing vegetation.
9. The Commission finds that the proposed Dunkin Donuts has only one drive-through window, despite the presence of two window openings in the building. There is only a single drive-through lane; one drive-through menu board; and the two windows are only to expedite service to that single drive-through at peak business periods.
10. The Commission finds that the finish (materials) for the sidewalk along Boston Post Road and for the two interior walkways are suitable as submitted. The pedestrian walkway material between both crosswalks in front of the Agway store shall be five (5) feet in width and provide a differentiation in the walkway surface such as a dyed red or stenciled brick so that they can be readily distinguished from the outside storage/display areas.
11. The Commission finds that the outdoor display/storage areas for the Agway need not be individually screened but can be screened in the aggregate as shown on the plans.
12. The Commission finds that the site adequately buffered from adjoining uses.
13. This approval is expressly conditioned on compliance with the Applicant's representation that no HVAC or other equipment shall be visible above the parapet of either building, as shown on the plans.
14. The proposed signs are approved as proposed.
15. The Commission finds that the menu board is not a pylon sign. It is an integral part of the drive-through use. It will be one sided and shielded from view from the street by landscaping.
16. The Commission finds that the Applicant has met its burden of proof that the buildings have been set back along the setback line node "to the extent possible;" and the Commission finds that the applicant has met the standard that a "new principal structure may be set back inconsistent from neighboring principal *structures* if the street line setback area is to be used for a well-landscaped public space . . . Where greater setbacks are approved, design elements such as a wall, fencing, landscaping of a minimum height of three (3) feet should be used to reinforce the street line."
17. The Commission find that the coastal access provision shown on Sheet 3 of 16 is adequate to meet the goals of the Coastal Area Management Act and is consistent with all applicable coastal policies and makes all reasonable measures to avoid adverse impacts.
18. The proposed 7 foot candles per square foot for the building entrance shall be reduced to 5 foot candles as recommended by the Town Planner.

19. The Commission finds that the impact of illumination on natural habitats has been adequately addressed.

20. Building illumination will meet the requirements of Section 68.1.5. This approval is subject to the condition that, per the Applicant's representations, there shall be no illumination of the building facades that will not meet the requirements of Section 68.1.5.C.1 as applicable. Any canopy illumination or illumination under awnings and similar building projections shall be fully recessed, full-cutoff fixtures which will produce no more than 5 footcandles beneath such projections.

21. The Commission finds that the design of each of the two proposed buildings in terms of their architecture and overall design, and the overall site plan, is in compliance with Section 68.

22. Geoff Jacobson's recommendation 12A in his letter to Christina Costa of July 26, 2018 be a condition of approval: All of the roof drainage from the Agway building and greenhouse will be collected and piped to the proposed underground infiltration system.

MADE: R. Friedmann; **SECONDED:** G. Lewis **VOTING IN FAVOR:** A. M. Thorsen, M. Caldarella, G. Lewis, Justin Terribile; **ABSTAINING:** None. **OPPOSED:** R. Friedmann. **APPROVED:** 4-0-1

B. **"Oceanside Automotive"**

Discuss pending litigation/ possible stipulated judgment

810 Middlesex Turnpike, Assessor's Map 63, Lot 8, Restricted Business B-3 & Residence AA-1 Districts. Owner: Legacy for Him, LLC.

The ZEO reported that she added the item to the agenda pre-maturely with the hope of finalizing the judgment. She will add the matter to the next agenda.

V. **NEW BUSINESS**

A. **2019 Meeting Calendar**

MOTION to approve 2019 Meeting Calendar **MADE:** R. Friedmann **SECONDED:** G. Lewis **VOTING IN FAVOR:** R. Friedmann, A. M. Thorsen, M. Caldarella, G. Lewis, J. Terribile; **ABSTAINING:** None. **OPPOSED:** None. **APPROVED:** 5-0-0

VI. **COMMITTEE, REPRESENTATIVE & STAFF REPORTS**

ZEO Chris Costa updated the Commission with regard to the following issues:

The November 5th meeting will be a continuation of the workshop on flashing signs and other possible regulation fixes.

254 Main Street will be coming in on November 5th to discuss the possibility of adding more restaurant space.

The ZEO is working on scheduling a joint Special Meeting with ARB and ZC as discussed at the last meeting with the intent of discussing communications between the Commissions and regulations.

A petition to amend the Zoning Regulations was received to allow for off-site parking.

Mc Donald's, 1061 Boston Post Road, is planning upgrades and façade renovation, handicap access, sidewalks, and better striping.

The Two-in-One Store, 855 Boston Post Road is vacating the premises.

ZEO discussed on-going enforcement matters.

VII. ADJOURNMENT

MOTION to adjourn the meeting at to the next regularly scheduled Zoning Commission meeting on Monday, November 5, 2018 at 7:00 p.m. at Town Hall, 302 Main Street, 1st Floor Conference Room, Old Saybrook. **MADE:** R. Friedmann
SECONDED: G. Lewis **VOTING IN FAVOR:** R Friedmann, G. Lewis, M. Caldarella, A. M. Thorsen, J. Terrible; **ABSTAINING:** None. **OPPOSED:** None.
APPROVED: 5-0-0.

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NEXT REGULAR MEETING
Monday, November 5, 2018 at 7:00 P.M.
Town Hall, 2nd Floor Conference Room
302 Main Street, Old Saybrook

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agendas.*

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Respectfully Submitted,

Margaret Paccione
Recording Clerk