

Minutes of Regular Meeting No. 1019 of the Killingworth Planning & Zoning Commission Held Tuesday, January 3, 2012 at the Killingworth Town Office Building, 323 Route 81, Killingworth, Connecticut

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PUBLIC HEARING - Special Exception Application #273 submitted by Robert & Toni Judge for Special Principal Use, Residential District, for Continuation of Pre-Existing Industrial Use (Interstate Batteries), for property located at 150 Route 80, Killingworth, Tax Map 33, Parcel 39, Zone Residential. The public hearing commenced at 7:02 PM and closed at 7:40 PM.

Present: T. Lentz, Chairman C. Jefferson, ZEO
J. O'Brien
S. Morgan
D. Gross
P. McGuinness (seated for Hayash)
G. Cook (seated for Davis)
J. Reisman (non-voting alternate)

1. Call to Order

T. Lentz called the meeting to order at 7:41 PM.

2. Minutes of Regular Meeting No. 1018 Held December 20, 2011

Motion by Gross, second by O'Brien, to approve December 20, 2011 Minutes as written. **PASSED UNANIMOUSLY.**

3. Visitors – none.

4. Communications and Bills

(1) Letter to Dr. Thomas Lentz from Michael R. Dove Re Special Exception for Interstate Battery Property dated 1/3/2012 (said letter was summarized by Mr. Dove during the public hearing which preceded this regular meeting).

(2) Certified Green Card Receipt to Michael Harkin.

(3) Affidavit of Publication for Special Exception #273 Notice of Public Hearing for Interstate Batteries.

(4) Copy of Planning & Zoning Budget as of 1/2/2012.

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(5) Copy of Letter from R. E. Leighton, Building Official to James & Sally Kroeber dated December 16, 2011 Re Finished Basement, Recent Inspection.

(6) Copy of Letter from R. E. Leighton, Code Official, to Robert Aft dated December 16, 2011 Re 153 Iron Works Road, Required Pumpout Report.

(7) Copy of Letter from R. E. Leighton, Building Official, to Steven Burg dated December 16, 2011 Re 182 Route 148, Outstanding Permits.

(8) Request for Proposals, Re-Insulation of Municipal Building (Emergency Management Facility).

5. Old Business

(a) Special Exception #273 – Interstate Battery, 150 Route 80 – addition (Map 33, Lot 39) Chairman Lentz noted a public hearing had been held immediately prior to this meeting and there was a presentation of the application. It appears the applicant wants to put in an addition to fill the space between the two existing buildings. The roof line will not be increased over the existing roof line. Commission members heard testimony in favor and in opposition.

Mr. Gross noted it was his understanding from an appearance standpoint there is some expansion in the back that will not change the character or peak of the addition. The activity in the back will not change. There will just be some more real estate under a roof than there was before.

Mr. Cook noted the applicant has done everything he was asked to do relative to the reworking of the design. It is as aesthetically appealing as a light industrial building can be made to be in this setting. He agreed with everything Mr. Gross had said. Cook noted it seemed to him the applicant needs additional space for storage. In terms of nonconformity, Mr. Cook felt Mr. Harkin pointed out this was a commercial parcel, pre-existing in a residential area, but meeting all requirements for setback. He didn't see any problem.

Mr. McGuinness noted he read the literature from the Connecticut Bar Association and based on that, felt this would be acceptable. This is the same type of use. They are not going to a new product line or new business. Mr. McGuinness noted the one thing he sympathized with Mr. Dove about was noise and activity in the back because there will now be two doors back there. Perhaps

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if all trucks came and went from the front, that would mitigate and increased activity in the back.

Chairman Lentz noted he agreed with everyone's thoughts. He sympathized with the adjacent owner. Lentz referenced Zoning Regulation Section 500-37A. which states "No use of any land or improvement having a nonconforming characteritic, and no improvement having a nonconforming characteristic, shall be enlarged, extended or expanded except in conformity with these regulations." He indicated that statement means it can be enlarged provided it is in conformity with the regulations. The applicant pointed out it is in conformity with the residential and industrial requirements. Chairman Lentz noted he had reviewed a few Court cases and the Court has determined you can't limit reasonable expansion of a use, but you can prohibit a new use.

Mr. Cook asked if they have to drive around back to get into the new building. Chairman Lentz noted they drive around back to refuel. Mr. Gross and Ms. Morgan noted the activity in the back will be the same as it is now.

C. Jefferson noted the Commission could, if it chose to do so, put a condition on an approval regarding the loading/unloading and delivery of product.

Mr. Gross noted it was the Commission's purview to review the application as submitted. The applicant stated there would be no increased activity in the back. The Commission needs to judge this based on that fact.

Motion by Gross, second by Cook, to approve Special Exception #273, Interstate Battery, 150 Route 80, for addition as presented. Brief discussion followed regarding possible screening. Mr. Gross reiterated the peaks will not be any higher and he felt this application was pretty straight forward. PASSED UNANIMOUSLY.

(b) Special Exception #274 – Robert & Catherine Chase, 61 Spencer Hill Road – Boarding Stable (Map 40, Lot 01) – public hearing scheduled for January 17, 2012

Chairman Lentz noted this application is scheduled for a public hearing on January 17, 2012. Lentz asked the ZEO if Mr. Chase had revised his application to remove the word "commercial". Ms. Jefferson replied not yet.

6. Zoning Enforcement Officer's report

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C. Jefferson noted it has been very quiet through the holidays. Not much going on.

Ms. Morgan asked if there was any update relative to the Pharmedica Building as she had seen a dumpster in front of the building. Jefferson noted she would look into this.

7. New Business – none.

8. Report of Officers and Subcommittees

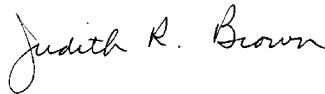
(a) Proposed Zoning Regulations – public hearing scheduled for February 21, 2012.

Chairman Lentz noted the process has started for the latest package of proposed changes to the regulations. The hearing is scheduled for February 21, 2012. He briefly reviewed a couple items for the next batch of changes that he will start working on. Two items are clarifying the definition for commercial district use and having a separate category for site plan approval.

9. Adjournment

There being no further business, the meeting adjourned at 7:30 PM.

Respectfully submitted,



Judith R. Brown, Recording Secretary

cc:	Town Clerk	Conservation Commission
	Board of Selectmen	Inland Wetlands & Watercourses Commission
	Commission Members	Housing Partnership
	C. Jefferson	William Howard, Esq., Commission Attorney
	R. Leighton	Joseph Dillon, Town Engineer
	D. Shanoff	