

East Lyme Planning Commission
Regular Meeting
Tuesday, March 18, 2014

FILED IN EAST LYME
CONNECTICUT
Mar 27 2014 AT 3:45 AM/PM
Karen Galboan
EAST LYME TOWN CLERK

PRESENT: Brian Schuch, Rita Palazzo, Frank Balantic, Joan Bengtson, Ernie Covino, Francine Schwartz
ALSO PRESENT: Gary Goeschel, Planning Director, Ex-Officio, Rose Ann Hardy,
Anne Thurlow, Alternate, John Birmingham, Alternate

Chairman Schuch called this Regular Meeting of the Planning Commission to order at 7:01 PM.

Pledge of Allegiance

The Pledge was observed.

Additions to the Agenda

Mr. Schuch noted that there were two additions to the Agenda. The first item, which would fall under old business, is the continuation of the Public Hearing for

- A. Pazz Construction, LLC, applicant/owner; Application for a waiver request from Section 23.58 of the East Lyme Subdivision to reduce a buffer along the northern property line for a proposed eight lot subdivision of property located at 233 Upper Pattagansett Road, East Lyme, CT, property identified on the East Lyme Assessor's Map 39.0, Lot 6.

Mr. Schuch stated that a 2/3 Vote would be required to add this item to tonight's Agenda.

- ****Motion (1)**

Ms. Schwartz moved to add this item to the Agenda under old business.
Mr. Covino seconded the motion.
Vote: 6-0-0. Motion passed.

Mr. Schuch stated that the second item needing a vote to be added is a presentation under new business, by Town Attorney Ed O'Connell, reviewing Planning Commission standards and procedures.

- ****Motion (2)**

Mr. Covino moved to add this item to the Agenda under new business.
Ms. Bengtson seconded the motion.
Vote: 6-0-0. Motion passed.

II. Public Delegations

Public Delegations is the time when members of the public are invited to speak to the Commission about certain matters. Issues or concerns related to approved subdivisions under construction (Item VI) and in-house proposals or general topics of discussion (Item VII) are open to comment. Items, referrals, or applications subject to a decision by the Commission, a public hearing, or in litigation may not be discussed. The members of the Commission will not directly answer questions or make comment during delegations.

There were none.

III. Approval of Minutes

A. Regular Meeting Minutes of March 4, 2014.

Mr. Balantic had one correction, page 3, last paragraph. Minutes read: *the buffer is supposed to be 4 feet...* It should read *-the buffer is supposed to be 40 feet...*

- ****Motion (3)**

Mr. Balantic moved to approve the Planning Commission Meeting Minutes of March 4, 2014.

Ms. Palazzo seconded the motion.

Vote: 4-0-2. Motion passed.

Ms. Bengtson and Ms. Schwartz abstained from the Vote due to their absence from the March 4, 2014 Meeting.

IV. Public Hearings

- B. Pazz Construction, LLC, applicant/owner; Application for a waiver request from Section 23.58 of the East Lyme Subdivision to reduce a buffer along the northern property line for a proposed eight lot subdivision of property located at 233 Upper Pattagansett Road, East Lyme, CT, property identified on the East Lyme Assessor's Map 39.0, Lot 6.

Mr. Schuch opened the Public Hearing portion of the Meeting at 7:06 PM. Mr. Goeschel noted the Memorandum from the Inland Wetlands Agency dated March 10, 2014, which he included in the Member Packet. He stated that the Inland Wetlands Agency deemed that a wetlands permit was unnecessary for this Application. He added that they recommended best management practices for erosion and sediment controls during construction, install conservation tags and install plantings in rain gardens which have an 80% survival rate.

Attorney Ted Harris of 351 Main Street came forward to represent the Applicant and submitted revised plans of the subdivision, dated March 17, 2014, for the record. He explained that the revised plans contain the notes regarding the driveway easements and basin maintenance that the Commission requested during the last Meeting. These maintenance notes were filed both on the subdivision plans and on the East Lyme Land Records.

Mr. Harris stated that he wanted to discuss some of the issues raised by the public during the last Meeting. He noted that in regard to traffic, the road is deemed safe by the speed limit, that Zoning has

determined that the road capacity is appropriate for its current uses by its zone categorization. He also submitted a copy of the February 17, 2011 traffic study completed for Evergreen Ridge Subdivision, which was never built. Mr. Harris explained that this traffic study examined intersections to determine whether they can safely handle traffic and that the level for service for this road was deemed to be Level A, which is a high level that is hardly ever given. He also noted that this traffic study was completed for a subdivision consisting of seventy-four units while this subdivision consists of eight.

Mr. Harris stated that this is a country road that one cannot drive 60mph down, an intersection which is perfectly safe for cars to exit and enter the subdivision, and a road that the Town has widened during the last five years. In terms of wells, he stated that this property is located on top of one of the Town's major Aquifers, which further supports the lack of possibility for a water issue within the development.

Robert D. Pfanner of J. Robert Pfanner Associates 37 Grand Street came forward and provided the Commission with a table he generated of water yield tests, which he based on the wells of surrounding properties. He noted that the average yield is over 23 gallons of water a minute, but that some wells are up to 50 gallons a minute and one is actually up to 75 gallons a minute. Mr. Pfanner stated that all of these wells provide high capacity water and the yields illustrate that the property is on an Aquifer. He also noted that the wells for their subdivision are not that close to each other. He observed that he only hears complaints of a lack of water with properties out of Town, not near an Aquifer.

Mr. Schuch questioned what the quality of water will be and Mr. Pfanner noted that iron is naturally in the ground at that locale. The well will be drilled in bedrock and will not be surface water so the nature of the water will not be changed by the drilling. He added that there are treatments for iron in water but that the water is accessible with iron in it.

Mr. Pfanner explained that on the revised Plans he added the construction sequence of the subdivision including such items as the planting of trees on the border of the property, as well as the maintenance schedule for the basins. The goal is for the basins to be a feature and asset, not merely a hole in the ground. Ms. Palazzo questioned who is responsible for the maintenance and Mr. Pfanner stated that the Developer is until the particular unit/lot sells. Ms. Bengtson asked what recourse could be taken if a property owner does not adhere to the maintenance schedule. Mr. Harris explained that these are covenants but that language could be added to the covenants which would state that the Town can enforce these covenants by law. Mr. Goeschel stated that this would warrant speaking to the Town Attorney.

Ms. Bengtson asked how the top soil would be disposed of, sold or hauled out. Mr. Pfanner noted that they do not usually have an excess of top soil during construction. Ms. Palazzo asked if the site was not cleaned in a timely manner would there be a penalty. Mr. Harris asked if she was speaking of stabilization, that if she was, that's the purpose of the \$8,000 bond. Mr. Pfanner pointed out the Sheet 4 change which consists of additional trees by Mr. Korineck's property per the discussion of the last Meeting. Mr. Balantic inquired about Sheet 4 asking where Lot 7 runs along and Mr. Pfanner explained that Lot 7 comes along the adjacent open space.

Mr. Goeschel clarified for the Commission that the driveway will be built as they go, and that the plantings will also be put in as they go. Mr. Pfanner stated that they also provided the Commission with a revised drainage report and the conventional layout. There was some debate regarding the purpose of completing a conventional layout when a conservation subdivision is required. Mr. Pfanner, Mr. Harris and Mr. Goeschel explained that the conventional layout is a required tool which illustrates that the conservation subdivision regulations are being met.

Attorney Harris reiterated that as noted in the Public Hearing Notice and the Application, they are requesting one waiver in conjunction with the Application and that it's a bit different from what you would normally see, because it is not a waiver that is provided for within the subdivision regulations. The waiver is provided for within the current zoning regulations which provides for conservation subdivision. The particular regulation involves a requirement for a 40 foot buffer around the perimeter of the development. Attorney Harris stated that this waiver is appropriate because the perimeter of the property is not going to be developed so nothing exists that would need to be protected by a buffer.

Mr. Schuch opened the Public Hearing to the public and Elizabeth Korineck of 221 Upper Pattagansett Road came forward to ask if anyone has ever attempted to walk on this road. She also asked who paid for the traffic study. Mr. Harris stated that it was completed independently from them for the Evergreen Ridge Subdivision, which was never constructed

Carol Migdalski of 207 Upper Pattagansett Road came forward and stated that there have been numerous groups of smaller homes constructed on Upper Pattagansett, and that those numbers add up in terms of the volume of people accessing the road. Pasquale Cirone of 236 Upper Pattagansett asked what kinds of traffic the study focused on. Mr. Harris stated that it focused solely on vehicular traffic. Mr. Cirone stated that the road has an inordinate amount of pedestrian traffic, no sidewalks, and that speed limits don't slow down the traffic.

Joe Korineck Jr of East Hampton, Connecticut stated that the road narrows widens narrows again and may not be conclusive. Ms. Bengtson asked how wide the road is by the proposed subdivision and Mr. Pfanner stated that it has a width of 24 feet. Mr. Harris stated that the subdivision is eight lots on a country road and that the Town as zoned this area as an appropriate use for such a subdivision. Mr. Pfanner added that Town Engineer did analyze the site plan. Mr. Goeschel stated that some clearing along the street line may be necessary.

Ms. Korineck inquired about the hours that construction would take place. Mr. Pfanner and Mr. Harris stated Monday-Friday 7am to 5pm, 7am to noon on Saturday and no construction on Sunday. Ms. Migdalski stated that there is a huge difference between 2 and 4 houses on the street level. Mr. Harris explained again that a conservation subdivision is required by zoning regulations and that it results in better open space areas. Mr. Korineck Jr asked how much of the open space was actually wetlands and wanted to know what was exactly meant by the term "open space." Mr. Goeschel read material regarding open space from the POCD.

Ms. Migdalski stated that the horses are still on the property. Mr. Pazzaglia stated that the trailer to remove the horses broke and that he was trying to be kind, by giving the former owner more time to

collect her animals. He stated that he would call the Humane Society since the neighbors do not want the horses there. Mr. Goeschel noted that in terms of open space, it's a cluster development plan and that it meets regulations. Mr. Harris reiterated that the Town requires the conventional plan be done. Mr. Schuch stated that he believes the concern of the neighbors in attendance is that the four houses on the street overshadow the perceived open space. Mr. Pfanner responded that they are required to design the Plans according to the Town's regulations. Ms. Migdalski stated that this does not make sense to her, that the Plan does not match what was read. Mr. Goeschel asked how it doesn't match.

Mr. Harris stated that the Plans are not out of character with the look of the neighborhood. Mr. Covino agreed and stated that the Developer is not allowed to do a conventional subdivision. Mr. Pfanner added that the exercise is done so that density is not increased. Mr. Korineck asked if Mr. Goeschel could read Section 7 from the POCD. Mr. Balantic respectfully advised the Commission that this is a Public Hearing and not a means of researching regulations. Tom Migdalski of 221 Upper Pattagansett Road asked what kind of plantings will be utilized. Mr. Pfanner informed him that it will primarily be evergreen and white pine.

Mr. Goeschel stated that we have gotten all of the reports we are going to receive regarding this Application. Mr. Schuch asked about the aspect of pedestrian traffic verses vehicular brought up during this Hearing. Mr. Goeschel stated that the traffic concerns are a police matter. He noted that our regulations do not specify or address pedestrians, that there are no sidewalks anywhere on that road and that we cannot control reckless driving. Mr. Goeschel observed that the traffic study was completed for a seventy-four unit subdivision and that this subdivision only has eight units. Mr. Harris noted that they also factored in what traffic would be like in 2012.

Al Trouser of Hathaway Road reiterated the comments regarding traffic danger and stated that you have to be quick or risk being run over. He stated that the speed of cars is so great; you often don't see the cars coming up the hill. Mr. Korineck Jr asked what month the traffic study was completed and Mr. Harris told him August.

Gary Evans of 1 Hathaway Road stated that he understands what Mr. Goeschel is saying regarding the police but that it is not realistic. He added that a more practical manner has to be looked into that considers pedestrians. He said this was a huge issue being dismissed easily. Richard Chmiel of 241 Upper Pattagansett stated that any more traffic will only add to this problem. Mr. Cirone asked what would happen if the Application is not approved. Mr. Goeschel stated that the Applicant would modify or appeal the denial to the Superior Court.

Ms. Schwartz discussed with the Commission whether they had enough information about the buffer to make a decision. The Commission called for final comments and Mr. Cirone stated that although the Applicant met the zoning requirements, the Plan itself is not ideal and the Commission is the responsible party for addressing this.

- ****Motion (4)**

Mr. Balantic moved to close the Public Hearing.

Ms. Schwartz seconded the motion.

Vote: 6-0-0. Motion passed.

The Commission decided to take no further action until the next scheduled Meeting. The Commission took a five minute break.

The Commission reconvened at 9:04 PM.

V. Zoning Referrals

There were none.

VI 8-24 Referral

There were none

VII Other Business

A. New Business

- i. Presentation by Ed O'Connell, Town Attorney.

Mr. O'Connell reviewed the specific tasks the Planning Commission is responsible for and what they are permitted to do. He noted that their concern is with the division of land while Zoning is concerned with the use of land. Mr. O'Connell addressed and reviewed open space, hearings, public improvements, bonds, voting criteria and time frames of applications and procedures.

VIII Reports

A. Chairman

Mr. Schuch stated that again due to the late hour, the Reports could be tabled until the next Meeting. Mr. Goeschel noted that the Commission should consider putting another Member on the Sustainable Development Subcommittee.

Adjournment

- ****Motion (5)**

Ms. Palazzo moved to adjourn the Planning Commission Meeting at 9:48 PM.

Ms. Bengtson seconded the motion.

Vote: 6-0-0. Motion passed.

Respectfully submitted,

Brooke Stevens,
Recording Secretary

