

TOWN OF EAST LYME

ZONING COMMISSION

FEBRUARY 16, 2017

REGULAR MEETING MINUTES

Members Present:

Matthew Walker, Chairman
Terence Donovan
John Manning
George McPherson
William Dwyer
Norm Peck
James Liska, Alternate (Did Not Sit)
David McIlhenney, Alternate (Did Not Sit)

FILED

Feb 21 2017 AT 8:00 AM PM
Wendy Galbraith
EAST LYME TOWN CLERK

Members Absent:

Peter Lukas, Alternate

Also Present:

Bill Mulholland, Zoning Officer
Rose Ann Hardy, Ex-Officio

1. **CONTINUATION OF APPLICATION OF ROBERT S. FOSTER (OLD ORCHARD FARM) FOR A TEXT AMENDMENT TO AMEND SECTION 25 OF THE EAST LYME ZONING REGULATIONS TO PERMIT FARMS OF 5+ ACRES TO OBTAIN A SPECIAL PERMIT IN ORDER TO CONDUCT FARM EVENTS AND AGRITOURISM EVENTS (ACTIVITIES ACCESSORY TO FARM/AGRICULTURE USE OF THE PROPERTY).**

Chairman Walker stated we have taken in a lot of testimony, he recommends we continue this without discussion to review the record. The applicant made revisions that we need to consider, and they were just received by the Zoning Office yesterday.

Mr. Donovan stated he would like time to review it.

Mr. McPherson agreed with Mr. Donovan.

Mr. Peck stated if this were passed the 50 acre regulation would be stricter than this. We may need to blend the two.

Mr. Mulholland stated we may need to go back and look at it if this were passed.

This item was continued to March 2nd.

2. **REQUEST OF THE TOWN OF EAST LYME ZONING COMMISSION FOR A TEXT AMENDMENT TO AMEND SECTION 11, LIGHT INDUSTRIAL DISTRICTS BY MODIFYING THE LANGUAGE IN SECTION 11.2.2 AND MODIFYING SECTION 11.2.4 BY REDEFINING HOTELS AND ADDING A DEFINITION OF MOTELS.**

This item was opened and continued with no discussion.

3. **APPLICATION OF JASON PAZZAGLIA, FOR A TEXT AMENDMENT TO ADD TO SECTION 8 CA COMMERCIAL DISTRICTS, "NOTWITHSTANDING THE ABOVE, WHERE MUNICIPAL SEWER IS AVAILABLE, LOTS USED FOR MIXED USE SHALL HAVE A MINIMUM OF 7,500 SQUARE FEET PLUS 1,200 SQUARE FEET FOR EACH EFFICIENCY OR ONE-BEDROOM LIVING UNIT AND 2,000 SQUARE FEET FOR EACH TWO-BEDROOM UNIT.**

This item was opened and continued with no discussion.

4. **APPLICATION OF JAMES BRAHM/WRIGHT'S POND LLC FOR SITE PLAN APPROVAL FOR CONSTRUCTION OF A NEW COMMERCIAL STRUCTURE OVER 30,000 SQUARE FEET, AT PROPERTY IDENTIFIED IN THE APPLICATION AS 225-237 FLANDERS ROAD.**

This item was continued per the applicant's request.

5. **APPLICATION OF KEITH B. NEILSON, PE, FOR DOCKO, INC., TO STRENGTHEN AND SUPPLEMENT THE EXISTING ARMOR STONE SHORELINE PROTECTION BY ADDING ADDITIONAL STONE TO ENHANCE THE EXISTING SEAWALL AT PROPERTY LOCATED AT 281 OLD BLACK POINT ROAD.**
6. **APPLICATION OF KEITH B. NEILSON, PE, FOR DOCKO, INC., TO STRENGTHEN AND SUPPLEMENT THE EXISTING ARMOR STONE SHORELINE PROTECTION BY ADDING ADDITIONAL STONE TO ENHANCE THE EXISTING SEAWALL AT PROPERTY LOCATED BETWEEN 279 AND 281 OLD BLACK POINT ROAD, THE OLD BLACK POINT ASSOCIATION, INC, RIGHT OF WAY.**

Chairman Walker read a letter from Attorney Sweeney regarding Item 5 and Item 6.

Mr. McPherson read a memo from Mr. Mulholland regarding Item 5 and Item 6.

Mr. McPherson read a letter from Marcy Balint of DEEP regarding Item 5 and Item 6.

Mr. Mulholland stated the applicant has asked that Item 5 and Item 6 be opened at the same time, but different motions would apply to each.

Keith Neilson of Docko, Inc. stated he prepared the application. He gave a detailed evaluation of the resources in his application, and a detailed narrative of what work is proposed. In his opinion the work is consistent with the CAM Act. This is maintenance of the stones in front of the seawall, it is essential and unavoidable. He has prepared exhibits. The Right of Way provides access to the shorefront; the seawall was built in 1938/1939 by the community. Mr. Smith's septic system is 40 feet behind the seawall. DEEP said the seawall should be repaired. How do they repair a 75 year old structure? The foundation is above the mean high water line, they would have to dig a hole and put footings so the waves can't get it. Coastal storms hit at higher elevations. They would have to go down low and the footings would be 4 to 5 feet below the existing footings.

Mr. Neilson entered the following exhibits:

- Exhibit A: Aerial Photo of Site;
- Exhibit B: Aerial Photos from DEEP records showing site conditions since 1934;
- Exhibit C: Photos showing character of land in 1934, photos of grounds before seawall and after the seawall;
- Exhibit D: Handwritten letter from Ed Rothman who witnessed the construction of the seawall;
- Exhibit E: DEEP permit issued in 2014 for the exact same project on a different property, DEEP had approved it in 2014, photos showing character of the shorefront before the work was done and photos after the work was done.

Mr. Donovan stated that was approved in 2014 and the permit can still be active until 2019.

Mr. Neilson stated the DEEP letter states there may be adverse impacts on coastal resources. However there are no coastal resources, it is a rocky shorefront. Also, there are only two houses between this property and where the work was done before that DEEP approved.

Chairman Walker asked if it is his contention that adding the armor stone is an enhancement of the existing wall?

Mr. Neilson stated yes.

Mr. Neilson entered the following exhibits:

- Exhibit F: DEEP letters
- Exhibit G: Photos of damage that occurs to the existing concrete structure which results from a lack of cover on this project, hence why the armor stone is so important.

Mr. Mulholland asked if the addition of larger stone is keeping with the enhancement and repair?

Mr. Neilson stated yes it is a repair. He stated if they were to build a new seawall they would have two weakened sections because they would have to cut the existing wall.

Mr. Neilson entered the following exhibit:

- Exhibit H: A-2 Boundary Survey and Septic System location survey;

Mr. Neilson stated they are trying to protect the seawalls. There is modified escarpment near the shore water of Long Island Sound. It is rocky shorefront, although it is not on the DEEP map. There would be no site clearing, demolition, or site preparation for this project. This is the least environmentally impactful option. The size of the stone will keep other stone under control. This will minimize the waves hitting the seawall.

Mr. McPherson asked about the property to the South.

Mr. Neilson stated Rifkin was permitted and done. They are proposing to maintain without embellishing. It would be above the coastal jurisdiction line, the beach at the base is all stone, this will

not cause pollution, there will be no environmental impacts, armor stone would be landward of the high tide line. Every permit that has been obtained they have gotten a Certificate of Permission first.

Mr. Neilson entered the following Exhibit:

Exhibit I: Certificates of Permission

Mr. Neilson stated there are no coastal resources; there is little or no viable habitat. This is harsh exposure, nothing can live on the beach, they are redoing what was done originally. This is an element that provides stability to the foundation. It was built by the community for the benefit of the community. The law does not prohibit repairs of existing seawalls. It is not a revetment; the armor stone would be to protect the footings from scour. The existing stone is too small. The waves wash it away. Almost all stone is susceptible to movement except for the five foot stone. It will lessen the blow against the seawall. The energy of the waves will be lessened. This would minimize dislocation of stone. He urged them to study the photos he presented. They are trying to preserve the seawall and the rocky shore. The smaller pieces will hasten the deterioration of the shorefront. He showed the members coir, which was suggested by DEEP to use instead of rock, he stated coir cannot be used on Black Point.

Mr. Manning stated DEEP approved the same exact work on property adjacent to this property and now it is not good.

Based on the testimony all members felt that what was presented was an enhancement, restoration and repair of the wall.

Motion (1) Chairman Walker moved to approve the request of Keith B. Neilson, PE of Docko, Inc., to strengthen and supplement the existing armor stone shoreline protection by adding additional stone to enhance the existing seawall at property located at 281 Old Black Point Road.

Reasons:

- 1. Based on the testimony and documentation of the record the Commission has determined that the application is not a new shoreline and erosion control structure but is an enhancement, restoration and repair of the existing seawall; and**
- 2. There is not significant alternative to the proposed activity because of the existing site configuration and there is not a practicable less environmentally damaging alternative option;**
- 3. Application is consistent with all applicable goals and policies of the CAM Act;**
- 4. Applicant has taken all reasonable measures to mitigate any adverse impacts of the proposed activity on both coastal resources and future water dependent uses.**

Seconded by Mr. Donovan.

Motion Passed 6-0.

Motion (2) Mr. Donovan moved to approve the application of Keith B. Neilson, PE, for Docko, Inc., to strengthen and supplement the existing armor stone shoreline protection by adding additional stone to enhance the existing seawall at property located between 279 and 281 Old Black Point Road, the Old Black Point Association, Inc., right of way.

Reasons:

- 1. Based on the testimony and documentation of the record the Commission has determined that the application is not a new shoreline and erosion control structure but is an enhancement, restoration and repair of the existing seawall; and**
- 2. There is not significant alternative to the proposed activity because of the existing site configuration and there is not a practicable less environmentally damaging alternative option;**
- 3. Application is consistent with all applicable goals and policies of the CAM Act;**
- 4. Applicant has taken all reasonable measures to mitigate any adverse impacts of the proposed activity on both coastal resources and future water dependent uses.**

Seconded by Mr. McPherson.

Motion Passed 6-0.

7. APPROVAL OF MINUTES OF JANUARY 19, 2017

Motion (3) Mr. McPherson moved to approve the Public Hearing and Regular Meeting Minutes of January 19, 2017.

Seconded by Mr. Dwyer.

Motion Passed 6-0

OLD BUSINESS

1. SUB-COMMITTEE MIXED USE IN CB ZONE

There was nothing to report.

2. SUB-COMMITTEE MAXIMUM ALLOWED SIGNAGE

There was nothing to report.

NEW BUSINESS

1. ANY BUSINESS ON THE FLOOR, IF ANY BY THE MAJORITY VOTE OF THE COMMISSION

Mr. Donovan asked about the approved setbacks at 38 Hope Street.

Mr. Mulholland stated that was approved under the Affordable Housing Statutes.

2. ZONING OFFICIAL

There was no report.

3. COMMENTS FROM EX-OFFICIO

The ex-officio had already left the meeting. Mr. Donovan reported that the Board of Selectmen has been reviewing the budget; there will be a Referendum on March 14th on the school project.

4. COMMENTS FROM ZONING BOARD LIAISON TO PLANNING COMMISSION

There was no meeting.

5. COMMENTS FROM CHAIRMAN

There were no comments.

ADJOURNMENT

Motion (4) Mr. Donovan moved to adjourn the meeting at 10:25 p.m.

Seconded by Mr. McPherson.

Motion Passed 6-0.

Respectfully Submitted,



**Karen Miller Galbo
Recording Secretary**