

TOWN OF EAST LYME

ZONING COMMISSION

OCTOBER 5, 2017

REGULAR MEETING MINUTES

MEMBERS PRESENT:

Matthew Walker, Chairman
William Dwyer
John Manning
George McPherson
Peter Lukas, Alternate (Sat for Regular Meeting)

MEMBERS ABSENT:

Terence Donovan
Norm Peck
James Liska, Alternate
David McIlhenney, Alternate

Also Present:

Bill Mulholland, Zoning Officer
Marc Salerno, Ex-Officio

FILED

Oct 11 2017 AT 8:15 AM/PM
Kuenyanko, ATC
EAST LYME TOWN CLERK

1. PROPOSAL TO OPT OUT OF THE REQUIREMENTS OF PUBLIC ACT 17-155, PERTAINING TO TEMPORARY HEALTH CARE STRUCTURES

Mr. McPherson read the Resolution to Opt Out of the Requirements of Public Act 17-155 (Attached)

MOTION (1) Mr. McPherson moved to adopt the Resolution to Opt Out of the Requirements of Public Act 17-155.

Seconded by Mr. Dwyer.

Motion Passed 5-0.

Chairman Walker requested the Mr. Mulholland pass this on to the Board of Selectmen.

2. APPLICATION OF KEITH NEILSON, P.E., FOR DOCKO, INC., FOR MR. ANDREW BANEVER (41 GWW, LLC) OWNER, FOR A COASTAL AREA MANAGEMENT REVIEW FOR SHORELINE IMPROVEMENTS AT 41 GREAT WIGHT WAY, NIAN TIC, CONNECTICUT.

Mr. McPherson read a memo from Mr. Mulholland.

Mr. McPherson read a letter from Marcy Balint of DEEP.

Chairman Walker reminded the Commission that we are obligated to consider the recommendations of DEEP, but we are not bound by their recommendation.

Keith Neilson stated he was surprised that DEEP said they did not have photos. They were provided with the application and he doesn't know how they didn't get them. He submitted to the Commission the photos that show the need for the proposed work (**Exhibit A**). Mr. Neilson discussed the conditions of the existing site, the vine and weed infested area behind the seawall has eroded back 5 feet. The concrete is deteriorating on the wall, it is coming apart. There was evidence of the same construction techniques as in most of the seawalls in Black Point because of the horizontal marks, so he estimates this was probably built in 1939 or shortly thereafter. The footing is exposed at the South End. In the area where the top is so badly damaged they couldn't find steel reinforcement. This was built probably 40 years before the CAM Act that DEEP is referencing in their letter. All signs of this seawall are imminent failure. The neighboring properties do not have seawalls, however they do have boulders stacked up to the property, and they are armored shore fronts that were built progressively over a period of time. He provided pictures of low tide, there is 50-75 feet of shorefront with small stones, and during a high energy storm those small stones will be similar to sand blasting to the concrete wall. The wall is subject to more damage which is the primary purpose of the armor stone. The armor stone will be 5 feet, the waves won't move those. At the north edge you can see part of the footing sticking out at the bottom of the wall. Vegetative measures are not sufficient by itself to protect this property. The potential of damage and erosion is extreme. There is no sediment along the shoreline; they are not depriving the shoreline of sediment. This wall is not directing energy to adjacent sites; they are not changing the flow of flood waters. He shouldn't have called it a patio, it is a concrete cap behind the seawall, and it will do better in protecting the back of the seawall. They will need special concrete.

Chairman Walker stated this presentation has been very thorough, the pictures are worth a thousand words, and they refute the assertions of DEEP in their letter. The old wall is deteriorating, there is no footing on a portion of it, and there is clearly erosion behind the wall.

Mr. Mulholland asked if this project as described in the application is necessary and unavoidable to protect residential structures and substantial appurtenances attached to or integral thereto constructed as of January 1, 1995 and that there is no feasible, less environmentally damaging alternative and that all reasonable mitigation measures and techniques are implemented to minimize adverse environmental impacts?

Mr. Neilson stated yes in his opinion.

MOTION (2) Mr. McPherson moved to approve the application of Keith Neilson, P.E., for Docko, Inc., for Andrew Banever (41 GWW, LLC) Owner, for a Coastal Area Management Review for shoreline improvements at 41 Great Wight Way, Niantic, Connecticut.

Reasons:

- 1. Application is consistent with all applicable goals and conditions of the CAM Act.**
- 2. Applicant has taken all reasonable measures to mitigate any adverse impacts of the proposed activity on both coastal resources and future water dependent uses.**
- 3. Project as described in the application is necessary and unavoidable to protect commercial and residential structures and substantial appurtenances attached to or integral thereto constructed as of January 1, 1995 and that there is no feasible, less environmentally damaging**

alternative and that all reasonable mitigation measures and techniques are implemented to minimize adverse environmental impacts.

Seconded by Mr. Dwyer.

Motion Passed 5-0.

3. APPLICATION OF J. ROBERT PFANNER, P.E., L.S., FOR SIRLENE & RICHARD BILLERA, OWNERS, FOR A COASTAL AREA MANAGEMENT REVIEW FOR SHORELINE PROTECTION IMPROVEMENTS AT 22 SHORE DRIVE, NIAN TIC, CONNECTICUT.

This item was continued at the request of the applicant.

4. APPLICATION OF GARY LARSON, ATTAWAN BEACH ASSOCIATION, FOR A COASTAL AREA MANAGEMENT REVIEW FOR PLACEMENT OF BOULDERS ALONG THE EDGE OF ATTAWAN AVENUE BETWEEN DART AND BRONSON STREETS, TO HELP PROTECT THE ROAD FROM FUTURE STORMS.

This item was continued at the request of the applicant.

5. APPROVAL OF MINUTES OF SEPTEMBER 14, 2017 AND SEPTEMBER 21, 2017.

MOTION (3) Mr. McPherson moved to approve the Special Meeting Minutes of September 14, 2017 as submitted.

Seconded by Mr. Dwyer.

Motion Passed 4-0-1 (Mr. Lukas abstained)

The approval of the September 21, 2017 Meeting Minutes was tabled until the next meeting.

OLD BUSINESS

1. SUB-COMMITTEE MIXED USE IN CB ZONE
2. SUB-COMMITTEE MAXIMUM ALLOWED SIGNAGE
3. SUB-COMMITTEE SITE PLAN REQUIREMENTS/ARCHITECTURAL REGULATIONS

Mr. McPherson stated he is working on the sub-committee information as time allows.

NEW BUSINESS

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

There was no business on the floor.

2. ZONING OFFICIAL

Mr. Mulholland stated the Mitchells framed the walls of their building today. The forms are up on the Hope Street building, Dollar General had to touch up their landscaping. He has been busy with a lot of enforcement issues.

3. COMMENTS FROM EX-OFFICIO

Mr. Salerno stated the Board of Selectmen had a presentation on a micro-grid which would be fed by natural gas, the State will offer reimbursement to the Town, and it would cover Lillie B. Hayes, Community Center, 2 Wells, and Middle School. If this happens it could save us money on the school restoration project. There is still no state budget

4. COMMENTS FROM ZONING BOARD LIAISON TO PLANNING COMMISSION

Mr. Dwyer attended the September 5th Planning meeting, there was an application for a 2 lot subdivision, and it was put off until the next meeting.

5. COMMENTS FROM CHAIRMAN

Chairman Walker did not have any comments.

Mr. Dwyer stated it should be mandated that every gas station have a generator.

Mr. Salerno stated they are looking into adding a gas station to the micro grid in phase 2 at the high school.

Mr. Mulholland stated that may be something for the State to mandate.

MOTION (4) Mr. McPherson moved to adjourn the meeting at 9:00 p.m.

Seconded by Mr. Lukas.

Motion Passed 5-0.

Respectfully Submitted,



**Karen Miller Galbo
Recording Secretary**

RESOLUTION TO OPT OUT OF THE REQUIREMENTS OF PUBLIC ACT 17-155

WHEREAS, Public Act 17-155 (the "Act") creates a new accessory use titled "temporary health care structure." Such structures would be a new use as of right, subject to limited permitting requirements, in any single-family residential zoning district on a lot owned by a person with a qualifying mental or physical impairment or that person's unpaid caregiver; and

WHEREAS, the Act establishes a permitting and enforcement program for this new use that is generally applicable to all Connecticut municipalities and bypasses the East Lyme Zoning Commission's ("Commission") ordinary process for adopting regulations and for approving applications for zoning permits; and

WHEREAS, the Act allows municipalities to "opt out" of the requirements of that Act; and

WHEREAS, the Act does not provide an opportunity for abutting landowners to be heard on a permit application under the Act; and

WHEREAS, the Commission is concerned that the Town lacks sufficient staff to comply with many of the procedural requirements of permitting and enforcement under the Act. Similarly, the Commission is concerned that the fees which the Act allows for permitting and enforcement of the provisions of the Act may not be sufficient to cover the costs the Town may incur in carrying out the Act's permitting and enforcement program; and

WHEREAS, the Commission is concerned that the permitting and enforcement program of the Act may require the Town to become a custodian of confidential medical information; and

WHEREAS, if in the future the Commission considers that temporary health care structures are appropriate for East Lyme, a regulation written to address East Lyme's circumstances would be more compatible with the Town's Plan of Conservation and Development, and would be capable of being administered within the staffing resources available to the Commission.

NOW, THEREFORE, IT IS RESOLVED, that the East Lyme Zoning Commission hereby affirmatively opts out of the provisions of Public Act 17-155; and recommends to the East Lyme Board of Selectmen that it adopt a resolution to opt out of the provisions of Public Act 17-155 similar to this resolution adopted by the Commission.

Dated at East Lyme, Connecticut, the 5th day of October, 2017.