

**EAST LYME ZONING BOARD OF APPEALS
PUBLIC HEARING AND REGULAR MEETING
MONDAY, JANUARY 29th, 2018
MINUTES**

A Public Hearing and Regular Meeting of the East Lyme Zoning Board of Appeals was held on Monday, January 29, 2018 at 6 PM at the East Lyme Town Hall, 108 Pennsylvania Avenue, Niantic, CT.

PRESENT: William Mountzoures, Chairman, John Smith, Acting Secretary,
Charles Ambulos, Steve Carpenteri

ALSO PRESENT: William Scheer, Applicant, Representing the Town
William Mulholland, Town Zoning Official
Joshua Chapps, Alternate

ABSENT: John Schweizer

FILED

Feb 1 2018 AT 10:00 AM/PM

William Mulholland

EAST LYME TOWN CLERK

1. Call Regular Meeting to Order

Chairman Mountzoures called the Regular Meeting to order at: 6:05 PM.

2. Read Notice of Public Hearing

Mr. Mountzoures asked Mr. Smith, Acting Secretary, to read the Agenda call of Case #1-2018 of the Regular Meeting.

Mr. Smith, Acting Secretary read the following:

Case No. 1-2018: Application of the Town of East Lyme, for a variance of Section 10.3.3, setbacks, for property identified in the application as 22 Main Street (Cini Park), East Lyme, Connecticut to allow construction of restroom facilities. Said parcel appears on the East Lyme Assessor's Map 12.2, Lot 3.

The Public Hearing notice was sent to the New London Day for publication on 1/18/18 and 1/26/18.

Mr. Mountzoures introduced the Board members and polled each for any conflict of interest. Hearing no conflicts of interest from the members, he explained the rules of the meeting and asked that anyone speaking please stick to the subject matter of the application.

Mr. Mountzoures then called for the applicant or their representative to make their presentation.

William Scheer, Assistant Public Works Director said that he was representing the Town as this is a Town project. He noted the layouts of the area that they had and was asked to read into the record the basis for the variance request. (Copy attached) This explained that the restrooms for Cini Park had been planned for many years and that due to changes in the FEMA flood designations the proposal would now have to be in compliance with those regulations and the portable restroom facility proposed would be FEMA compliant. The proposed location is the only feasible location where bathrooms could be located without disrupting traffic and the other current uses of the property. Further, in the event of flooding, the portable restroom could be removed.

Mr. Mountzoures called for anyone from the public wishing to speak in favor of this application -

William Mulholland, Zoning Official said that he was in favor of this application as the Town has for many years envisioned restroom facilities at Cini Park and it is due to the changes in the FEMA regulations that this request is being made. This would allow this important improvement to be FEMA compliant.

Mr. Mountzoures asked if there was any other area for this to go that would be compliant and also suit the FEMA regulations.

Mr. Mulholland said no, this is in line with the FEMA regulations.

Mr. Mountzoures called for any other comments from the public -

Hearing none -

He asked if the Board members had any questions.

Hearing none -

Mr. Mountzoures closed this Public Hearing at 6:11 PM.

Mr. Mountzoures said that they would now deliberate and possibly make a decision on the application.

Mr. Mountzoures explained that the only comments that they can take now are from the applicant and only if they have technical questions that they need answered. He also informed the applicant that in the event that they wish to contest the decision that they have 15 days in which to appeal it to the Superior Court.

REGULAR MEETING

Mr. Mountzoures opened the Regular Meeting at 6:12 PM.

Case No. 1-2018: Application of the Town of East Lyme, for a variance of Section 10.3.3, setbacks, for property identified in the application as 22 Main Street (Cini Park), East Lyme, Connecticut to allow construction of restroom facilities. Said parcel appears on the East Lyme Assessor's Map 12.2, Lot 3.

Mr. Mountzoures called for discussion on the application.

Mr. Smith said that he thinks that this is a great project and that everyone will benefit from it.

Mr. Carpenteri asked if Amtrak is agreeable with this.

Mr. Scheer said that Amtrak is not in that immediate area and they were notified as abutters but did not comment.

Mr. Ambulos said that he thinks that this will work well for everyone.

****MOTION (1)**

Mr. Smith moved to APPROVE the Application of the Town of East Lyme, for a variance of Section 10.3.3, setbacks, for property identified in the application as 22 Main Street (Cini Park), East Lyme, Connecticut to allow construction of restroom facilities. Said parcel appears on the East Lyme Assessor's Map 12.2, Lot 3.

Mr. Carpenteri seconded the motion.

Vote: 4 - 0 - 0. Motion passed.

ADJOURNMENT

Mr. Mountzoures called for a motion to adjourn.

****MOTION (2)**

Mr. Smith moved to adjourn Case #1-2018 of the East Lyme Zoning Board of Appeals at 6:15 PM.

Mr. Carpenteri seconded the motion.

Vote: 4 - 0 - 0. Motion passed.

Respectfully submitted,

Karen Zmitruk,
Recording Secretary

Basis for Variance Request

The purpose of this request is to allow the construction of a FEMA compliant restroom facility located at Cini Park to serve beach patrons and the general public.

Restrooms for Cini Park have been planned for many years. The Cini Park parking lot was reconstructed in the spring of 2013 and the plan included a future location for restrooms behind the Blackhawk building. The entire parking lot was in an A (elev 12) flood zone at the time the Parking lot was designed and constructed. Even though the parking lot would flood, an at grade permanent concrete restroom facility could be constructed. This concrete restroom would have all of the utilities housed within a small attic space above the flood zone, and it would have a shower and drinking fountain attached to it. After a flooding event, the restrooms could be hosed down and returned to service. Even though the space allotted for the restrooms was small they could easily be constructed while maintaining the 10 foot side setback adjacent to Amtrak Property required in a Commercial Marine (CM) zone. FEMA has subsequently updated the flood zone for this location to VE-14 (Elev 14 NGVD 1929), with the latest map being dated August 5, 2013. This new flood zone designation is a wave velocity zone that indicates that there will be flooding and wave action at the bathroom location that is 9 feet deep. This new flood zone designation prevents the construction of an at grade concrete style restroom.

In order to meet flood zone regulations, a portable restroom trailer will be purchased, that can be removed in the winter and anytime a storm with a potential for flooding is predicted. To achieve handicapped access, a ramp and entry platform is required to get up to the elevation of the restroom trailer doors. The shower and drinking fountain cannot be attached to the portable building and, must also have a handicapped accessible concrete platform.

All of this additional construction is now required due to a change in the FEMA flood designations. The small area intended to contain the restroom now has many additional structures that pushes the construction right up to the side property line

Our Courts have recognized that the impact to FEMA Regulations is a supportable basis for legal hardship and hence, a variance. In *Carl Mayor-Wittman vs. Zoning Board of Appeals, City of Stamford* (Superior Court, 2016), the Court approved both a setback and a height variance in conjunction with the rebuilding of a "sea cottage" which was located in both a VE (as is the case herein) and the AE flood zone, which carried more stringent local and FEMA Regulations. In fact, the Court noted that the purpose of the variance was to bring the structure toward compliance with the FEMA Regulations. Accordingly, the Court approved the requested variances, finding that the increased Regulations as supplied to this parcel, created the hardship.

As applied to the instant case, the proposed structures would be in full compliance with FEMA Regulations, and would be in the position to support the use of the portable restroom which would also be completely FEMA compliant. Given the current use of the Park for parking and commercial vessel dockage, the proposed location is the only feasible location where bathrooms could be located without disrupting traffic flow, impacting the remaining uses of the property, or keeping pedestrian traffic from

crossing busy vehicle travel lanes. It would also allow the use of the property to be fully FEMA compliant, with a combination of the permanent concrete platform, accessories, and the portable facilities which could be removed in the event of a possible flooding event. The Town of East Lyme is requesting a variance for the southern side property line from 10 feet to zero feet to construct a restroom facility that is FEMA compliant.



EXISTING PLANTINGS (TYP.)

LIGHT ON UTILITY POLE

NEW PORTABLE
RESTROOM TRAILER

20
20'

Case 1-2018