# TOWN OF EAST LYME ZONING COMMISSION MARCH 15, 2018 PUBLIC HEARING MEETING MINUTES

Members Present:
Matthew Walker, Chairman
John Manning
Norm Peck
George McPherson
Kimberly Kalajainen
Terence Donovan
Anne Thurlow, Alternate

FILED

Members Absent:
James Liska, Alternate
David Mcilhenney, Alternate

Also Present: Bill Mulholland, Zoning Officer Mar 21 2018 AT 8:40 AM/PM

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FAST LYME TOWN CLERK

Chairman Walker called the March 15, 2018 East Lyme Zoning Commission Meeting to order at 7:32 p.m.

#### Pledge of Allegiance

Mr. Walker led the Pledge.

<u>Public Delegations</u> - Time set aside for the public to address the Commission on subject matters not on the Agenda.

David Godbout of 15 Cardinal Road came forward and said he has been looking at past Zoning Meeting Minutes as well as the Zonining Regulations, and has found some disturbing trends:

- Only  $\frac{2}{3}$  of the Commission is required to add business to the floor.
- In terms of alternate attendance, it is not required in order for them to sit and vote at a followup meeting; it's up to the Chair and meeting minutes to adequately convey the business that occurs at each meeting.
- Ms. Thurlow destroyed public records when she was a member of BAA and asks that she therefore resign from the Zoning Commission.
- In past meetings the Commission has not always complied with the <sup>2</sup>/<sub>3</sub> vote requirement.
- There has been a significant increase in Zoning cases submitted to the Superior Court in the last 2 or 3 years, and he would like to know why so many.

Mr. Walker asked that Mr. Godbout limit his comments in order to get to the business of tonight's meeting, and Mr. Godbout responded that he is being concise in his comments.

Mr. Godbout detailed his request for public emails from the Land Use office and read part of his response letter from Waller, Smith, and Palmer. He noted it is not his fault if one person works for several different

agencies and they can certainly supply him with all their emails rather than sifting through them. Mr. Godbout asked if the Commission is going to respond to this and supply these emails.

Mr. Godbout said there is no time limit in regards to how long he may speak. He said he has had issues with Mr. Mulholland and his job performance and noted he was thrown out of the Zoning office earlier that day. Mr. Godbout went on to detail a blight case and how the homeowner should have received special consideration.

Mr. Walker said the Zoning Commission strives for perfection and are doing the best that they can; as far as blight goes, the Zoning Commission has no jurisdiction over blight and they will not respond to anything involving blight. Mr. Godbout continued to speak about blight and Mr. Walker said they would close public delegations if he continued.

Mr. Godbout asked the Zoning Commission to supply all of their emails from the first of the year to now, and said he looks forward to their response.

#### Public Hearing -

1. Application of Jason Westcott, Esq., Agent for Brian Lepkowski, Owner, for a text amendment to Section 23.5 of the East Lyme Zoning Regulations Buffers.

Mr. Walker noted the legal ad published regarding this application and Mr. McPherson read Mr. Mulholland's memorandum dated March 15, 2018 into the record.

Mr. Donovan read the letter from Mary Balint of DEEP dated February 26, 2018 into the record.

Mr. McPherson read the letter from Samuel Alexander of Southeastern Council of Governments dated February 8, 2018 into the record.

Mr. Walker read the letter from the Planning Commission dated March 12, 2018 into the record.

Jason Wescott of 1 Post Hill Place, New London came forward to represent the Applicant. He noted that he and his client have not seen an example of property that could not be developed because of this amendment. He said they're happy to entertain any thoughts that would make this application work. Mr. Lepkowski of 27 Green Valley Lake Road said he understands the amendment is not site specific, even though he will be using 27 Green Valley Lake Road as an example.

Mr. Lepkowski read his prepared presentation for the Commission (Exhibit 1), and Mr. Westcott supplied the Commission with a 1997 map of Green Valley Lakes and Perceived Open Space (Exibit 2.) He said the most recent map doesn't show a road coming through. Mr. Lepkowski highlighted the following in his presentation:

- The language of the text does not allow the buffer to exist where it's needed most.
- The current regulation clearly states a buffer shall be provided along the entire perimeter to screen development from existing contiguous lots, it does not clearly state whether a buffer shall be provided to screen existing lots from a new development road.
- Adding the language "including along roads" protects the existing resident but creates a problem for future Cluster Development Subdivisions by requiring an unreasonable amount of frontage; a proposed width of 30 ft would require 130 ft of frontage.

- Any instance where access to such property would not be possible due to existing
  property lines on either side of a proposed development road, the buffer requirement may
  be reduced or waived altogether.
- The proposed amendment still allows the buffer to be subdivision open space or contained within the lots themselves, so it's not inconsistent with the Conservation Design Development philosophy.
- The amendment will bolster the intent of the original regulation; provide protection for existing residents while encouraging future land development.
- The addition of a road along his property essentially turns his property into a corner lot.

Mr. McPherson pointed out that one of the visual examples 6 and 6.1 (Spring Rock Road) shows the radiuses implying a road was likely thought of. Mr. Lepkowski said it might have been thought of, but are not on the map like all the provided examples.

Mr. Walker called for Public Comments.

Joe Wren PE of 29 Harvest Glen came forward and noted the Planning Commission found this application inconsistent with the POCD. He said the change has to benefit the community as a whole; this expands the width from 50 ft to 90, and 130 if there is a parcel on each side. If you have less than 90 (or 130 if two parcels) you can't develop. In terms of waivers Zoning is no longer able to grant them- a variance would have to be obtained from ZBA, and that puts a burden on the taxpayer; only Planning can grant a waiver. The applicant like DEEP suggests, can certainly install their own buffer such as a fence. It's important to consider how many other parcels that would be adversely affected because of this amendment.

Robert Pfanner Jr. of 2 Surrey Lane came forward and noted J Robert Pfanner Associates did the original plans for Green Valley Lakes. Radiuses were put on the map because the plan was always to install a road. He said a homebuyer has to do his due diligence to research and consider what could happen. If this amendment were to happen developers would be taking a chance; what if a variance wasn't granted? According to our regulations, we don't want small isolated parcels of open spaces. Having more buffer requirements is going backwards and from a planning standpoint is more difficult.

Mr. Pfanner asked who's going to be responsible for the buffer. Responsibility can become a burden on the Town especially as of late with all the storms we've had and the many trees that have gone down. He said our regulations are not meant to be applied on a single property-meant to be more global.

Jason Pazzaglia of 21 Darrow's Ridge Road came forward to speak. He said when he looks at this text amendment it seems broad, but is actually quite site specific. He himself has three properties with 50 foot access strips for future development; with this amendment his original property with one lot on each side would now only be one lot. Mr. Pazzaglia said phase development is done due to the expense associated with subdivisions and creates more buffers.

David Godbout of 15 Cardinal Road came forward and said a waiver and whether you can grant it is a serious matter. He said you may need to table this matter in order to discuss and inform the

public of the legality of the waiver. He asked if this request increases or decreases the freedom of citizens and said he thinks it decreases it.

Mr. Lepkowski of 27 Green Valley Lakes Road came forward and responded to some of the public comments:

- His intent is to protect existing residents and he understands there is opposition by people who want to profit and doesn't fault them for that.
- The amendment benefits the Town by protecting its existing residents.
- He wants the Commission to have the power to do what they see fit.
- This is a rare occurrence and don't see a lot of situations like he himself is in.
- Buffers don't help or change the fact that a corner lot is a corner lot.
- The Commission can reduce or remove buffers as they see fit so he doesn't understand why this is such an issue.
- He said he did do his research prior to buying his property and was pretty much told by the office downstairs to disregard any concern for further development since its been forty years.
- Mr. Lepkowski said there is an abandoned air strip at Stone's Ranch and asked if he is to assume that Bradley will come in and seize it.
- He respects where Mr. Pfanner and Mr. Pazzaglia are coming from but this isn't a ten year phase development, it's been forty years.
- He also thought their comments were rather site specific; they're coming from a business/developer standpoint and now a homeowner's.
- Mr. Lepkowski said laws are for protection and this isn't a freedom issue.

Mr. Manning told Mr. Lepkowski he should be very proud of the work he has done for this application.

Mr. Westcott said he doesn't think this provision would require a variance be obtained.

#### MOTION (1)

Ms. Kalajainen moved to close the public hearing. Mr. Peck seconded the motion. Motion carried, 6-0-0.

Respectfully Submitted,

Brooke Stevens Recording Secretary

## To the East Lyme Zoning Commission:

The proposed text amendment to section 23.5 of the EL Zoning regulations before you this evening is to provide a simple and effective solution for an issue that exists in your current regulation.

The current regulation 23.5 Section B. titled "Buffers" is a regulation intended to screen or buffer Conservation Design Development from existing lots.

The issue is that the current regulation lacks the proper language necessary to clearly the express it's full intent of protecting existing homes from future Conservation Design Development.

While the current regulation does clearly state that a buffer shall be provided along the entire perimeter to screen development from existing contiguous lots, it does NOT, clearly state whether or not a buffer shall be provided to screen existing lots from a new development road.

\* Refer to Visual Example 1 \* 27 Green Valley Lakes Rd. proposed Twin Valley Lakes re subdivision

In this example showing an existing home next to a proposed re subdivision that was withdrawn last year, you will see where the current regulation has failed to express its intent as the proposed road has been placed along the properly line of an existing property without a buffer which will negatively impact the existing resident and destabilize their current land and home value.

You will see that a buffer has been provided at the rear of the existing lot as it directly abuts the new lot behind it just as the current regulation states.

The proposed text amendment adds the language "including along roads" to now more clearly express the intent of the existing regulation by providing a buffer where it would be most needed for an existing resident.

Now by adding in just that language, where one problem will be solved another one unfortunately will be created.

The problem created is that now in order for any future C.D.D. subdivision to be built on just that new language alone would require an unreasonable amount of frontage.

This would create a problem whereby almost all future residential development under the CDD would be prohibited due to the large frontage requirement that rarely exists in a well-developed area.

For example: a proposed road width of 30 ft would require 130 ft of frontage. (30 ft rd.  $\pm$  2x 10 ft town reserve strips  $\pm$  2x 40 ft buffers  $\pm$  130 ft).

To solve that issue, I first had to ask myself where the buffer regulation would be most effective in protecting existing residents. I believe that would be in the rare instance where an existing lot would be unwillingly turned into a corner lot due to lack of proper prior planning or land design by the abutting property.

\* Refer to Visual Example 2 \* 223 N Bride Brook Rd.

In this example 223 N Bride Brook Road you will see an 83 acre parcel of undeveloped R40 zoned land:

In this example you will also see an instance of proper prior planning where both existing lots contiguous to this parcel have clearly mapped and defined property lines which purposely left 50 ft of frontage for future road access between them.

\* Refer to Visual Example 3 \* 223 N Bride brook Rd. Whitney Cir access zoom for detail.

This 50 ft of frontage separating the two existing lots also serves as a clearly mapped and defined by property line indication to those existing lots on either side that there is future intent for road access that may convert them into corner lots.

This intent was clearly understood by an existing resident and can be further demonstrated by noting the house on the right hand side which is positioned on an angle nearly 100 ft from where a future road may be placed.

It clearly demonstrates to me that there was proper preparation for future corner lot conversion. You can also see that the lots abutting this 50 ft section have the adequate width to provide amble front and side yard setbacks consistent with how a corner lot would be configured.

These clearly defined and mapped property lines were placed in two locations on this large piece of RU-40 Zoned property as means of road access for future development.

This example occurs in at least 2 other large undeveloped parcels of R40 zoned land in East Lyme where there are other examples of 50 ft and greater sections left for future property access.

\*Refer to Visual example 4, 4.1 \*80 Quailcrest Rd. /131 Acres R40

\* Refer to Visual example 5, 5.1, 5.2, 5.3 \* 29 Goldfinch Terrace 200 / Acres R40

So now the question is: How would future development continue within these large parcels of land under this proposed regulation amendment?

The answer is by adding the waiver and language to the proposed amendment that will provide the zoning commission with the ability to express the full intent of the buffer regulation.

Just as the examples show. Any instance where access to such property would not be possible due to existing property lines on either side of a proposed development road the buffer requirement may be reduced or waived altogether.

So the next question may be: Where would this proposed amendment serve to protect an existing property from future development?

To answer that we pull up this next example again at Green Valley Lakes and Spring Rock Rd.

# \*Refer to Visual Example 6, 6.1 \* Spring Rock Rd / 88 Acres R40

Here we can see existing property next to a large parcel of land that lacks any mapped or clearly defined section intended for future road access. Here we also do not see access to such property limited or restricted by existing property lines.

If we recall the original example (**Visual Example # 1**) which showed a proposed development that was withdrawn from planning last year we can see the existing property line was within 50 ft of the proposed road.

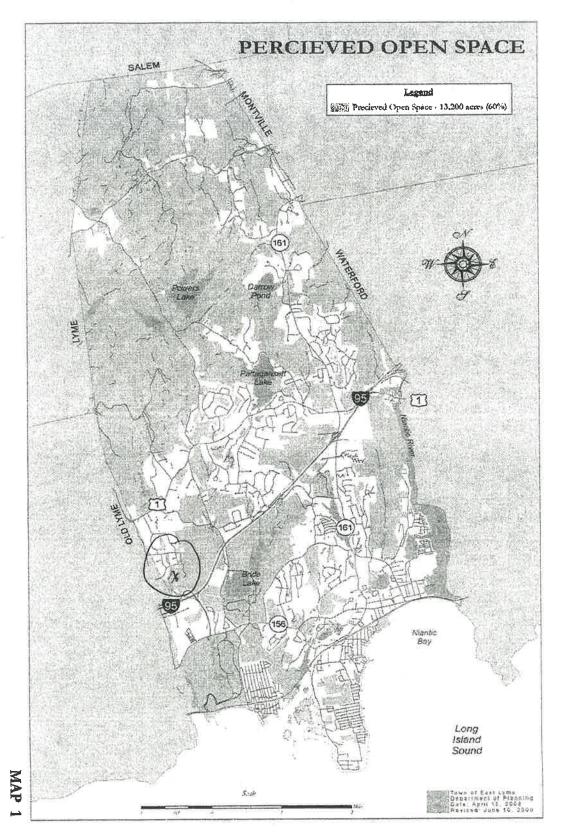
This would mean in that particular instance and under the proposed amendment that the builder would simply need to shift the road beyond 50 ft from the existing property line (40ft buffer + 10ft town reserve strip) in order to provide the buffer and to build a road under this proposed amendment of the zoning regulation. With approx 274 ft of frontage available on this parcel that should not be a problem.

Due to the fact that this proposed amendment still allows this buffer to be subdivision open space or contained within the lots themselves, I do not feel this proposal is inconsistent with the Conservation Design Development philosophy. Nor do I believe that any existing conventional R40 lots should be subjected to the constraints that would be placed upon them by such C.D.D. philosophy.

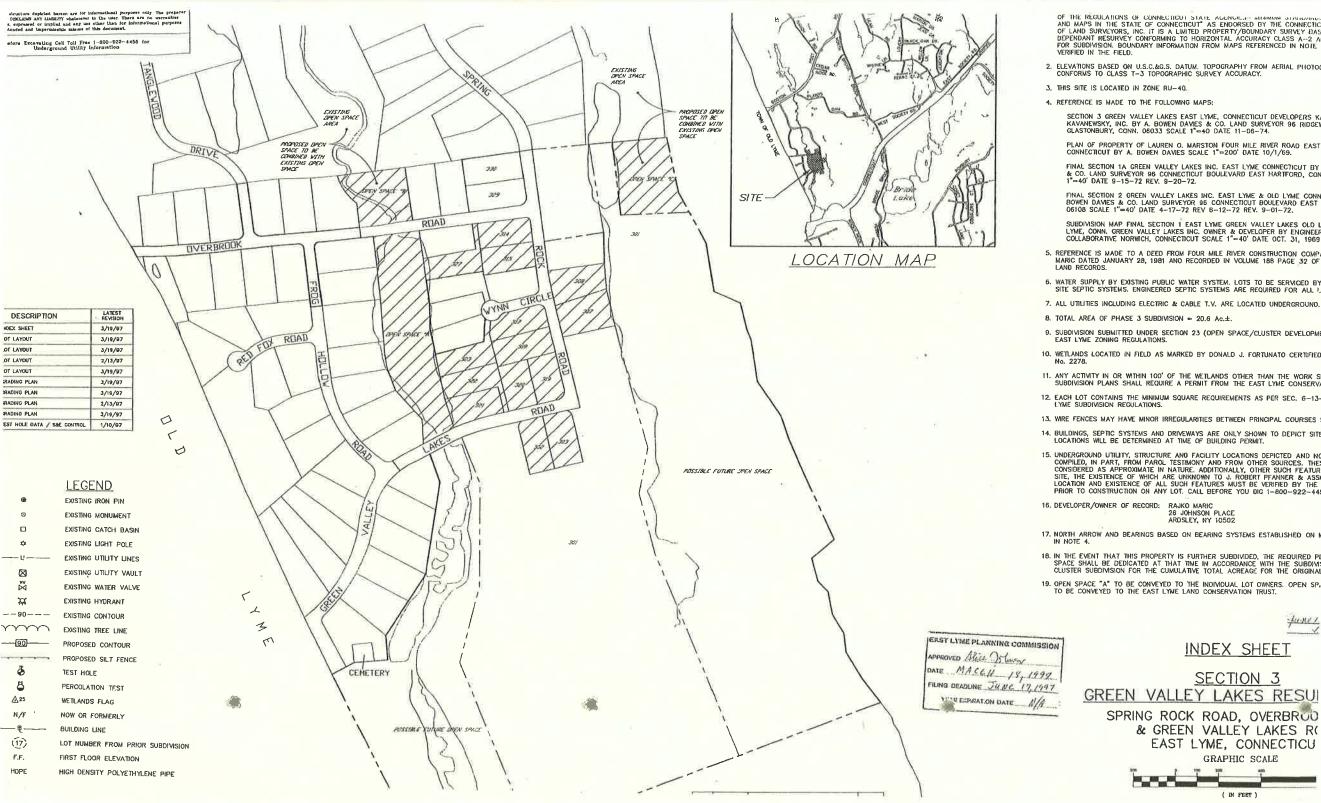
In summary, I believe adopting this proposed text amendment will bolster the intent of the existing regulation while providing the necessary protection for existing residents while encouraging future land development, the appropriate use of such land and improving the general welfare of the town consistent with the zoning regulations.

## Thank you for your consideration,

Sincerely, Brian Lepkowski, 27 Green Valley Lakes rd.



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OF THE REGULATIONS OF CONNECTIONS STATE AND MAPS IN THE STATE OF CONNECTICUT" AS ENDORSED BY THE CONNECTICUT OF LAND SURVEYORS, INC. IT IS A LIMITED PROPERTY/BOUNDARY SURVEY BASEC DEPENDANT RESURVEY CONFORMING TO HORIZONTAL ACCURACY CLASS A--2 AND FOR SUBDIVISION, BOUNDARY INFORMATION FROM MAPS REFERENCED IN NOTE, 4 VERIFIED IN THE FIELD.

- ELEVATIONS BASED ON U.S.C.&G.S. DATUM. TOPOGRAPHY FROM AERIAL PHOTOGR CONFORMS TO CLASS T-3 TOPOGRAPHIC SURVEY ACCURACY.
- 3. THIS SITE IS LOCATED IN ZONE RU-40.
- 4. REFERENCE IS MADE TO THE FOLLOWING MAPS:

SECTION 3 GREEN VALLEY LAKES EAST LYME, CONNECTICUT DEVELOPERS KAV KAVANEWSKY, INC. BY A. BOWEN DAVIES & CO. LAND SURVEYOR 96 RIDGEWO GLASTONBURY, CONN. 06033 SCALE 1"=40 DATE 11-06-74.

PLAN OF PROPERTY OF LAUREN O. MARSTON FOUR MILE RIVER ROAD EAST L CONNECTICUT BY A. BOWEN DAVIES SCALE 1"=200" DATE 10/1/69.

FINAL SECTION 1A GREEN VALLEY LAKES INC. EAST LYME CONNECTICUT BY A & CO. LAND SURVEYOR 9B CONNECTICUT BOULEVARD EAST HARTFORD, CONN. 1"=40' DATE 9-15-72 REV. 9-20-72.

FINAL SECTION 2 GREEN VALLEY LAKES INC. EAST LYME & OLD LYME CONNECT BOWEN DAVIES & CO. LAND SURVEYOR 98 CONNECTICUT BOULEVARD EAST II, 06108 SCALE 1"=40" DATE 4-17-72 REV 6-12-72 REV 9-01-72.

SUBDIVISION MAP FINAL SECTION 1 EAST LYME GREEN VALLEY LAKES OLD LYI LYME, CONN. GREEN VALLEY LAKES INC. OWNER & DEVELOPER BY ENGINEERIN COLLABORATIVE NORMICH, CONNECTICUT SCALE 1"=40" DATE OCT. 31, 1969 F

- 5. REFERENCE IS MADE TO A DEED FROM FOUR MILE RIVER CONSTRUCTION COMPAN MARIC DATED JANUARY 28, 1981 AND RECORDED IN VOLUME 188 PAGE 32 OF T
- 6. WATER SUPPLY BY EXISTING PUBLIC WATER SYSTEM. LOTS TO BE SERVICED BY I SITE SEPTIC SYSTEMS. ENGINEERED SEPTIC SYSTEMS ARE REQUIRED FOR ALL LO
- 8. TOTAL AREA OF PHASE 3 SUBDIVISION = 20.6 Ac.±.
- 9. SUBDIVISION SUBMITTED UNDER SECTION 23 (OPEN SPACE/CLUSTER DEVELOPMENT EAST LYME ZONING REGULATIONS.
- 10. WETLANDS LOCATED IN FIELD AS MARKED BY DONALD J. FORTUNATO CERTIFIED
- 11. ANY ACTIVITY IN OR WITHIN 100' OF THE WEILANDS OTHER THAN THE WORK SH SUBDIVISION PLANS SHALL REQUIRE A PERMIT FROM THE EAST LYME CONSERVA
- 12. EACH LOT CONTAINS THE MINIMUM SQUARE REQUIREMENTS AS PER SEC. 6-13-LYME SUBDIVISION REGULATIONS.
- 13. WIRE FENCES MAY HAVE MINOR IRREGULARITIES BETWEEN PRINCIPAL COURSES S
- 14. BUILDINGS, SEPTIC SYSTEMS AND DRIVEWAYS ARE ONLY SHOWN TO DEPICT SITE LOCATIONS WILL BE DETERMINED AT TIME OF BUILDING PERMIT.
- 15. UNDERGROUND UTILITY, STRUCTURE AND FACILITY LOCATIONS DEPICTED AND NO COMPILED, IN PART, FROM PAROL TESTIMONY AND FROM OTHER SOURCES. THES CONSIDERED AS APPROXIMATE IN NATURE. ADDITIONALLY, OTHER SUCH FEATURE SITE, THE EXISTENCE OF WHICH ARE UNKNOWN TO J. ROBERT PFANNER & ASSC LOCATION AND EXISTENCE OF ALL SUCH FEATURES MUST BE VERIFIED BY THE . PRIOR TO CONSTRUCTION ON ANY LOT. CALL BEFORE YOU DIG 1-800-922-445
- 16. DEVELOPER/OWNER OF RECORD: RAJKO MARIC 26 JOHNSON PLACE AROSLEY, NY 10502
- 17. NORTH ARROW AND BEARINGS BASED ON BEARING SYSTEMS ESTABLISHED ON A
- 18. IN THE EVENT THAT THIS PROPERTY IS FURTHER SUBDIVIDED, THE REQUIRED PL SPACE SHALL BE DEDICATED AT THAT TIME IN ACCORDANCE WITH THE SUBDIVI CLUSTER SUBDIMISION FOR THE CUMULATIVE TOTAL ACREAGE FOR THE ORIGINAL
- 19. OPEN SPACE "A" TO BE CONVEYED TO THE INDIVIDUAL LOT OWNERS. OPEN SP. TO BE CONVEYED TO THE EAST LYME LAND CONSERVATION TRUST.

INDEX SHEET

SECTION 3 GREEN VALLEY LAKES RESUL

SPRING ROCK ROAD, OVERBROO & GREEN VALLEY LAKES RO EAST LYME, CONNECTICU

GRAPHIC SCALE

