

**TOWN OF EAST LYME  
ZONING COMMISSION  
APRIL 5, 2018  
REGULAR MEETING MINUTES**

**Members Present:**

- Matthew Walker, Chairman**
- John Manning**
- Norm Peck**
- George McPherson (Arrived at 7:34 p.m.)**
- Kimberly Kalajainen**
- Terence Donovan**
- Anne Thurlow, Alternate**

**FILED**

Apr 10 2018 AT 8:35 AM/PM  
William Mulholland  
 EAST LYME TOWN CLERK

**Members Absent:**

- James Liska, Alternate**
- David McIlhenney, Alternate**

**Also Present:**

- Bill Mulholland, Zoning Officer**
- Daniel Cunningham, Substitute Ex-Officio**
- Kirk Scott, Planning Representative**

Chairman Walker called the April 5, 2018 East Lyme Zoning Commission Meeting to order at 7:32 p.m.

**Pledge of Allegiance**

Mr. Walker led the Pledge.

The Commission Sat Ms. Thurlow as a Regular Member but she returned to the audience when Mr. McPherson arrived at 7:34 p.m.

Public Delegations was not listed on the Agenda and no one present wished to speak.

**Public Hearing –**

There was none.

**Regular Meeting-****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 reiterated this application is not site specific and noted Mr. Lepkowski's presentation was well done, well researched, and pervasive. He added that pretty unique planning methods were used in forming these regulations and this application is self serving but he says this with no animosity; the application has to be considered Town wide and not with one specific site.

Mr. Manning said changing the regulations makes some lots non buildable and asked what this impact would look like. Mr. Mulholland said this would be more about new subdivisions and extended subdivisions.

Mr. Donovan commended Mr. Lepkowski on his presentation. He discussed the option of a waiver to continue a building venture and noted this would limit the attraction of developers to Town due to the cost, and need for more land. Mr. Donovan said he is a proponent of open space and thinks this would have the possibility of taking open space away.

Mr. Peck discussed his membership on the CDD Committee and explained their intent was to preserve land while decreasing the cost for the developer. This regulation was reviewed with three local developers prior to approval. Mr. Peck said he agrees with Mr. Donovan's assessment and the text amendment application is inconsistent with the CDD intent and reduce values. He added that this is an unnecessary item which is more negative than positive.

**MOTION (1)**

**Mr. Donovan moved to deny the 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. McPherson seconded the motion.**

**Motion carried, 6-0-0.**

**2. Approval of Minutes of March 15, 2018.****MOTION (2)**

**Mr. Peck moved to approve the Public Hearing and Regular Meeting Minutes of March 15, 2018.**

**Mr. Donovan seconded the motion.**

**Motion carried, 6-0-0.**

**Old Business-**

### **1. Subcommittee- Mixed Use in CB Zone**

Mr. Mulholland said he is working on the Village District material, and provided the Commission with enabling legislation and the quarterly Land Use newsletter for review at their leisure.

### **2. Subcommittee- Site Plan Requirements/Architectural Regulations**

Mr. Peck asked how we can push this item along and Mr. Mulholland said he would do his best to do so. Mr. Mulholland briefly discussed the hybrid zone Stonington has noting he doesn't think it will stand the test of time. He said he has all the regulatory material together and is just waiting on the legal; he will a rough draft for the next Zoning meeting. Mr. Walker said they're willing to meet as a subcommittee to assist Mr. Mulholland if needed.

### **New Business-**

- 1. Application of Steve Carpenteri for Niantic Bay Inn, Inc. (aka Lyme Tavern), for renewal of a Special Permit for Outdoor Dining at 229 W Main Street, Niantic.**
- 2. Application of Julie Smart, for Smarty's, for renewal of a Special Permit for Outdoor Dining at 215 Main Street, Niantic.**
- 3. Application of Steve Turner, for Lillian's, for a renewal of a Special Permit for Outdoor Dining at 374 Main Street, Niantic.**
- 4. Application of Edwardo Martone, for a Special Permit for Outdoor Dining at 11 East Pattagansett, Niantic.**
- 5. Application of Ahmet Maras, for Niantic Pizza, for a renewal of a Special Permit for Outdoor Dining at property identified in the application as 53 W Main Street, Niantic.**
- 6. Application of Lionheart for a renewal of a Special Permit for Outdoor Dining at property identified as 267-283 Main Street, (aka 13 Hope Street), Niantic.**

Items 1-6 have been scheduled for Public Hearings on April 19, 2018; legal ads have already been published, and notices sent out.

### **7. Alternative Care Dispensaries Discussion**

Mr. Walker read the opinion letter of Attorney Mark Zamarka to the Commission.

Mr. Peck had some of the following comments:

- "If use not specifically allowed, it's prohibited"- It doesn't say coat hangers are allowed, does that mean they are prohibited?
- It doesn't seem like they've done much homework in terms of how other towns are handling this; retail or pharmacy.
- In terms of prohibiting location, the State already takes care of this- can't be within 1,000 feet of a school and so forth.
- Many mortgages are not approved because of federal law and it really has to operate in a standalone building.
- Only concern is for it to eventually go recreational.
- Maybe call it a pharmacy to prescribe medicine only.

Mr. Manning said the use is prohibited by the Town but State law supersedes this; if we don't say anything it could go in any direction and we should set perimeters.

Mr. Walker said this is a controversial issue and we need to look inward and see if we want to be proactive on this. He said there will be varying opinions even on this Commission and we need to respect each other's opinions. As far as Mr. Walker sees it we have three options:

1. Do nothing and wait for an applicant to approach the Commission.
2. Be proactive and formulate a text amendment.
3. Moratorium

Mr. Donovan said that anyone wanting to open such a business really has to want it because it will be a long battle; legalization is a topic that is going to move forward. He said if we change the regulations we have the opportunity to welcome a new business to Town. Mr. Donovan added that New London has already approved this.

Ms. Kalajainen said she has a great deal of concern about manufacturing and selling and added that she works in the health care industry. She said she reviewed the purpose of our Zoning Regulations and doesn't see one that promotes us to take this on. She is not sure if it's our purview as a Zoning Board to act, that it's really more of a Town issue. Ms. Kalajainen said she favors a moratorium and acting in an official capacity and hearing from all stake holders; this allows a formal process for evaluation.

Mr. Manning said he thinks that would be counterproductive, that we can use this opportunity for controls. He said Maine, Vermont, and Massachusetts have already done this.

Ms. Kalajainen said she viewed the moratorium as time for an official process, so we can be thoughtful of how to handle this.

Mr. Donovan said a Public Hearing will allow us to hear from the public as well as other Boards.

Mr. Peck said May 9th is the due date for State application for anyone who wants to open such a facility. It's at least a three month process to even prepare for application and the State takes several months to decide. He said if we deny an application it's actually much easier to go to another Town where this is a permitted use.

Ms. Kalajainen said all revenue is not desirable revenue so it's important to have a thoughtful process and good stewards for our community.

Mr. McPherson said he is conflicted because he is looking at this from a medical standpoint but we need to be prepared if legalization happens across the country.

Mr. Peck gave the example of adult entertainment zoned only in the industrial zone; this permits the use but greatly limits it.

Mr. Mulholland said many communities make it a special permit to specific zones.

The Commission discussed the moratorium process. Mr. Cunningham explained the Commission is facing three regulatory schemes- Federal, State, and Town.

Mr. Walker said he is open to continuing this discussion but is unsure of how he would vote on this topic.

Mr. Mulholland said if you write a text amendment it doesn't mean you will adopt it.

The Commission discussed forming a subcommittee to work on language and Mr. Walker said he would like to see diverse views represented in the subcommittee. Ms. Kalajainen, Mr. Peck, and Mr. McPherson will serve on the subcommittee and they will meet on April 16th, 2018 at 7:00 p.m.

**8. Application of Marjorie Lineweber for a Text Amendment to East Lyme Zoning Regulations Section 11.2 Light Industrial Districts, Special Permit Use to add dog daycare and training facility.**

This item will be scheduled for late May or June.

**9. Any business on the floor, if any by the majority vote of the Commission.**

- The signage hearing is coming up.
- Mr. Walker will call Mr. Nickerson to discuss fund availability for a land use seminar.
- Mr. Walker will call Mr. McIlhenney.

**10. Zoning Official**

Mr. Mulholland had nothing to report.

**11. Comments from Ex-Officio**

Mr. Cunningham shared the initiative from the Smith Harris House to have liquor at the barn they rent out; they are exploring what can be done as well as liability.

**12. Comments from Zoning Board liaison to Planning Commission**

Mr. Manning did not attend.

**13. Comments from Chairman**

Mr. Walker had no comments.

**ADJOURNMENT**

**MOTION (3)**

**Mr. McPherson moved to adjourn the meeting at 9:12 p.m.**

**Mr. Manning seconded the motion.**

**Motion passed 6-0-0.**

