

**TOWN OF EAST LYME
ZONING COMMISSION
January 17th, 2019
PUBLIC HEARING MEETING MINUTES**

Members Present:

Matthew Walker, Chairman
Norm Peck
Terence Donovan
George McPherson, Secretary
John Manning
Anne Thurlow, Alternate
William Dwyer, Alternate (*Sat as a Regular Member)

Also Present:

Bill Mulholland, Zoning Officer
Rose Ann Hardy, Ex-Officio
Mark Zamarka, Town Attorney
Mark Nickerson, First Selectman

Absent:

Kimberly Kalajainen
James Liska, Alternate

FILED IN EAST LYME
CONNECTICUT
Jan 24, 2019 AT 8:57 AM/PM
Brook Brown ATC
 EAST LYME TOWN CLERK

Chairman Walker called the Zoning Commission meeting to order at 7:33 p.m.

The Commission sat Mr. Dwyer as a Regular Members for the evening.

Pledge of Allegiance

Mr. Walker led the Pledge.

Public Delegations

There were none.

Public Hearing-

1. **Application of Pazz Construction, Applicant, for Margaret Prokop, Co-conservator/Owner, for a zone change from existing RU-40 to CA of a portion of the property at 285 Boston Post Road, East Lyme Assessor's Map 30.1, Lot 59.**

Mr. Walker noted this item is being continued without discussion at the request of the Applicant.

Mr. Mulholland noted he has received a letter of extension from the Applicant and anticipates This item going forward the second week in February; this date is fluid depending on the Inland Wetlands hearing.

2. **Application of Pazz Construction, Applicant, for Margaret Prokop, Co-conservator/Owner, for a Special Permit for the construction of four units of**

elderly housing at 285 Boston Post Road, East Lyme Assessor's Map 30.1, Lot 59.

Mr. Walker noted this item is being continued without discussion at the request of the Applicant, as stated above.

3. Request of William R. Sweeney, Esq., Attorney, for Cait Meeks, Applicant, for a Special Permit for a health spa pursuant to Section 11.2.4 of the East Lyme Zoning Regulations at 6 Liberty Way.

- Mr. Walker noted the legal ad published for this item.
- Mr. McPherson read Mr. Mulholland's memorandum dated January 17th, 2019 into the record.

Attorney Sweeney of Tobin Carberry Law Firm in New London came forward to represent the Applicant and provided Exhibit A for the record. Mr. Sweeney shared the following:

- Ms. Meeks submitted a similar application several months ago which the Commission approved.
- The desired locale was unavailable so Ms. Meeks had to seek other sites.
- 6 Liberty Way originally housed a bridal mall and a retail use.
- Currently the building houses a personal training facility and other minor uses.
- There is ample parking- 70 on site parking spaces are available.
- Ms. Meeks intends to lease 1,200 square feet of space within the building for a micro spa; it's an expansion of her current massage therapy practice, which is already located in an adjacent leased spaced within Advantage Personal Training.
- The expanded health spa would relocate next door to her existing place of business.
- The spa would include 2 massage treatment rooms, an esthetic room for facials, a wet treatment room for bathing therapy, body wraps, and scrubs, a small sauna and changing room.
- There will be a maximum of five employees.
- Treatment professionals will work by appointment only.

Mr. Dwyer said he thinks the application is pretty cut and dry.

Mr. Walker observed that it's a very appropriate location for such a use.

MOTION (1)

Mr. McPherson moved to close the public hearing.

Mr. Dwyer seconded the motion.

Motion carried, 6-0-0.

4. Request of Jennifer & William Argyle for a text amendment to the East Lyme Zoning Regulations, Section 25.5 of Minimum Controls to allow Mixed Use Development in the CA Zone.

- Mr. Walker noted the legal ad published for this item.
- Mr. McPherson read Mr. Mulholland's memorandum dated January 17th, 2019 into the record.
- Mr. Walker read the Planning Commission letter dated January 10th, 2019 into the record.

- Mr. McPherson read the DEEP letter dated January 9th, 2019 into the record.

William Argyle of 12 Pattagansett came forward to speak about his Application. Mr. Mulholland observed there seems to be some confusion regarding what the Applicant is seeking for a text amendment, and suggested continuing this item; if everyone is amenable the Argyle's could meet with Mr. Mulholland in his office to clarify what they're seeking. The Commission and Applicant both agreed this was the best course of action.

MOTION (2)

Mr. McPherson moved to continue the Public Hearing.

Mr. Dwyer seconded the motion.

Motion carried, 6-0-0.

5. Request of the Town of East Lyme Zoning Commission for a text amendment to the East Lyme Zoning Regulations to add Section 1.48.1 Definitions Medical Marijuana Dispensary and add a new Section 8.2.16 Medical Marijuana Dispensary by Special Permit.

Mr. Walker noted this subject matter can be controversial depending on your view; this is a Commission generated proposal brought forth to public hearing and given the subject matter, the Town Attorney has been invited to address any legal questions.

- Mr. Walker noted the legal ad published for this item.
- Mr. McPherson read Mr. Mulholland's memorandum dated January 17th, 2019 into the record.
- Mr. Walker read the Planning Commission letter dated January 10th, 2019 into the record.

Mr. Walker explained a subcommittee was formed to investigate this topic and asked the Chair of that Subcommittee, Mr. Peck, to discuss the proposed definitions. Mr. Peck read following into the record-

"It is specifically proposed to add the following definitions to Section 1 (Definitions) of the East Lyme Zoning Regulations:

1.48.1 Medical Marijuana Dispensary: A place of business where marijuana may be dispensed or sold at retail to qualifying patients and primary caregivers and for which The Department of Consumer Protection has issued a dispensary facility license to an Applicant under Connecticut General Statute's 21a-408-1 to 21a-408-70 inclusive and Section 21a-408-140 the regulations of Connecticut State Agencies.

It is specifically proposed to add to Section 8:

8.2.16 as a permitted use in the CA Zone, Medical Marijuana Dispensary by Special Permit."

Mr. Peck explained that many towns nearby- Stonington, Groton, Old Saybrook and New London, all treat this Zoning wise, as a regular pharmacy (by special permit). The Subcommittee felt there was good value provided by these facilities and they wanted to be proactive, and narrow the use to the more appropriate CA Zone.

Mr. McPherson called attention to the Planning Commission letter which cited a “lack of criteria and standards regarding the siting of such use (attached).”

Mr. Walker noted there are currently 9 dispensaries active in the State and the only local one is located in Uncasville. He said there were 19 applications filed in 2015 and only 9 were accepted; in 2018 they took 73 applications with the goal of approving 3 to 10 more- 9 were again accepted and one is going to be located in Groton.

Mr. Dwyer suggested first determining whether we want one (a dispensary) in Town rather than writing laws that allow it. He said he doesn't think we want one in Town given what will come next i.e. legalization and a marijuana dispensary in Town.

Mr. Manning said to take a look at the number of package stores we have in Town- which is much more of a deterrent to the community.

Mr. Dwyer said he doesn't want to open the door for the next step.

Mr. Donovan said he understands his point but thinks they're trying to get ahead of the game by proposing this; if someone comes before the Commission with a medical marijuana dispensary proposal we will already have it in our regulations.

Mr. McPherson pointed out the Commission still has the ability to deny the proposal since it's by special permit.

Mr. Manning said he doesn't think “want” has anything to do with it; it's whether it's a legal activity or not.

Mr. Walker said there are diverse opinions and we need to be tolerant and mindful of viewpoints that may not line up with our own. He said he himself was very clear from the get go about his concern with this Commission leading the way and that he wasn't comfortable with that. He went on to say the Town is vibrant, thriving, and has become a destination; it's a great place to raise a family and East Lyme is a pro-business community but that being said, he still has his concerns.

Mr. Walker noted that it might be more of a timing issue for him- this is a fairly new phenomenon and perhaps the eventual legalization will change public opinion including his own. He added that at this juncture based on his personal view, his experience working 25 years in the criminal justice system, the clients he sees and the problems they have, and his experience as an elected official he doesn't think this is the right business for Town at this time.

Mr. Manning said he disagrees, there are package stores on every street corner, we have an oxycontin problem killing our youth, and no one has ever died from a marijuana overdose. He said marijuana has proven health benefits and is legal by the State of Connecticut, and has been regulated very tightly.

Mr. Dwyer said we don't approve ten-story buildings despite them being permitted elsewhere.

Mr. Peck said because it's federally illegal (despite being legal in Connecticut), that adds more limitations as to the number of these dispensaries as well as where they can be located. He briefly explained how banks will not approve of one of these in a building they finance. He also

discussed many of the thousands of people including his wife, who have been helped by these prescriptions.

Mr. Walker called for public comment.

Laurie Zrenda of 40 Mostowy Road and owner of Thames Valley Relief in Montville came forward and had some of the following comments:

- She is a pharmacist and owns one of the first six dispensaries that were licensed in the State.
- They've been open for 4 1/2 years and see 300 to 400 people a day.
- If recreational use gets approved like the new Governor wants, they anticipate the existing infrastructure and road facilities will end up getting recreational licenses.
- It's good to be proactive.
- The towns that do end up allowing recreational use (if legal) will get a tax benefit.
- Her clients have Cancer, ALS, MS, pain and so forth; it's another option in a world where opioids are being cut back.
- It's one of the safest drugs you can use and the effects are very minimal.
- She said she just wanted to provide an overview and she doesn't think it's going to come to their table anytime soon; the State has they're nine new ones to roll out.
- It's usually a couple years before applications can be submitted again and is dependent on patient population growth.
- She expects the federal law to change too.
- It's not the dangerous drug people think it is.
- She doesn't believe it's a gateway drug and noted it was taken off the D.A.R.E. program.
- It's less addictive than caffeine.
- 30 States are legal for medical use.
- You need to consider that if you do zone an area for medical whether you would want that for recreational because that may be what you're looking at in the future.

Mr. Walker said he sat in Ms. Zrenda's parking lot for 30 minutes today to get an idea of what the activity level looked like and said it was extremely busy.

The Commission discussed with Ms. Zrenda the various forms the prescriptions come in and some of their benefits.

Mark Nickerson, First Selectman came forward and had some of the following comments:

- With respect to their opinions, he opposes this as a citizen.
- People don't move into Town expecting to see a medical marijuana facility and what will become, as testified, recreational facilities.
- This is not something that can be tested on the street for impaired driving.
- He thinks by passing this, inviting this, they're encouraging it.
- Let anyone who wants to build a facility in Town make their own steps.
- He's glad it's available for people who need it but is opposed to this amendment.
- Nearby communities allow it, there is one in Uncasville and soon there will be another in Groton; he doesn't think another potential area is needed given the proximity of these locations.
- Let's see what recreational marijuana brings to the State.

Mr. Nickerson thanked the Subcommittee and the Commission for all of their work.

Rose Ann Hardy, Ex-Officio came forward and shared the following:

- She is opposed to this.
- There are vast problems with vaping in the school system.
- We have problems with use of marijuana with vaping instruments.
- She believes there are people who benefit from marijuana but there are already places that are within driving distance where people can obtain their prescriptions.
- From Laurie's testimony- 300 to 400 people a day is a large amount and let's not draw business away from hers.
- She personally feels we have a small Town and community environment which we've worked hard to advocate for and she would not like to see it in her town.
- She appreciates the work of the Subcommittee and whatever decision the Commission makes but she doesn't think we should be proposing this for Town residents; if an applicant comes forward they have some ideas of how they might like to proceed but she would not like to see the Town proposing it.

Jennifer Argyle of 12 Pattagansett asked for clarification as to why this is appropriate for a CA Zone and not a CB Zone. She observed that a dispensary would lead to a lot of traffic. Mr. Walker explained there are very strict guidelines as to where these establishments can be located and Mr. Peck detailed some of these limitations.

Mr. Peck said in regards to waiting for an applicant to come to them, he believes the process of getting certified to be a dispensary would not make this work and asked Ms. Zrenda to expand upon this. Ms. Zrenda explained that when you apply to the State you have to show you have Planning, Zoning, and Fire Marshal approval; your location needs to be chosen, you have to turn in your blueprints and your business plan.

Mr. Peck said he wants to see this in place so it will be possible to attract one of these businesses. Mr. Nickerson said this speaks to his point that they're inviting this. He added that people are busy and don't come out to Town meetings anymore; we have 18,000 people, 10,000 voters in Town and only 100 people came out for a 38 million dollar school project vote. Mr. Nickerson noted it's even a controversial issue amongst the Commission members themselves.

MOTION (3)

Mr. Dwyer moved to close the Public Hearing.

Mr. Manning seconded the motion.

Motion carried, 6-0-0.

The regular meeting of the Zoning Commission immediately followed the public hearing.

Respectfully Submitted,

Brooke Stevens, Recording Secretary