

TOWN OF EAST LYME
ZONING COMMISSION
January 17th, 2019
REGULAR 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)**

FILED IN EAST LYME
CONNECTICUT
Jan 24 20 19 AT 8:57 AM/PM
Brookhaven etc
EAST LYME TOWN CLERK

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**

The regular meeting immediately followed the 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.**

This item has been continued.

- 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.**

This item has been continued.

- 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 said he thinks this is a great location, an exceptional business and will be a simple move for the business owner. Mr. Donovan agreed that this is a cut and dry application.

MOTION (1)

Mr. Donovan moved to approve 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. McPherson seconded the motion.

Motion carried, 6-0-0.

Mr. Mulholland noted for the record this will be published next Thursday January 24th, 2019 and be effective Friday January 25th, 2019.

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.

This item has been continued.

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 invited the Town Attorney to speak.

Mark Zamarka from Waller, Smith and Palmer, the Town Attorney's office, came forward to review some of the legal basis of a medical marijuana dispensary. He explained our concern is whether and to what extent a dispensary can be regulated on a municipal level. He discussed State preemption and whether State law preempts local regulation. Mr. Zamarka discussed the liquor control act and how in some areas it gives the towns the right to prohibit the sale of alcohol; in the medical marijuana regulations there is no corresponding provision to prohibit the sale of medical marijuana.

Mr. Zamarka briefly discussed towns that have chosen to ban medical marijuana production and dispensary facilities outright:

- Monroe
- Ridgefield
- Guilford
- Bethel

He noted there are no cases that have challenged such bans and if the Town chose to ban they shouldn't discount the possibility of a legal challenge. He observed that the majority of municipalities that deal with this issue do this through regulations and discussed some examples that allow this use in industrial zones with separation requirements.

Mr. Manning said to his understanding they could choose to ban package stores and bars but we can't ban dispensaries.

The Commission discussed their options with the Town Attorney.

The Commission had an in-depth discussion of the proposal itself.

Mr. Donovan said it's not their intent to attract these businesses- it's going to happen; people say I don't want this around my kids but it's already there and this is our attempt to somewhat control it, allow the availability and stay ahead of it. He stressed the tax revenue that could be applied to our Town.

Mr. Dwyer said you can't get ahead of a flood.

Mr. Walker said he doesn't believe his constituency would not be in favor of this and as an elected official he can't endorse this. Mr. Dwyer concurred.

MOTION (2)

Mr. Peck moved to approve the 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 in the CA Zone with the deletion of any address on Black Point Road.

Mr. Donovan seconded the motion.

Motion carried, 4-2-0.

Mr. Walker and Mr. Dwyer voted against the motion.

6. FY 2019/2020 Zoning Budget

Mr. Mulholland explained the budget is exactly the same as last year. The Commission discussed staffing restraints.

MOTION (3)

Mr. McPherson moved to approve the FY 2019/2020 as presented.

Mr. Dwyer seconded the motion.

Motion carried, 6-0-0.

7. Approval of Minutes of January 3rd, 2019

Mr. Donovan said on page 6 "he is concerned about the width of the road" it's the emergency access road he was referring to and not the State road.

MOTION (4)

Mr. McPherson moved to approve the Public and Regular Meeting Minutes of January 3rd, 2019 as amended.

Mr. Manning seconded the motion.

Motion carried, 6-0-0.

Old Business-

1. Subcommittee-Mixed Use in CB Zone

Mr. Mulholland said he is working on this.

2. Subcommittee-Site Plan Requirements/Architectural Regulations

Mr. Mulholland said he is currently reviewing this with the Town Attorney.

New Business-

1. Request of Brom Builders, Inc., for a Text Amendment to the East Lyme Zoning Regulations Section 5.3.1.3 for Floodplain Management Regulations.

Mr. Mulholland said this item will be scheduled.

2. Any business on the floor, if any by the majority vote of the Commission.
There was none.

3. Zoning Official

Mr. Mulholland said it hasn't been this busy at this time of year, in years.

4. Comments from Ex-Officio

Ms. Hardy had no comments.

5. Comments from Zoning Board Liaison to Planning Commission

Mr. Donovan attended the meeting and reported the Lovers Lane Application was withdrawn.

6. Comments from Chairman

There were none.

Adjournment

MOTION (5)

Mr. Manning moved to adjourn the Zoning Commission Meeting at 9:31 p.m.

Mr. McPherson seconded the motion.

Motion passed, 6-0-0.

Respectfully Submitted,

Brooke Stevens
Recording Secretary