

EAST LYME PLANNING COMMISSION

Regular Meeting, June 4, 2019. 7:00 PM

East Lyme Town Hall, Upper Meeting Room
108 Pennsylvania Avenue, East Lyme, Connecticut

CHAIRMAN: Kirk Scott

PLANNING DIRECTOR: Gary Goeschel II

SECRETARY: Lawrence Fitzgerald

RECORDING SECRETARY: Sue Spang

CALL TO ORDER 7:00

VIII. ROLL CALL + PLEDGE OF ALLEGIANCE

Present: Michelle Williams, Peter Lynch, Lawrence Fitzgerald, Don Phimister, Kathryn Johnson, Alt., Jason Deeble, Alt.

Absent: Kirk Scott, Thomas Fitting

VIII. CALL FOR ADDITIONS TO THE AGENDA

MOTION: (Williams/Johnson) to add the April 3, 2019 Special Meeting Minutes for approval to the agenda. **Vote:** Approved Unanimously

VIII. CALL FOR PUBLIC DELEGATIONS

No public delegations

VIII. REPORTS

A. Communications

- The applicant for a 1-lot re-subdivision of approximately 11.39 acres of land zoned RU-40/20, located at 38 Roxbury Road, East Lyme Assessor's Map 16.1, Lot 30, has asked for a continuation of their public hearing as they are awaiting a report from Ledge Light Health District.
- Census administration is looking for volunteers
- U.S. Dept. of the Army submitted a real property master plan

B. Zoning Representative-no report

C. Ex-Officio: no report

D. Planning Director: Gary A. Goeschel II

No report

E. Sub-Committees

- Walkability-still working on the plan
- Plan of Conservation and Development (POCD) Steering Committee-A very good meeting with more information from Rosemary Ostfeld, Ph.D. and Mark Christianson on agriculture issues.
- Chairman: Kirk Scott-no report

VIII. APPROVAL OF MINUTES

Minutes will be discussed at the July meeting.

FILED IN EAST LYME
CONNECTICUT
JUN 10 2019 AT 11:35 AM/PM
Lawrence Fitzgerald
EAST LYME TOWN CLERK

VIII. PUBLIC HEARINGS

Vice Chairman Fitzgerald read the rules for Public Hearings

A. Application of J. Robert Pfanner, LS, Agent for Elizabeth Perry, Owner; Application for a 5-lot Subdivision of approximately 12.16+ acres of land Zoned RU-40 located west of West Lane between 32 Brightwater and 30 West Lane, East Lyme, Assessor's map #2.2 Lot # 11 (Date of Receipt: 3/5/19)

G. Goeschel read into the record the following titles of the exhibits:

- BB. Letter from Barbara Johnson
- CC. Joint driveway agreement
- DD. GIS of properties within the 500 radius of application
- EE. Aerial photo of properties within the 500 radius of application
- FF. Correspondence from Attorney Mark Zamarco to ZEO Mulholland
- GG. Phase 1B Cultural Resources/archeologic study

Attorney Ted Harris, 351 Main St., representing the applicant answered issues that were presented at the May Public Hearing and to clarify information on the proposed lots and surrounding lots.

- He stated the majority of the lots within the 500' radius of the applicant's property are smaller than the proposed development. Of the 118 lots in the radius, 80-90 are in the Black Point Beach Club Association. The proposed lots are designed for RU40 zone even though not required. The lots are just under an acre to over 2 acres.
- The drive way plans are designed to fit the standards of private common driveways but the applicant is open to changing the plan to have one common driveway.
- The Phase 1B Cultural Resources/archeologic study stated that no further studies are warranted.
- J. Robert Pfanner is an expert witness as a licensed surveyor and can verify that the opening for the driveway is 52' according to the deed.
- There is a utility easement but many properties have a utility easement for access
- The traffic added as a result of the proposed subdivision is in compliance of an RU40 zone.
- The roads in the area regularly handle large town trucks, such as buses, garbage, maintenance and snow plows, therefore they can handle construction trucks.
- The request for a buffer along the road is not required according to a previous opinion from the town attorney who stated that road frontage is not considered property for the sake of the zoning regulations.

P.E., J. Robert Pfanner, stated he is a professional engineer and licensed surveyor, he is experienced in deed research. The 1' strip along the frontage of the property on West Rd. is mentioned in two deeds, both mention the strip ending at Bond St. Pfanner surveyed the frontage and determined there was a 52.21' right of way along the frontage of the property owned by the applicant.

A drainage report analyzed four areas:

- Water coming off the property onto Osprey Rd.
- Water coming off the property onto Bond Rd.
- Water coming off the property onto Blue Heron Rd.

- The manmade pond will not be disturbed as part of the open space.

The drainage system designed for the proposed subdivision is designed for a 100-year rain event. The water will be directed to a swale along the front of the property where it will be held and absorbed into the ground. Any overflow will directly empty into the drainage system on Bond St.

There is already water going to Osprey and Blue Heron and Pfanner believes the proposed drainage will alleviate water runoff from the property.

There was no mention of underground streams in the drainage report.

The applicant has no objection to changing the proposed two common driveways to one common driveway. It will be 16' wide, with a turn around and will be located farther away from the road than the originally proposed driveway.

Pfanner stated that it makes no sense to access the property from Old Black Point Rd. He stated it would have to go through wetlands and be extensively cleared.

Public Comment:

Cynthia Trocki, 22 Blue Heron Rd. Trocki is opposed to the subdivision. She stated it is not part of the BPBCA and that the address on the application is misleading. She showed pictures of trees that were taken down and referenced deeds and history of the area. Trocki is requesting the applicant be required to replace the stonewall, professionally landscape and add a buffer along the road.

Carol Ward, 23 Blue Heron Rd. Ward is opposed to the subdivision. She went into an extensive history of the property. She believes the proposed subdivision should be accessed from Old Black Point Rd. because that is the association the property belongs to.

G. Goeschel read into the record the letter from Barbara Johnson.

Tim Furey, 43 Belleview Ave. Bristol, Attorney for the BPBCA stated he has been working with Attorney Harris and is working under the assumption the A2 survey is accurate. He has not delved into the title and the issue of the 1' strip. Furey stated that he and Harris have agreed the stonewall will be rebuilt/refurbished with materials on site. The association will agree to a waiver allowing for one driveway as opposed to the two now proposed. The driveway will be further back from the road which will increase the green space between the road and the proposed subdivision. The association is asking for a comprehensive agreement on the maintenance of the swale, driveway, and green space.

Furey asked that the curb cuts be looked at for alignment and line of site. He stated the open space is not designated on any plan, who controls it? If the town does not own it then someone needs to be responsible for it and a mechanism has to be put in place in perpetuity so it does not get forgotten.

Furey stated the regulations require a construction narrative as to timeline.

The association is concerned that the applicant will subdivide the remaining property in the future and would like some assurance that will not happen.

David Simpson, 9 Bond St., is opposed to the proposal because of safety concerns. He believes the access to the property should be from Old Black Point Road which goes directly to the beach they belong to.

John Selarno, 60 East Shore Dr. wanted to know if the town attorney looked into the deed presented at the last meeting. He stated he is personally not against the sub division.

Carol Ward, 23 Blue Heron Rd., stated she would like more than just grass along the road, she wants trees. Ward thinks the access to the property should be from Old Black Point Rd. on the existing right of way. She stated a previous owner considered the property a bird sanctuary and it should remain as a bird sanctuary.

Attorney Furey stated the zoning regulations do allow for large buffers with trees.

John Selarno, 60 East Shore Dr. asked the commission to consider straightening out the curve as a condition of approval.

Attorney T. Harris, for the applicant stated the addition of plantings along the road would compromise the swale. The applicant has no problem maintaining the 50' buffer. He stated the applicant would be willing to rebuild the wall but the BPBCA would have to give permission as they own half of the stone wall. Harris stated maintenance documents would be submitted and approved by staff and town attorney. The open space is a conservation easement and each lot has undivided interest with a maintenance plan. Harris stated the plan will be covered in the revised main plan.

J. Robert Pfanner, P.E. for the applicant stated he has researched the deeds and he knows who owns what property lines. He stated the dead end street has a good line of sight. There will be a buffer of grass along the road and pointed out that there are no buffers on the properties across the street. The open space consists of wetlands and woods and should remain in its natural state and not maintained.

The 12' right of way from Old Black Point Rd. goes through the wetlands and he would probably not get approval from the E.L. Inland Wetlands Commission to improve and extend that right of way for access to the proposed development.

John Reeder, 109 East Shore Dr. Reeder is opposed to the subdivision, states that you cannot take a left out of the proposed subdivision and the proposed subdivision will impact traffic.

G. Goeschel stated the wall cannot be a condition of approval because it depends on permission of another entity.

Tim Furey, 43 Belleview Ave. Bristol, Attorney for the BPBCA, stated the association will give permission for the wall and will provide documentation. He stated narratives need to be in place before approval.

Edward Cosgrove, 14 Blue Heron Rd, asked who has been paying the taxes on the 1' strip along West Rd.

Attorney Harris will draft documents and submit for the record but asked the public hearing be closed.

Attorney Furey stated the public hearing should not be closed as that would prohibit he or the public from commenting on the submitted documentation.

Attorney Harris stated that if the commission wants to keep the public hearing open the applicant will submit a request for an extension.

Cynthia Trocki, 22 Blue Heron Rd., referenced a deed and map which she submitted (Vol.1 page 385). She stated that when the sewers and water were installed by the town their area was an exclusive zone area.

Attorney Harris submitted a written request to extend the public hearing.

MOTION: (Williams/Lynch) to continue the Public Hearing to the July meeting. Vote: Approved Unanimously.

(The Commission took a break from 8:55-9:00)

B. Application of J. Robert Pfanner, L.S., Agent for Catherine Parente, Owner; Application for a 1-lot re-subdivision of approximately 11.39 acres of land zoned RU-40/20, located at 38 Roxbury Road, East Lyme Assessor's Map 16.1, Lot 30

The applicant had requested the Public Hearing be tabled until the July meeting.

VII SUBDIVISIONS / RE-SUBDIVISIONS - (PENDING)

- A. **Application of J. Robert Pfanner, LS, Agent for Elizabeth Perry, Owner; Application for a 5-lot Subdivision of approximately 12.16+ _ acres of land Zoned RU-40 located west of West Lane between 32 Brightwater and 30 West Lane, East Lyme, Assessor's map #2.2 Lot # 11 (Date of Receipt: 3/5/19)**

(Public Hearing continued)

- B. **Application of J. Robert Pfanner, L.S., Agent for Catherine Parente, Owner; Application for a 1-lot re-subdivision of approximately 11.39 acres of land zoned RU-40/20, located at 38 Roxbury Road, East Lyme Assessor's Map 16.1, Lot 30**

(Public Hearing continued)

- C. **Application of Killingly Engineering Associates, LLC, Agent for Pellumb & Andia Likolarri, Owner; Application for a 1-lot re-subdivision of approximately 2.882 acres of land zoned RU-40, located at 63 Scott Road, East Lyme Assessor's Map 29.0, Lot 14.**

(Vice Chairman Fitzgerald recused himself from the following application because he lives in the adjacent development).

Greg Glaude, Killingly Engineering Associates, clarified for the record that the proposed development was a free split subdivision, not a re-subdivision that would be subject to a public hearing. He also clarified that a new site plan correcting a typo on the 1.44 acreage was submitted.

The open space exceeds what is required and spans both proposed lots. An area in the open space is where the contaminated soil will be stockpiled.

There are environmental concerns because the property was an orchard and pesticides were liberally used.

G. Goeschel stated that there is no concern for contaminate runoff and the proposed procedure is acceptable to the Dept. of Public Health. He stated the contaminate binds to the soil.

Martin Groogy, Environmental Services., stated the mound of contaminated soil will be covered with orange geo-tech fabric and then topped with 2' of soil which will encase all the contaminants.

Glaude discussed the man-made farm pond and stated it was filled in sometime between April 2008 and July 2008 during the rough grading for the Orchards development.

G. Goeschel read into the record his findings on the application.

MOTION: (Lynch/Johnson) approve the application known as Application of Killingly Engineering Associates, LLC, Agent for Pellumb & Andia Likolarri, Owner; Application for a 1-lot re-subdivision of approximately 2.882 acres of land zoned RU-40, located at 63 Scott Road, East Lyme Assessor's Map 29.0, Lot 14 and the plans entitled, "Subdivision Map Prepared for Andia Likolarri & Pullumb Likolarri, Scott Road, Arbor Crossing and Holly Lane, East Lyme Connecticut, dated: 2/01/2019, revised though 4/29/2019," prepared by Greg A. Claude, L.S. and Normand E. Thibeault, Jr., P.E. of killingly engineering Associates, Civil engineering & Surveying, 114 Westcott Road, killingly, Connecticut which, is further subject to the following administrative requirements and required modifications to the site plan and /or other materials submitted in support of this application.

- 1. An Erosion & Sedimentation Control bond in an amount of \$3000.00 dollars shall be posted with the Town in a form acceptable to the Town of East Lyme Planning Commission prior to the start of any site work including but not limited to clearing, grubbing, filling and grading.**
- 2. As recommended by the Town Engineer, the Long Term Operations & Maintenance Plan attached to his memorandum dated May 15, 2019 shall be incorporated into the**

- drawing set to protect and extend the life of on-site storm water management system.
3. **Contact the Planning Director to inspect the installation of erosion and sedimentation controls within 2-days prior to the start of any construction.**
 4. **Monuments shall be set at all corners and angles of all streets including the frontage of proposed lot 1 along Scott Rd.**
 5. **The existing vegetative landscaped buffer along Arbor Crossing shall be maintained for the extent practicable. Clearing of the existing vegetative buffer along Arbor Crossing for the purpose of installing the proposed driveway shall be minimized to the fullest possible extent.**
 6. **The drawing set shall be revised to incorporate the recommendations from Brad Kargl, Utilities Engineer in his email correspondence dated April 10, 2019 and made part of the record as demonstrated by Exhibit, "E."**
 7. **The applicable items above shall be accomplished prior to the filing of the subdivision on the land records, or other documentation of planning approval and no site work shall commence until all applicable conditions are satisfied.**

This approval is specific to the subdivision plan submitted as the application known as Application of Killingly Engineering Associates, LLC, Agent for Pellumb & Andia Likolarri, Owner; Application for a 1-lot re-subdivision of approximately 2.882 acres of land zoned RU-40, located at 63 Scott Road, East Lyme Assessor's Map 29.0, Lot 14 and the plans entitled, "Subdivision Map Prepared for Andia Likolarri & Pullumb Likolarri, Scott Road, Arbor Crossing and Holly Lane, East Lyme Connecticut, dated: 2/01/2019, revised though 4/29/2019," prepared by Greg A. Claude, L.S. and Normand E. Thibeault, Jr., P.E. of killingly engineering Associates, Civil engineering & Surveying, 114 Westcott Road, Killingly, Connecticut.

Any changes in the subdivision plan shall require prior approval from the Commission and/or the Director of Planning. Any changes in the development plan layout other than those identified herein shall constitute a new application.

The owner/applicant shall be bound by the provisions of this Application and Approval.

Vote: Approved Unanimously.

VIII. ZONING REFERRALS [Connecticut General Statute (CGS) 8-3a]-none

IX. MUNICIPAL REFERRALS [Connecticut General Statutes (CGS) 8-24]

- A. **199 W. Main Street/Bridebrook Park: Acquisition of approximately 3.57 acres of land from Department of corrections to the Town of East Lyme at Bride Brook Park under a memorandum of agreement dated October 16, 2002.**

G. Goeschel stated that there was an agreement in 2002 to transfer land from the Dept. of Corrections to the Town of East Lyme but that it was never formally conveyed. The property is to be used for recreational purposes and a soccer field has been on the site for 16 years.

MOTION: (Williams/Lynch) the Planning Commission of the Town of East Lyme exercising its authority of a Planning Commission under section 8-24 of the CT General Statutes having reviewed the proposal of the acquisition of land in the Town of East Lyme at 199 W. Main St./Bridebrook Park, 3.57 acres of land from Department of Corrections find the acquisition proposal favorable. Vote: Approved Unanimously.

X. OLD BUSINESS – No old business

XI. NEW BUSINESS-No new business

XII. ADJOURNMENT MOTION: (Johnson/Lynch) to adjourn at 9:25 Vote: Approved Unanimously.

Respectfully Submitted,

Sue Spang,
Recording Secretary