

**TOWN OF EAST LYME
ZONING COMMISSION
June 20th, 2019
PUBLIC & REGULAR MEETING MINUTES**

Members Present:

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

Also Present:

**Bill Mulholland, Zoning Officer
Rose Ann Hardy, Ex-Officio**

Absent:

Kimberly Kalajainen

FILED

June 26 20*19* AT *8:39* AM/PM

Brooke Ann Hardy ATC

EAST LYME TOWN CLERK

Chairman Walker called the Zoning Commission meeting to order at 7:31 p.m.

The Commission sat Dwyer as a Regular Member for the evening.

Pledge of Allegiance

Mr. Walker led the Pledge.

Public Delegations

Cynthia Trocki of 27 Blue Heron said she is hoping for some reconsideration about an application plan that was accepted back on April 4th, 2019; it says the subdivision is going to be at West Road when the property is actually on West Lane. Mr. Mulholland explained that she is referring to an internal staff document that was submitted to the Zoning office for a staff referral and not the Zoning Commission.

Mr. Mulholland said he would be happy to discuss this with her during office hours. Mr. Walker added that the Zoning Commission doesn't have jurisdiction over this item. Ms. Trocki said she has tried to speak to him on several occasions and Mr. Mulholland said he apologies but the office has been busy but she can call and make an appointment with him. Mr. Peck asked Mr. Mulholland to mention this error to Mr. Goeschel so that he can correct it to avoid any confusion.

Public Hearings

1. **Application of Eric J. Garofano, Esq., Agent for John H. Drabik, Owner, for a Special Permit for construction of a 175' tall amateur radio tower to be located on property identified in the Application as Ancient Highway, East Lyme Assessor's Map 30, Lots 1 & 2.**

- Mr. Walker noted the legal ad published for this item.
- Mr. Donovan read Mr. Mulholland's memorandum dated June 20th, 2019 into the record.
- Mr. Walker noted Town Attorney, Mark Zamarka is present to assist if needed.

Attorney Garofano of Conway, Londregan, Sheehan & Monaco located at 30 Huntington Street in New London, came forward representing the Applicant. Mr. Garofano noted the updated application (binder- Exhibit A) submitted this evening. He said that John Drabik, Attorney Londregan, Tim May, the Engineer, and Darryl L. Del Grosso, Amateur Radio Expert, are also present to answer any questions the Commission may have. Mr. Garofano said the new material includes exhibit 13- a letter of support from the Town Fire Marshal, and exhibit 14- a petition of support signed by residents of the Ancient Highway area.

Mr. Garofano thoroughly reviewed the entirety of Exhibit A (the binder) discussing the following:

1. The Special Permit Application Form & Proof of Notice
2. The Special Permit, Site Plan & Telecommunication Tower Narrative
3. The Opinion letter from Waller, Smith & Palmer dated March 30th, 2017
4. The Site Plan & Elevation Drawings
5. The Site Work Bond Estimate
6. The List of Site Plan Waivers
7. The Property Deed
8. The Amateur Radio License of John Drabik
9. An Affidavit of Good Faith by Property Owner John Drabik
10. An Affidavit of Amateur Radio Expert Darryl L. Del Grosso
11. Tim May's signed report and signed report.
12. Viewshed Analysis
13. Letter of support from the Town Fire Marshal
14. Petition of support signed by residents of Ancient Highway

Mr. Garofano showed where the proposed tower will be located and his presentation detailed some of the following:

- The application is for the construction of a 175 foot tall amateur radio tower.
- The tower will be located on a 12.86 acre vacant lot on Ancient Highway.
- The tower will be located on the northern slope and the area is heavily wooded; the site is northwest of Interstate 95.
- The base of the tower will have an elevation of 255 feet above sea level.

- A panel box will house the amateur radio equipment at the base of the tower.
- A 6-foot tall chain-link fence will surround the base of the tower covering 100 feet by 100 feet.
- Access to the site will be via a 216 foot long gravel driveway from Ancient Highway.
- Electric lines will run under the driveway and connect to the tower upon approval from CL&P.
- No staffing will be needed and the only traffic visiting the site will be for maintenance and repairs.
- The tower will be metallic gray and located in the middle of the lot.
- No lights will be on the site.
- The tower is for amateur use only and will be able to join a network of linked amateur repeater towers in other parts of Connecticut and the US.
- It will provide coverage along I-95 for all of Connecticut and will be a great asset in times of emergency.
- Per the Zoning Regulations, Mr. Drabik will in good faith, allow others to share space or co-locate on his site.
- If a commercial operation were to approach Mr. Drabik about sharing the space they would have to go before the Connecticut Siting Council; they have jurisdiction over the commercial.
- Mr. Drabik is not going to go out of his way to solicit any sort of commercial participation.
- Mr. Drabik is allowing the Town to co-locate in the event of an emergency.
- Mr. Del Grosso has stated in his affidavit that 175 feet is necessary to accommodate the technical requirements for the amateur radio frequencies.
- The amateur radio use, frequencies, and antenna location meet the requirements of the FCC and will not interfere or cause any interference with nearby antennas or frequencies; the FCC preempts any local or state laws.
- An erosion & sedimentation bond in the amount of \$2,000 will be utilized per the recommendation of the Town Engineer, Victor Benni.
- They did float a red balloon approximately 50 inches wide, a 175 feet up into the air and Mr. Drabik went around Town taking photos of it; the Commission can see where the tower will be visible from.
- The nearest amateur radio facility is in Salem.

Mr. Garofano discussed amateur radio.

Mr. Garofano reviewed the entirety of Section 31 of the Zoning Regulations in regards to this application and discussed the visual analysis.

Mr. Garofano discussed the waivers they're seeking. Some of the waivers the applicant is seeking are for:

1. Class A-2 Survey since the cost for a 600,000 square foot lot would be tens of thousands of dollars.

2. Storm drainage, sewage disposal, water supply, trash receptacles & screening as well as architectural design are not applicable for this application and the intended use of the site.
3. Sidewalks are unnecessary given the rural location of the property as well as the proposed use; there are no sidewalks on Ancient Highway and there will be no pedestrians.

Darryl Del Grosso came forward and provided the Commission with a brief history of amateur radio and detailed ham radio as a hobby.

Mr. Donovan asked what the benefit of amateur radio and Mr. Walker asked that they persuade him as to why this is the best use for this site and that there is a real need of amateur radio in this area. Mr. Garofano said as Mr. Del Grosso pointed out, this would allow a link up to other repeaters which is something that doesn't exist right now; it will provide more access, more communication in times of emergency. He commented the use would be huge resource in times of emergency and noted that Chris Taylor, the Fire Marshal signed off that his office has no issues with this application.

The Commission further discussed the application.

Ms. Hardy left the meeting at 8:40 p.m.

Mr. Donovan asked if the applicant would come before Zoning again if a commercial component became involved and Attorney Zamarka explained it would be outside our purview at that point.

Timothy May of May Engineering LLC, located at 1297 RT 163 Oakdale, said towers are designed for a purpose and a specific load; this is a huge asset for schools, emergency services and public works.

Mr. Peck asked if Mr. May is familiar with foreign interference/interruption and detailed how Verizon was compromised, almost shut down and the possibility of amateur radio helping out in such times.

Mr. Walker called for Public Comment.

Matthew Fleisher of 6 Old Black Point Road said he thinks this is a good thing- it can help when things go bad; if there is no power or phones it can serve as a means of communication if an ambulance or such is needed.

Anne Santoro of 11 Rose Lane said she is concerned with broader issues which involve the appropriateness of the application in light of the Federal determination that was made in 2015 by the Mohegan Tribe and the Tribal Historic Preservation Office, which she detailed. A lease between AT&T and Mr. Drabik for a telecommunications tower at this very site was withdrawn

Mr. Garofano responded to the public comments and said some of the following:

- There's no problem with keeping the driveway where it is.
- The spot where the sign was placed on Mr. Drabik's property was in accordance with the Zoning Regulations.

Mr. Garofano submitted the letter referenced by Ms. Santoro for the record (Exhibit D).

The Commission discussed the application.

Mr. McPherson asked Attorney Zamarka about the requirement of the survey and who the burden is on. Mr. Zamarka responded it's a consideration...

Mr. Peck suggested doing a site walk.

At 10:13 p.m. the Commission opted to continue the Public Hearing so that more general legal research can be done.

Regular Meeting-

- 1. Application of Eric J. Garofano, Esq., Agent for John H. Drabik, Owner, for a Special Permit for construction of a 175' tall amateur radio tower to be located on property identified in the Application as Ancient Highway, East Lyme Assessor's Map 30, Lots 1 & 2.**

This item has been continued until the next Zoning Commission meeting.

- 2. Mixed Use in the CB Zone**

Mr. Walker asked that Mr. Mulholland schedule this item for August 1st, 2019.

- 3. Approval of Minutes of June 6th, 2019**

MOTION (1)

Mr. McPherson moved to approve both the Regular and Public Hearing Meeting Minutes of June 6th, 2019 as presented.

Mr. Manning seconded the motion.

Motion carried, 4-0-2.

Mr. Donovan and Mr. Dwyer abstained from the vote.

Old Business-

- 1. Subcommittee-Site Plan Requirements/Architectural Regulations**

from by AT&T; the Tribal Historic Preservation Office concluded that the site in question would cause an adverse effect to the property of traditional, religious and cultural significance to the Mohegan Tribe.

Ms. Santoro said the history needs to be considered and she discussed the adverse effect communications letter. She noted that she was the spokesperson for 134 individuals who opposed the proposed cellular tower on Ancient Highway. Ms. Santoro passed out two documents- a Map (Exhibit B) and a letter which she handed out for informational purposes (Exhibit C). She detailed the idea of a traditional cultural landscape and showed the affected area on the map she provided. Ms. Santoro said she doesn't see an exception for 31.8 F of the Zoning Regulations.

Ms. Santoro and the Commission had a lengthy discussion regarding the determination, what constitutes cultural significance as well as active Tribal cases.

Dr. Richard England of 22 Bittersweet Drive said he thinks the visual impact of this proposal is being somewhat undersold. He said to his knowledge there was no public notice of the balloon test and Mr. Drabik had control over where the photos were taken and where was this "need" demonstrated. He said he didn't see a request from the Fire Marshal of ham radio operators for this tower. Dr. England said he thinks 175 feet is for more than personal use.

John Tichy of 9 Bittersweet Drive asked what the base elevation is and why a tower that tall is needed.

Alan Buchholz of 11 Mackinnon Place said he doesn't think the demonstrated need for the tower has been made clear. He directed the Commission to the website www.levinecentral.com as a point of reference. He said it will identify the number of repeaters in an area when a zip code is inputted.

Ray Williams of 9 Mackinnon Place said he has some concerns regarding the visual impact; he lives within a quarter mile and is concerned that he might see it more vividly.

Fred Santoro of 11 Rose Lane said the proposed site has been somewhat clearcutted and wonders if the photos in the application were taken before or after the clearing.

Sue Tichy of 9 Bittersweet Drive said in terms of the sign posted (which notified the public of this hearing), you had to drive down a dead end street to see the sign.

Todd Taylor of 6 Chris Alan Drive said he is opposed to this application but if the Board goes through with this, he asks that the road or trail that has been clear cut be maintained as the driveway. He wants to ensure it doesn't come near his property and prevent anything from dumping down and cause further flooding of his property.

Mr. Mulholland said he is working on this with Mr. Goeschel.

New Business-

1. Application of Theodore A. Harris, Esq., Agent for ABC Supply Co., Inc, Applicant, for HTD Aerospace, Inc, Owner, for a Special Permit to allow the use of an existing structure for the retail sale of building supplies, under Section 11.2.6 and Section 11.2.9, at property identified in the application as 29 Industrial Park Road, East Lyme Assessor's Map 26.1, Lot 1.

Mr. Walker asked that Mr. Mulholland schedule this item.

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

3. Zoning Official
Mr. Mulholland said he has nothing else to report.

4. Comments from Ex-Officio
Ms. Hardy was no longer in attendance.

5. Comments from Zoning Board Liaison to Planning Commission
Mr. Thurlow is scheduled to attend the July 9th, 2019 Planning meeting.

6. Comments from Chairman
Mr. Walker said he has nothing to report.

Mr. Mulholland said he will email the Commission regarding a date for the site walk.

Adjournment

MOTION (2)

Mr. McPherson moved to adjourn the Zoning Commission Meeting at 10:25 p.m.

Mr. Donovan seconded the motion.

Motion passed 6-0-0.

Respectfully Submitted,

Brooke Stevens
Recording Secretary