

East Lyme Planning Commission Public Hearing Minutes
November 15, 2016

Present: Brian Schuch, Chairman
Rita Palazzo, Secretary
Peter Lynch
Kirk Scott
Brenda Henderson
Joan Bengtson

Also Present: Gary Goeschel, Planning Director
Bill Dwyer, Zoning
Ted Harris
Bob Pfanner
Jason Pazzaglia
John Bialowans, Jr.
Carol Murcko

FILED

Nov 22 20 16 AT 8:30 AM PM
Karen Yalmon, ATC
EAST LYME TOWN CLERK

Absent: Holly Cheeseman, Ex-Officio

Mr. Schuch called the East Lyme Planning Commission Public Hearing to order at 7:05 p.m.

I. Pledge

Mr. Schuch led the Pledge.

II. Public Hearing

Re-Subdivision 24 Darrows Ridge Road, East Lyme; Jason Pazzaglia, Applicant; Pazz and Construction LLC, Owner: Application and Waiver Request from Section 23.5 B of the East Lyme Zoning Regulations for a 1-Lot Re-subdivision of 5.29 acres of land within the R-40 Zoning District located at 24 Darrows Ridge Road, East Lyme, Connecticut (Date of Receipt: September 6, 2016).

Ms. Palazzo reclused herself from the Public Hearing.

Mr. Goeschel stated this Public Hearing is continued from the October 4 meeting of this Commission. He listed the attached exhibits.

Mr. Goeschel reported we gave public notice in the Day newspaper, as required. The applicant is required to give notice to abutting property owners within 200'. Mr. Schuch asked how many abutting property owners were there? Mr. Goeschel informed him there were eight.

Mr. Pfanner reported for this subdivision we are proposing to split it into an additional lot with a shared driveway. He reviewed the area on a map by projector. It will have no frontage. Part of any design requirements are our drainage calculations. Two retainage basins are in the design. He showed where Darrow Pond is located. He informed the Commission that there are two subsurface septic systems. Approval from the Wetlands Commission was received last month. A new conservation easement has been added, although it was not required. It was created to allow expansion of the lot count. In all phases of this subdivision we left a lot of open space.

Mr. Pfanner stated the development was kept on a flat knoll. He showed that the wetlands had a natural buffer. The grade came down to 15%. The driveway will have to be paved. He showed the area that was blasted out. They are requiring a waiver. He showed the tree line and stated we have all vegetation along the pond.

~~The public was asked to speak~~

Mr. Bialowans of 61 Walnut Hill Road asked if this section is designated as a conservation easement, how can the septic system be so close? The rain garden is serving two houses. He asked how does Mr. Pazzaglia know whether or not there were saw mills on that property? Mr. Bialowans stated his relatives owned that property and he knew there were saw mills on that property during World War I and II. People lived in shacks. Some of that area was farmed. On January 11, 2006 a wetlands and archeological survey were done. He felt this should remain as one lot because of silt that will go into Mostowy Lake. Because of the steep area, water goes into Darrow Pond. He spoke to the Public Works Department on September 12, 2016 and was informed that no permit was issued for the second driveway. He felt this should be addressed and there should be no bond for it. He distributed his letter dated November 15 to this Commission Mr. Schuch listed Mr. Bialowans concerns:

1. The hatched area on the edge of the property is too close to the septic system;
2. The saw mill can affect the archeological dig;
3. The retainage basins are sized for two driveways;
4. The plan calls for a second driveway;
5. The wetlands bond is low; Mr. Schuch stated this is out of our scope.

Mr. Pfanner responded regarding the wetlands and stated the hatched area is a conservation easement. The wetlands is a small watercourse. The septic system is spaced far enough from the wetlands. Ledge Light approved the area. The septic system area had to be prepped there, and there was some erosion. When we submitted the application it was inspected when installed and again he saw some erosion. It met the requirements.

The retention basins have been sized and were submitted to the Town. We have a letter from Mr. Benni approving them. Mr. Schuch stated our regulations call for 100 year storm. Mr. Pfanner stated we have to compensate for the increase. Mr. Schuch reported

the hatched area is a conservation easement. Most of the wetlands are in the conservation easement.

Mr. Harris of 351 Main Street stated there was an archeological survey done on this site and a copy was filed with this application. He walked the site and to his knowledge no saw mill is there.

Mr. Schuch stated we issued a waiver in the original subdivision. Mr. Harris stated that a report was submitted with this application. There was correspondence with Nicholas Bellantoni retired State of Connecticut Archeologist and their office reviewed the archeological survey report and concurred with its conclusions. Mr. Schuch felt these were the people with the best expertise. Mr. Schuch stated no previous archeological survey reported on a saw mill.

Mr. Pfanner stated he personally did wetlands location and test hole survey work and there was no evidence of saw mills on that site. There was no evidence of anything historical.

Mr. Harris stated as to the engineering of the drainage it was designed by professional engineers and is acceptable by the regulations. The driveway bond would not be posted unless it was needed. There is no bond required for the driveway. This driveway was done and the recorded easement allows for passage of lots over that driveway. This was submitted for the record.

Mr. Lynch believed a gravel driveway is better because of its filtering system. Mr. Pfanner replied because it is so steep, regulations required that the driveway be paved. We take the fact that they are paved into account.

Mr. Bialowans stated the reason he brought up the retainage ponds is he had a problem with them. Two failed and caused a lot of damage to his property and others. All the silt that came off went into the sound. This property has failed once. How can you make another lot? The last storm was only 4". This is a lot steeper. Where will the water go? Will the silt go into the pond? Mr. Schuch replied there is a setback between the wetlands and the septic system. Mr. Bialowans stated he was informed by relatives that there were saw mills. Mr. Pfanner stated we are licensed by the State of Connecticut to do this work. Our work was reviewed by another engineer, and it has been designed properly. We have provided all our documentation.

Mr. Bialowans stated Centerplan had many engineers on that property. I am not criticizing your engineering license. He expressed concern on what may happen to Mostow Lake. He felt retainage basins for a 100 year storm do not work.

Mr. Schuch thanked Mr. Bialowans for his input. Mr. Pfanner has done his diligence to meet the Town's regulations. If this meets the Town's regulations, we are compelled to accept it. We have heard from the applicant's surveyor, we have a Memo from the Town Planner with reference to the exhibits. We are now beyond the 45 day limit. Mr.

Goeschel had no additional comments. The applicant has to allow an extension. A maintenance plan for the catch basins will be shared by the two lots. This is a private improvement on two lots.

Mr. Schuch felt the retention ponds work is best when maintained.

Mr. Harris suggested having a maintenance plan as a condition.

Mr. Schuch suggested that this Commission review Mr. Goeschel's Memo and Mr. Bialowans' letter and requested that the applicant agree to an extension to December 7.

Mr. Goeschel stated the archeological study points to pre-historical archeological rock formation.

Ms. Bengtson felt no one has addressed farming on that land. Mr. Goeschel stated we have a letter from Ledge Light regarding this subdivision. Mr. Harris stated this property was woods, and there is no evidence that this area had been farmed. They had much larger areas to farm at that time. This area was too steep for farming. It was certainly logged at some point. Farm land is usually cleared.

Mr. Bialowans stated he knows there was barbed wire there, and it was an area for animals to roam.

Mr. Harris stated we are asking for the lot to be divided into two lots. The question is whether we have two lots on this property.

Mr. Goeschel stated Mostowy Road was part of this land.

The applicant was asked if he is willing to consent to an extension. Mr. Harris agreed to an extension. Mr. Schuch thanked Mr. Bialowans for his comments.

There was a consensus to close the Public Hearing at 8:10 p.m. and continued to December 7.

Respectfully submitted,

Frances Ghersi, Substitute Recording Secretary

24 Darrow's Ridge Road
Pazzaglia
Updated as of Nov. 18, 2016

Exhibit ID	Title/Description	Submittal Date
A	Application of Jason Pazzaglia of 21 Darrows Ridge Road, East Lyme, CT Applicant/Owner, for a 1-lot resubdivision of approximately 5.29 acres Zoned R-40 at 24 Darrow's Ridge Road, East Lyme and a waiver of Section 23.5B of the East Lyme Zoning Regulations	8/25/2016
B	Pesticide Report indicating Lot 30 Darrow's Ridge has never been used for farming	8/25/2016
C	Waiver Request of from Section 23.5B of the Zoning Regulations	8/25/2016
D	Soils Report Darrows Ridge, Mostowy Road, Lot 12 Driveway Crossing, Niantic Real Estate, LLC, East Lyme prepared by Martina A. Castanho, CSS and Donald J. Fortunato, CSS dated January 11, 2006	8/25/2016
E	Letter from Frank J Dirrigl, Jr. PhD., Principal Archeologist of Triton Environmental to Theodore Harris, Esq. dated September 5, 2006, Re: Archeological Sensitivity Assessment Survey Re-Subdivision Darrow's Ridge, Phase V-East Lyme, CT (with attachments)	8/25/2016
F	Re-Subdivision Plan entitled "Darrows Point, Conservation Design Development, 24 Darrows Ridge Road, East Lyme, CT dated August 23, 2016	8/25/2016
G	CT DEEP Natural Diversity Database Areas Map, dated June 2016	8/25/2016
H	Memo from Ryan McCammon, RS, LLHD to J Robert Pfanner P.E and Robert Pfanner dated 9/19/16, Regarding Plan dated 8/23/16, indicating Lots 30-1 and 30-2 are not recommended suitable in their current condition.	9/19/2016
I	Memo from Ryan McCammon, RS, LLHD to J Robert Pfanner P.E and Robert Pfanner dated 9/27/16, Regarding Plan dated 8/23/16, revised though 9/23/16 indicating Lots 30-1 and 30-2 are recommended suitable.	9/27/2016
J	Re-Subdivision Plan entitled "Darrows Point, Conservation Design Development, 24 Darrows Ridge Road, East Lyme, CT dated August 23, 2016 revised through October 4, 2016	10/4/2016
K	Memo from Victor Benni, PE Town Engineer to Gary Goeschel, Planning Director, dated October 4, 2016, Re: 24 Darrows Ridge Road Re-subdivision /Siteplan Review with 3 comments	10/4/2016

24 Darrow's Ridge Road
Pazzaglia
Updated as of Nov. 18, 2016

L	Letter from Theodore Harris, Esq. dated October 4, 2016, to Brain Schuch, Chairman Re: Request to Open and Continue the Public Hearing.	10/4/2016
M	Notice of Public Hearing published in September 22, 2016 and the September 30, 2016 editions of The Day newspaper.	9/7/2016
N	Plan entitled "Master Open Space Plan, Darrows Ridge Subdivision, Mostoway Road, Darrows Ridge Road, East Lyme, Connecticut, dated October 7, 2005, revised through August 18, 2016	8/25/2016
O	Subdivision Review Sheet from W. Mulholland, Zoning Official indicating Zoning is OK	11/9/16
P	Letter from G. Goeschel II, Dir. of Planning/Inland Wetlands Agent to Jason Pazzaglia, dated October 24, 2016, Re: Inland Wetland Application-24 Darrows Ridge Rd for a 1-lot re-subdivision and Inland Wetlands Permit#16-23 Approved: October 24, 2016 and Expires: October 24, 2021.	11/10/16
Q	Memo from G. Goeschel, Dir. Of Planning to the East Lyme Planning Commission, dated November 14, 2016, Re: Re-subdivision 24 Darrows Ridge Road, for a 1-Lot Re--subdivision of 5.29 acres	11/14/16
R	Certificates of Mailing Dated October 1, 2016	11/15/16
S	Picture of the Posted sign at 24 Darrow's Ridge	11/15/16
T	Letter from J. Bialowans, dated Tuesday, November 15, 2016	11/15/16
U	Deceleration of Common Easement and Maintenance, filed August 11, 2008 on the East Lyme Land Records Vol. 803, Pg. 717.	11/15/16

Tuesday, Nov. 15, 2016

Good Evening Mr. Chairman and other Planning Commission Members,

My name is John Bialowans Jr. of 61 Walnut Hill Road. I have some comments to make about this re-subdivision:

1. Rain garden for 2 houses
2. How does Jason know if there wasn't any farming or sawmills on that property – because there were. Also, he wasn't even thought of yet.
3. Mr. Torrance did whatever he wanted to do on this subdivision – and the Town let him, and they cannot deny that fact. The Town was nervous about another lawsuit from Torrance, and he stuck up for his rights as a taxpayer.
4. January 11, 2006 – Wetlands Survey done
5. September 5, 2006 – Archeological Sensitivity Assessment Survey done
6. These studies are over 10 years old. How can they still be allowed, when other taxpayer's studies and reports are no good after 2 years???
7. It looks like different regulations are used for different taxpayers (meaning Wetlands & Planning)
8. This parcel of land should stay as 1 lot because of the steepness, the terrain – and already has put silt into Mostowy Lake and damaged their silt fence already for years.
9. These lots are going to be always harmful for erosion, sedimentation and pollute Mostowy Lake,
- √ 10. Is there a driveway permit and bond for these lots?? (Marilyn at the Engineering Dept. 9-12-16 says "no permit was issued")

Thank you for your time,

John Bialowans, Jr.

September 12, 2016

Good Evening Mr. Chairman and Other Board Members,

My name is John Bialowans, Jr. of 61 Walnut Hill Road. I have concerns, the Wetlands and Planning Commissions should have, about this driveway at 24 Darrow's Ridge Road. I'll list the concerns about this driveway that should be looked into further before any action is taken:

1. No driveway permit was taken on this lot (I called Marilyn at the Engineering Dept. at 8:30 AM, Monday 9-12-16) to ask about the driveway permit and who took it out. She said No permit was taken out, or maybe it could be in the construction permit. Never received a call if she found one at all.
2. Is there an alternative entrance to this lot – not to be in the wetlands buffer? (it has 5 acres)
3. A cease and desist order should be given on this lot for not getting a driveway permit, and the driveway is 400 ft long? Partly in the 100 upland review area Pfanner said it was done during the construction permit of this development. This one lot re-subdivision should be held to regulations now.
4. Was an Archeological survey done?
5. Was a Biological & Pesticide survey and report done on this lot?
6. There were sawmills working on this land and sheds – oil, grease, spills, etc.
7. Was a topography mapped and survey done?
8. Were all the requirements of the Planning Commission executed for a 1-Lot re-subdivision done yet?
9. Was an impact study on the wetlands done?
10. Was a soil scientist hired, and a report given and wetlands marked?
11. Are wetlands precautions taken and maintained?
12. Another site walk should be taken because Gary said No one showed up 9-10-16 at the Town Hall. He did mention one woman called and cancelled out.
13. EVERYONE should be treated the same – then there are no conflicts and problems later, on actions taken now for past mistakes made on this one lot re-subdivision and all other items.

Thank You,

John Bialowans, Jr.

East Lyme Planning Commission Public Hearing Minutes
December 6th, 2016

Present: Brian Schuch, Chairman
Rita Palazzo, Secretary
Peter Lynch
Brenda Henderson
Joan Bengtson
Sami Yousuf, Alternate (*Sat as Regular Member)

Also Present: James Liska, Zoning
Attorney Ted Harris
Bobby Pfanner
Jason Pazzaglia
John Bialowans, Jr.

Absent: Holly Cheeseman, Ex-Officio
Gary Goeschel, Planning Director
Kirk Scott

FILED
Dec 12 2016 AT 8:45 AM/PM
Kathleen Galbo, Clerk
EAST LYME TOWN CLERK

Mr. Schuch called the East Lyme Planning Commission Public Hearing to order at 7:01 p.m.

I. **Pledge**

Mr. Schuch led the Pledge.

II. **Public Hearing**

Re-Subdivision 24 Darrows Ridge Road, East Lyme; Jason Pazzaglia, Applicant; Pazz and Construction LLC Owner: Application and Waiver Request from Section 23.5 B of the East Lyme Zoning Regulations for a 1-Lot Re-subdivision of 5.29 acres of land within the R-40 Zoning District located at 24 Darrows Ridge Road, East Lyme, Connecticut.

Mr. Schuch sat Alternate Sami Yousuf as a Regular Member for the duration of the evening.

Ms. Palazzo recused herself from the Public Hearing.

Mr. Schuch said the Commission is looking to wrap up the Public Hearing tonight and called for any further comment.

Mr. Pfanner and Mr. Harris presented Exhibit V (Connecticut Testing Laboratories Results- attached) and Exhibit W (the December 1st, 2016 Pesticide Site Plan- an addition to the previous Site Plan), for the record.

Mr. Pfanner and Mr. Harris stated that nothing was detected in regards to the testing of the soils.

Mr. Lynch said he spoke with the Town Historian and there are stories of the site being farm land.

Mr. Pfanner presented the Commission with Exhibit Y, Y1 and Z for the record; aerial shots of the site from 1934, 1951 and 1970 (attached.)

Mr. Harris reviewed the waiver request with the Commission and referred to Mr. Goeschel's memorandum dated November 14th, 2016 (Exhibit Q.) He said the request and re-subdivision are consistent with the POCD, and urged it be approved by the Commission.

Mr. Schuch said Mr. Goeschel provided a draft motion if the Commission chooses to use it.

Mr. Lynch asked if the property could be terraced closer to the gravel driveway.

Mr. Schuch brought attention to the erosion sedimentation bond and Mr. Harris explained the bond covers the period of time during construction; Mr. Harris noted there is an existing 100 ft buffer.

Mr. Lynch asked who would maintain the pond; Mr. Schuch said that's a fair question but outside the scope of this hearing.

John Bialowans Jr. Of 61 Walnut Hill Road came forward and said he never received answers regarding:

1. One rain garden serving two homes
2. A driveway permit off of a private road
3. The close proximity of the septic system and wetlands

Mr. Bialowans said he has a lot of reservations about this property being redeveloped and detailed some of his concerns (Exhibit X- attached.)

Mr. Harris explained a driveway permit is not required because this is not a Town road and that this application has received a wetlands permit and Ledge Light septic approval; the archaeological study is not needed because nothing was found ten years ago and it is not believed that anything new will be found now.

Mr. Pfanner reviewed the site and septic system plans for the Commission.

Mr. Pfanner clarified that they are asking for the permit in order to construct and in regards to terracing, the slope is too steep, would require 40 or so feet of fill and would likely result in greater erosion. He explained they tried to take advantage of the natural terracing on the site with the location of the houses.

MOTION (1)

Mr. Schuch moved to close the Public Hearing at 7:36 p.m.

Mr. Lynch seconded the Motion.

Vote: 5-0-0. Motion carried.

Respectfully Submitted,



Brooke Stevens

Recording Secretary

Exhibit V

Client Name: Pazz Construction	Date Extracted: 11/21/16
CTL Lab No.: 1116312	Date Analyzed: 11/22/16
Job/PO No. NA	Analyst: SM
Report Date : 11/23/16	

EPA METHOD 8081A

Date Samples Rec'd: 11/21/16

Matrix Type:	S	S
CTL Sample #:	17483	17484
Field ID :	Sample 1	Sample 2

Parameters-ug/kg	RL				
Aldrin	25	ND	ND		
a - BHC	50	ND	ND		
b - BHC	50	ND	ND		
d - BHC	50	ND	ND		
Lindane	20	ND	ND		
Chlordane	50	ND	ND		
4,4' - DDD	50	ND	ND		
4,4' - DDE	50	ND	ND		
4,4' - DDT	50	ND	ND		
Dieldrin	5	ND	ND		
Endosulfan I	100	ND	ND		
Endosulfan II	100	ND	ND		
Endosulfan Sulfate	100	ND	ND		
Endrin	50	ND	ND		
Endrin Aldehyde	50	ND	ND		
Heptachlor	10	ND	ND		
Heptachlor Epoxide	20	ND	ND		
Methoxychlor	50	ND	ND		
Toxaphene	300	ND	ND		

RL= Reporting Limit ND= Not Detected

Matrix Types: W = Water/Aqueous S= Soil/Solid O= Oil/Hydrocarbon

X.
December 6, 2016

Good Evening Mr. Chairman & Other Planning Board Members,

My name is John Bialowans Jr. of 61 Walnut Hill Road. I would like to make some comments on 24 Darrow's Ridge Road.

1. I did not receive an answer for 1 rain garden serving 2 houses.
2. Mr. Torrance is a smart man and he would have made 2 lots in the beginning of this project. I wonder how many big lots, if any, were re-subdivided into 2 lots later -on? Did they have the same type of topography, ledge, steepness, environment issues, damage already done to Mostowy Lake, and the silt fence has failed already – and will continue to fail. They will probably say like Centerplan solar farm did “unusual circumstances.”
3. Pfanner Assoc. said they did the work from the beginning of Darrow's Ridge. They take a lot of information in like terrain, steepness, environment issues to determine where the roads, lots are going. They try to design the work to give the developer the most for the buck. Now, Pfanner says that this 5.29 ac of land can be re-subdivided with all the issues that could happen with these two lots being developed, and already has.
4. I did not get an answer about the driveway permit off of a private road? Did the other houses, already built, get a driveway permit?
5. I also did not get an answer for the January 11, 2006 Wetlands survey and the September 5, 2006 Archeological Assessment survey? How can they be used now – they're 10 year old surveys? I couldn't use 2 year old surveys !
6. How could you prep a septic system area not knowing if there is a 1 lot re-subdivision of this 5.29 ac parcel of land? That sounds pretty fishy to me..... Would like to have an answer to this question. What were they trying to get away with?

7. Did not get an answer about the septic system being so close to an intermittent watercourses and 100 ft wetlands upland review area?

Lot 30-1 using 1" = 40'

- a. Wetland flagging 85 through 95. Wetlands numbers to close to septic area
- b. 100' Wetlands Upland Review Area is in septic system area

Lot 30-2 using 1" = 40'

- a. Wetlands numbers 95 through WC 6 / WC 12 through WC 15 too close to septic area
- b. 100' Wetlands Upland Review Area is in the septic system area

I have the same situation on our own property and I was told the system had to be 100' away from the intermittent watercourse and outside the 100' Upland Review area.....
Can everyone do this or regulations don't apply here???

8. During the time I was speaking at the podium, Pfanner, jumped up and went to the podium and stated speaking over me. To me (also other people in the room) thought his actions were very unprofessional, and goes to show the Planning Commission, that ' something is being hid, rushed through or not following the regulations completely.
9. I thought regulations are there for all people to follow, and those retention ponds will never be maintained by the homeowners. And there's another problem with this 1 lot re-subdivision...example: the solar farm on Grassy Hill Road, Walnut Hill Road. There is always run-off into the wetlands every time it rains, even after 1 inch of rain going into the retention ponds, then into the wetlands and then into our damaged intermittent watercourse from previous retention pond failures.
10. I'm just expressing my concerns, worries and experience on a very hard lot to be re-subdivided, avoiding more environmental problems to Mostowy Lake that has already happened, and will continue during construction, and when the job is finished. We have the same situation on our property (I fixed it already) and would like to speak out to see how this 1 lot re-subdivision is handled with all these problems that it already has and will continue to have after just one big rainstorm that will come. Example: look at the solar farm project failures.

Ps

I couldn't speak at the Wetlands meeting because it was on the agenda (which should be changed!). I don't know how a public hearing can be closed when questions that were raised-up have not been answered completely. Another thing I noticed is how one individual can make 3 professional people get all wound-up... I'm just using common sense on this project.

Thank you for your time,

John Bialowans, Jr.

University Libraries
MAGIC

Exhibit Y

Neighborhood Change in Connecticut, 1934 to Present

Want to compare 1934, 1990, 2004, 2006, 2008, and 2012 using a transparency tool? [Check out our Connecticut Aerial Photography Interactive Map Interface](#)

Attention ArcGIS and other GIS software users! The 1934 Aerial Photography layer is available via [MAGIC's WMS](#).

Use the search box below to locate an address in Connecticut. Find Address

Toggle map layers
 CT Towns



Map data ©2016 Google Imagery ©2016, Ches/Spot Image, DigitalGlobe, U.S. ...
200 m

1934 versus
2016

Exhibit Y1

DPE-3H-139



5-511

3- 1-70 1776



Exhibit Z