

Geraghty & Bonnano, LLC

Attorneys at Law

PAUL M. GERAGHTY*
MICHAEL S. BONNANO
JOHANNA McCORMICK
MARK A. DUBOIS†
PATRICIA A. KING**
JONATHAN E. FRIEDLER††

*Also Admitted in New York
† Board Certified, Trial Advocate

**Se habla español

†† Also Admitted in Massachusetts and North Dakota

August 28, 2020

Via Email kirkscott@hotmail.com & Hand Delivery to East Lyme Planning Department
Kirk Scott, Chairman
Town of East Lyme Planning Commission
108 Pennsylvania Avenue
Niantic, CT 06357

Re: Lot Line Revisions/Re-Subdivision
Nottingham Hills Subdivision Lots 19 & 21

Dear Chairman Scott:

On behalf of my client English Harbour Asset Management LLC, this correspondence shall serve as my client's consent to keep open the Public Hearing on the above referenced application until December 1, 2020. This request is based on the following analysis after review of the relevant Connecticut Statutes and the 2020 Executive Orders of the State of Connecticut's Governor and for the reasons set forth herein, which will be addressed in further detail beginning at the East Lyme Planning Commission meeting on September 1, 2020 and continuing thereafter as necessary :

Pursuant to C.G.S. 8-7d (a) an applicant may consent to the extension of s public hearing up to 65 days from the date the public hearing should have been closed. Once a public hearing is commenced the commission has 65 days in which to conclude it. Section 7d (a) allows the applicant to consent to an additional 65 days. Please accept his as my client's consent to an additional 65 days to close the hearing. To avoid the possibility of having to resubmit the application we are seeking a continuance. The reasons for my client's consent are set forth more fully herein.

This action to increase the time for the public hearing is necessitated by the fact that my client's application and its plans are receiving rather extremely untimely reviews by Town Staff as evidenced by the following.

As you may recall from the record of the August 4, 2020 public hearing, and the video recording thereof, Mr. Gooschel indicated on at least two occasions that my client's

38 GRANITE STREET, PO BOX 231
NEW LONDON, CONNECTICUT 06320

131 DWIGHT STREET
NEW HAVEN, CONNECTICUT 06511

WWW.GERAGHTYBONNANO.COM

TELEPHONE (860) 447-8077 / FAX (860) 447-9833

application/plans were substantially complete except for receipt of the review by Ledge Light Health District of Septic/Well locations which consisted of two B-100a application reviews for the existing two lots and a one lot subdivision review of the proposed new lot. Mr. Goeschel confirmed this fact to me via email dated 8/6/2020 @ 5:47 pm, Ex. 1. In response to Mr. Goeschel's email my client provided the requested information on August 13, 2020, Ex. 2, to which we have received no further response.

On August 10, 2020 I met with Danielle Holmes at Ledge Light Health District to review the outstanding issues that ultimately included review of the plan revisions submitted to the East Lyme Planning Department on July 24, 2020 (which she had not been provided a copy of by the East Lyme Planning Department as of the date of our meeting some 18 days after submission) and we scheduled site testing for August 19, 2020. We received Ms. Holmes test hole results the following day and have added the results and new test hole and perk locations to our revised plans. I would note for the record the review by Ledge Light are B-100 a's for the existing two lots and "subdivision feasibility" for proposed new lot #23. Copies of these applications were included as an exhibit to the design report that was submitted with the pending application on March 3, 2020. The applicant and I wish to thank Ms. Holmes for her cooperation and assistance.

Throughout the recent interaction with Ledge Light Health District/Ms. Holmes It became clear to the undersigned that the sole reason Ledge Light had not completed their review resulted from the failure of the Planning Department to provide her with the revised plans submitted to the East Lyme Planning Department by my client on April 23, 2020, June 25, 2020 and July 24, 2020, all of which are or should be a part of the record of this application, pursuant to and in accordance with the Town of East Lyme's Application/Document/Plan(s) "COVID SUBMISSION POLICY" identified on the Town's web site.

With regard to the town engineers review of my client's plans the Town of East Lyme Planning Commissions record of this application reflects the following:

- | | |
|--|-----------------|
| 1) Plans and application submitted: | March 3, 2020 |
| 2) Receipt of first comments from town engineer | June 30, 2020 |
| 3) Revised Plans submitted (responsive to town engineer) | July 24, 2020 |
| 4) Receipt of comments from town engineer re #3 | August 21, 2020 |
| 5) Immediate meeting requested with staff | August 26, 2020 |
| 6) Staff unavailable until 8/31/2020 | |

With regard to the zoning review.

- | | |
|------------------------------------|---------------|
| 1) Plans and application submitted | March 3, 2020 |
|------------------------------------|---------------|

- 2) Comments received August 25, 2020
- 3) Response to Zoning/Town Planner 8/25 comments August 26, 2020

The zoning comments are attached to this letter as Ex. 3 which also appears in the record of this application as Ex. T. As it is of significant importance, I would direct you to the “review deadline” date identified thereon which is July 7, 2020 making these comments nearly seven (7) weeks late and submitted nearly a month after the public hearing was opened on this application.

I enclose as Ex. 4 to this letter my response to the zoning comments dated, and emailed to Mr. Goeschel, Ms. Lindo and Mr. Mulholland on August 26, 2020 which is yet to be uploaded onto the Planning Commissions website for Tuesday’s hearing despite my request for it to be included in the record of this application and town staff’s legal obligation to timely upload it for public review.

Additionally on August 12, 2020 I requested a continuance of the public hearing until September 8, 2020, Ex. 5. As I was told by town staff it was the next regularly scheduled meeting date of the Planning Commission. This request was to allow time to address Ledge Light Health District’s issues previously discussed herein. Some 10 days later I was notified by planning department staff that the meeting was actually to be held on September 1, 2020. Additionally, I received further comments from Mr. . Benni resulting in my email which is Ex. 6. I note that the Planning Commissions scheduled meeting dates are not posted on the Town of East Lyme’s web site as is required by Connecticut Law.

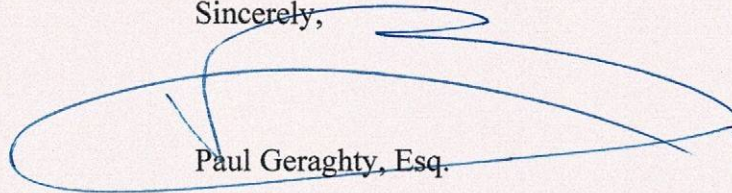
As demonstrated by their respective records my client has been timely responsive to every request made to them by this Commission, town staff and the East Lyme Inland Wetlands Agency (per the statutory “wetlands determination” process). Unfortunately, and as is demonstrated by this letter and the record of this application, town staff have been, at best, uncooperative in reviewing this application which upon information and belief has its origins elsewhere in the East Lyme Town Hall through person(s) with superior authority over said staff who have ulterior motives resulting from matters that do not involve my client, this application or this property. This is not to suggest that we believe it to be the commission.

In the final analysis based on the record of this application and the law my client is entitled to the extension of time requested and would respectfully request this be addressed by the planning Commission on or before September 8, 2020.

In conclusion I note for the record my client has incurred substantial economic damage resulting from town staff’s untimely reviews of this applications plans, amongst the other nefarious conduct that is occurring, which is causing unnecessary delay and increased cost to my client.

I thank the Commission for its review of the request made herein.

Sincerely,

A large, stylized handwritten signature in blue ink, consisting of several overlapping loops and a long horizontal stroke, positioned above the printed name.

Paul Geraghty, Esq.

cc: Kristen T. Clarke, PE (via email: kristentclarke@gmail.com)
Victor Benni PE (via email: vbennie@eltonhall.com)
Mark Nickerson (via email: mnickerson@eltonhall.com)
Danielle Holmes (via email: dholmes@llhd.org)
Gary Goeschel (via email: ggoeschel@eltonhall.com)