

**East Lyme Zoning Commission
February 18th, 2021
Regular Meeting & Public Hearing Minutes**

Meeting Link:

<https://us02web.zoom.us/j/87570707903?pwd=MSStTbTBQbWWhTDB3bC8yeGY1NE9Ldz09>

Members Present:

**Matthew Walker, Chairman
Norm Peck
Terence Donovan, Secretary
Bill Dwyer
Anne Thurlow
Denise Markovitz (sat as a Regular Member)**

Also Present:

**Bill Mulholland, Zoning Official
Jennifer Lindo, Zoom Moderator
Rose Ann Hardy, Ex-Officio (Joined at 7:59 p.m.)**

Absent:

**Kimberly Kalajainen
George McPherson, Alternate
James Liska, Alternate**

FILED

Feb 26, 20 21 AT 8:03 AM/PM

Brooke Honeman ATC
EAST LYME TOWN CLERK

Present for Applications:

**Andrea Daulaire
Michael Artis
James Covington
Attorney Ted Harris**

The Regular Meeting of the East Lyme Zoning Commission was held on Thursday, February 18th, 2021, at 7:30 p.m., via Zoom; this teleconference was recorded in its entirety and in accordance with the requirements of executive order 7B, issued by Governor Lamont, which allows for public meetings to be held over teleconference.

I. Roll Call and Call to Order

Mr. Walker called the Regular Meeting of the Zoning Commission to order at 7:34 p.m., took roll call, and sat Ms. Markovitz as a regular member for the evening.

II. Public Delegations

Time set aside for the public to address the Commission on subject matters not on the Agenda.

There was none.

III. Public Hearings

- 1. Application of Andrea Daulaire, Owner, for a Special Permit under Section 25 and 25.5 for the keeping of livestock and poultry (more than 6), at property located at 44 Cardinal Road on I-6+ acres, East Lyme Assessor's Map 52.0 Lot 20.**

Mr. Walker noted the legal ad for this item has been published.

Andrea Daulaire introduced herself and briefly discussed her desire to have up to 12 chickens and 4 goats on her property. She said she wants to teach her kids about respect, responsibility and the rewards associated with caring for animals.

Mr. Mulholland said the property is 19 acres and 100 feet from any property line. He noted that he sees no issues with this application.

Mr. Walker called for comments and some of the following was said:

- Mr. Dwyer asked if they would have a rooster and Ms. Daulaire said no.
- Mr. Donovan asked if the chickens and goats would be penned together and Ms. Daulaire explained that they would be fenced separately from each other.
- Mr. Walker said it's clear that the property is more than adequate for this activity.

Mr. Donovan read public comment emails dated February 18th, 2021 from the following individuals into the record:

1. Mark Christensen of Grassy Hill Road
2. Thomas Hall of 43 Riverview Road
3. Sally Udon of 15 Beaver Brook Road
4. Tom Kalal of 80 Grassy Hill Road

Mr. Donovan said all emails were in support of this proposed activity. (See <https://eltownhall.com/government/boards-commissions/zoning-commission/zoning-commission-2021-materials/zoning-commission-2021-materials-february-18/>)

There were no further comments.

MOTION (1)

Mr. Dwyer moved to close the Public Hearing.

Mr. Donovan seconded the motion.

Motion carried, 6-0-0.

2. Continuation of application of Theodore A. Harris, Esq., Agent for 159 Boston Post Road, LLC, Owner, for a special permit for Mixed Use (CA) pursuant to Section 8.2.2. and Section 25 at property located at 159 Boston Post Road, East Lyme Assessor's Map 3L.1 Lot 32.

Mr. Donovan and Mr. Walker read the list of exhibits entitled A-Q into the record.

Attorney Harris came forward representing the Applicant and shared some of the following:

- This is a request for a special permit with respect to mixed use development in the CA Zone.
- The sign was posted in accordance with the regulations and a stamped picture is part of the exhibits that were submitted.
- Victor Benni, Town Engineer, has assisted their endeavors and looked at the plans as they were crafted as well as revised; he offered some valuable suggestions for their project.
- Everything has been completed to Mr. Benni's satisfaction.
- The building is mixed use but the residential portion cannot exceed 50%; in this particular case 50% is residential and 50% is commercial.
- The second floor will have (4) one bedroom apartments and (1) two bedroom apartment.
- Access will be through both an internal and external stairway.
- The Total square footage is 7,000; 3,500 sq ft per floor.
- If this building hadn't been mixed use it would have been approved entirely through Mr. Mulholland's office.
- There is a unique parking standard for mixed use- A study showed that the normal regulations for parking resulted in overparking when that formula was used for a mixed use building.
- Parking is based on peak use which doesn't coincide for residential and commercial.
- They developed a calculation which takes the higher calculation of the two uses and half of the lower parking calculation; this sum becomes the parking calculation.
- The lot is long and narrow and is a 1/3 of an acre.
- Coverage of the lot is 25% which is well in line with the 30% maximum.
- They're requesting a 2 feet buffer relief on the west side and on the north and east side, proposing a vinyl fence in lieu of the buffer.
- This will provide better isolation and protection for the site.
- The driveway is 24 feet but narrows to 20 feet as you approach the building.
- Mr. Benni has no issues with the width of the driveway; it's the tightness of the site that requires this reduction.
- It's along the building and a very short distance.
- The most important driveway area is the intersection where it meets the road, which will meet the 24 feet requirement.
- The building is of traditional design and they have been happy to listen to Mr. Mulholland regarding any tweaks he might have.
- There will be public water and sewer.

Mr. Harris turned the meeting over to Michael Artis from Artis Associates, who showed a conceptual rendering of the building and site, which he reviewed with the Commission. Mr. Artis said some of the following:

- The building is like a modified cape.
- They're trying to achieve an old world New England design.
- There are 2 commercial spaces on the first floor.
- Mr. Mulholland really pushed us on the design given what will be seen from the road and I thank him for that.
- The siding will be a cedar shake type and upscale.
- The lot is only 71 feet wide when the Town now requires 80 feet, which made the design quite challenging.

James Covington of Artis Associates reviewed the exterior of the site with the Commission and noted some of the following:

- There are 19 parking spaces.
- The majority of the parking is located at the back of the building.
- 5 or 6 parallel parking spots are located along the front of the building.
- In terms of the stormwater runoff, half of it flows to the front and half of it flows to the rear.
- A stone infiltration trench is located in the rear of the property, which captures and treats the runoff.
- A dry well is located in the front of the building to treat the runoff that flows there.

The Commission discussed the application and some of the following was said:

- Mr. Dwyer said there is no walkway in front of the building and Mr. Artis said they worked on this with the Town Engineering, and pointed out the striped area in the front of the building.
- Mr. Mulholland said he brought this subject up with Mr. Harris earlier and they discussed how they might be able to squeeze in a sidewalk in front of the building, from the street, despite the narrowness; they would have to come easterly where they can intersect the pavement and striped area.
- Mr. Mulholland said they believe this combination will be sufficient since they don't anticipate the same kind of usage one would see in downtown Niantic where there is much more pedestrian traffic.
- Mr. Harris said he has no problem working with Mr. Mulholland devising a sidewalk as long as it's feasible from an engineering standpoint.
- Mr. Donovan said there is room for a sidewalk on the side where the snow pileup is designated along the front of the building.
- Mr. Dwyer asked about installing a sidewalk in the back as well and Mr. Artis said there is no point of entry there.
- Mr. Dwyer asked about trucks supplying materials to whatever business may be located on the lower level and Mr. Harris said the large dumpster area to the rear of the property can be utilized too.

- Mr. Peck asked if the required frontage is 80 feet and we have 73 feet, how can we proceed?
- Mr. Harris clarified that this is a preexisting nonconforming lot which dates back to the 1930s.
- Mr. Peck said his training tells him that an expansion of a nonconforming use is not permitted.
- Mr. Harris said the lot is nonconforming so they're permitted to use it in its existing condition; they meet all the standard regulations with the exception of the buffers.
- He added that the variance they previously received was necessary due to the substandard width of the lot and this allows them to put the building where you see it on the plan.
- Mr. Mulholland confirmed that nothing in their regulations prevents this lot from being developed.
- Mr. Walker said it's a tight fit but he thinks it's a great looking building, and a huge improvement on what is already there, if the details can be worked out.
- Mr. Walker asked if there have been any complaints about the parking at Gary Smith's building given that the parking overlay will be the same.
- Mr. Mulholland said there have been no issues and frequently transverses that parking lot himself.
- Mr. Donovan said the Smith building and this building are in two separate districts and Mr. Walker said he was curious from a staff standpoint if there had been problems since the configuration and use are the same.
- Mr. Harris said the Commission did approve a mixed use building in the CA Zone two years ago-(283 Boston Post Road); he spoke with the owner today and he told him he has had no parking issues.
- Mr. Donovan said you can't park on the street and that would be his only concern.
- Ms. Thurlow asked if the apartments will have reserved parking and Mr. Harris said given the calculation it's like flex parking, so he doubts spots would be reserved.
- Mr. Peck said he feels a bit uncomfortable with the walkway to the front entrance and Mr. Donovan and Mr. Dwyer agreed.
- Mr. Harris said they do provide adequate walkway along the building and there is limited traffic in this area since the purpose here is only to access the parking for the building itself.
- Mr. Artis said he thinks striping will help and that they could include a speed bump as well.
- Mr. Mulholland said your reason for being there is going to be purposeful, you won't see a lot of high speed traffic, and a speed bump is a great idea.
- Mr. Dwyer asked about fire fighter access.
- Mr. Mulholland said these are building code and fire marshal issues and not our purview.

Mr. Walker called for public comment and there was none.

Ms. Markovitz asked about the square footage of the apartments which Mr. Donovan detailed for her.

MOTION (2)

Mr. Donovan moved to continue the Public Hearing for the purpose of allowing further research for this project.

Mr. Peck seconded the motion.

Mr. Walker said he would defer to Mr. Mulholland regarding the timing and Mr. Donovan said that it's not fair for an applicant to open a public hearing and continue it for twice without presenting.

Mr. Mulholland said he's not debating whether they should or shouldn't continue the public hearing, but to be legal and given the timeline consent from the Applicant is needed. Mr. Donovan challenged this and Mr. Harris said if the Commission would like to continue the public hearing they have no problem doing so.

Mr. Donovan said the additional time will allow him to research what was presented tonight, and added that members of the public were in attendance when the public hearing first opened but have not been back since.

Mr. Harris said the request to continue was made due to plan changes that Engineering deemed necessary; they wanted to make sure the Engineering Department had time to review these revised plans and were happy with them prior to presenting. Mr. Donovan said they need time to review what was submitted tonight.

Mr. Dwyer said if a member isn't happy with concluding the hearing it should be continued and Ms. Thurlow said she doesn't see the need for this item to be continued. Mr. Walker said this application has raised more questions than he anticipated.

Vote:

Motion carried, 5-1-0.

Yay- Ms. Markovitz, Mr. Dwyer, Mr. Walker, Mr. Peck and Mr. Donovan.

Nay- Ms. Thurlow.

IV. Regular Meeting

- 1. Application of Andrea Daulaire, Owner, for a Special Permit under Section 25 and 25.5 for the keeping of livestock and poultry (more than 6), at property located at 44 Cardinal Road on I-6+ acres, East Lyme Assessor's Map 52.0 Lot 20.**

MOTION (3)

Mr. Dwyer moved to approve the Application of Andrea Daulaire, Owner, for a Special Permit under Section 25 and 25.5 for the keeping of livestock and poultry (more than 6),

at property located at 44 Cardinal Road on 1-6+ acres, East Lyme Assessor's Map 52.0 Lot 20.

Mr. Donovan seconded the motion.

Motion carried, 6-0-0.

2. Continuation of application of Theodore A. Harris, Esq., Agent for 159 Boston Post Road, LLC, Owner, for a special permit for Mixed Use (CA) pursuant to Section 8.2.2. and Section 25 at property located at 159 Boston Post Road, East Lyme Assessor's Map 3L.1 Lot 32.

This item has been continued.

3. Approval of Minutes

- a. February 4th, 2021

MOTION (4)

Mr. Donovan moved to approve the meeting minutes of February 4th, 2021 as presented.

Ms. Thurlow seconded the motion.

Motion carried, 5-0-1.

Mr. Walker abstained from the vote due to his absence from the February 4th, 2021 meeting.

V. Old Business

There was none.

VI. New Business

1. Application of Kenneth Biega, Agent for O&G industries, Applicant, Ryder Truck Rental Inc, Owner; for a Special Permit for a change of use from an existing truck facility to a mason contractor supply yard and store, at 1-0 Colton Road, East Lyme Assessor's Map 09.0 Lot 8.

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

2. Any business on the floor, if any by the majority vote of the Commission.

Mr. Donovan asked about requiring an applicant to alter the date on the public hearing sign when they continue a hearing, and Mr. Walker said he would defer to Mr. Mulholland since that is a procedural issue.

Mr. Donovan said he finds that a lot of attendance by the public occurs in the first meeting and if an application is continued many of these people will not check the website to see when the hearing will occur. He added that if a member of the public doesn't attend the first meeting and only sees the sign on the site they will assume they missed their opportunity to speak.

Mr. Donovan asked if we could require an additional sign with the new date and Mr. Mulholland replied that the notice requirement is one of our regulations so we may modify it; he would need to do a text amendment.

Mr. Walker said he's been on this Commission for several years and has never seen this issue come up quite like this, but he agrees with Mr. Donovan's sentiment. Mr. Donovan asked Mr. Mulholland to craft the text amendment and he said he would get started right away.

3. Zoning Official

Mr. Mulholland said they continue to be busy and he's had many development inquiries despite the pandemic.

4. Comments from Ex-Officio

Ms. Hardy said the Board of Selectmen are tied up right now with budget reviews and are looking very closely at what the State will be contributing to the Town. She said they're hoping for assistance given the unfunded mandates the State is requiring, such as police officer body cameras.

5. Comments from Zoning board liaison to Planning Commission

a. Donovan - February 9th, 2021

Mr. Donovan said he didn't attend the meeting but has reviewed their meeting minutes. He said they discussed communicating to other Boards about the new edition of the POCD, they discussed the zoning referral for a text amendment, had a municipal referral regarding the Town dump, and appointed Larry Fitzgerald as a new full member of the Planning Commission.

b. Kalajainen - March 9th, 2021

Mr. Walker said Ms. Kalajainen is scheduled for the March 9th, 2021 meeting.

6. Comments from Chairman

Mr. Walker thanked the Commission and said he appreciates the forthrightness of the members. He is looking forward to meeting in person again and noted the excellent job Ms. Lindo does moderating the meetings.

Adjournment

MOTION (5)

Mr. Donovan moved to adjourn the February 18th, 2021 Zoning Commission meeting at 9:15 p.m.

Ms. Markovitz seconded the motion.

Motion carried, 6-0-0.

Respectfully Submitted, Brooke Stevens, Recording Secretary