

FILED IN EAST LYME  
Dec 11, 2006 AT 3:45 M

**EAST LYME ZONING COMMISSION  
REGULAR MEETING  
Thursday, DECEMBER 7th, 2006  
MINUTES**

*J. A. Blain*  
EAST LYME TOWN CLERK

The East Lyme Zoning Commission held a Regular Meeting on December 7, 2006 at Town Hall, 108 Pennsylvania Avenue, Niantic, CT.

**PRESENT:** Mark Nickerson, Chairman, Marc Salerno, Acting Secretary, Pamela Byrnes, William Dwyer, Alternate, Joe Barry, Alternate, Bob Bulmer, Alternate

**ALSO PRESENT:** Norm Peck  
William Mulholland, Zoning Official  
Rose Ann Hardy, Ex-Officio, Board of Selectmen

**ABSENT:** Rosanna Carabelas, Secretary, Ed Gada

**PANEL:** Mark Nickerson, Chairman, Marc Salerno, Acting Secretary, Pamela Byrnes, William Dwyer, Alternate, Joe Barry, Alternate, Bob Bulmer, Alternate

**1. Call to Order**

Chairman Nickerson called this Regular Meeting of the Zoning Commission to order at 8:18 PM after the previously scheduled Public Hearing.

**Public Delegations**

Mr. Nickerson called for anyone from the public who wished to address the Commission on subject matters not on the Agenda.

Joe Kwasniewski, 67 Walnut Hill Road said that there is a lot of wildlife near where he lives and that because of the wildlife up there he does not want them to build the homes that they want to build there. He said that he knew that it was a wildlife area before and that there was something happening there however he thinks that the birds, bees and animals that have a home there, need a home and that they should not be pushed out of there. He said that he is a taxpayer and if they build those homes up there that he would be paying for them, as they would not be able to support themselves with what they would bring to the area. He wants it to remain a wildlife area.

Mr. Nickerson asked Mr. Mulholland to bring them up to date on this.

Mr. Mulholland said that there was a wildlife permit issued before and that some illegal things were taking place and that the people then vanished. He said that he senses that there is a subdivision application coming for that property however he did not know for sure.

Mr. Nickerson suggested that Mr. Kwasniewski visit the Planning Department and Commission to let them know his views.

Mr. Kwasniewski said that he had been to and spoken at the Planning Commission a few nights earlier.

**Regular Meeting**

**1. Application of Harmony Fitness and Day Spa, LLC for a Special Permit (Indoor Recreation) to operate a fitness center at 58 Pennsylvania Avenue, Niantic, Connecticut 06357.**

Mr. Nickerson said that they had just closed this public hearing and called for discussion.

Mr. Bulmer said that he thinks that this would be a wonderful service for the Town and that he is in favor of this application.

Mr. Barry said that he is also in favor of this application and that he uses the Post Office, CVS and the parking area and he thinks that there is enough parking area to accommodate everyone there.

Mr. Dwyer said that he thinks that the parking there is tough at times – however, he said that anything is better than an empty storefront.

Ms. Byrnes said that she agrees with her fellow Commission members regarding endorsing this application although she does not see trouble with the parking. There are more than enough spaces for the area.

Mr. Salemo said that the parking seems reasonable but he would encourage their customers to park in the back and on the side of their establishment.

Mr. Nickerson said that initially he thought that it was going to take up all of the former CVS building area and that he was concerned about the parking. However, this is only part of the building. He asked that they be careful of what the next tenant is when considering parking.

**\*\*MOTION (1)**

**Ms. Byrnes moved to approve the Application of Harmony Fitness and Day Spa, LLC for a Special Permit (Indoor Recreation) to operate a fitness center at 58 Pennsylvania Avenue, Niantic, CT.**

**Mr. Bulmer seconded the motion.**

Ms. Byrnes said that the reason for approval is that this suits the parking regulations and is an appropriate business for the downtown area.

**Vote: 6 – 0 – 0. Motion passed.**  
(Note: A brief break was taken here)

**2. Election of Officers**

Mr. Nickerson noted that Mr. Peck was now seated and that Mr. Dwyer was in the audience. This gave them four regular members seated and able to vote. He then asked that Ms. Hardy Chair this portion of the meeting.

**a. Chairman**

Ms. Hardy noted that only the four regular members could take part here and vote on the positions of Chairman and Secretary of the Commission. She then called for nominations for the position of Chairman of the Zoning Commission.

**\*\*MOTION (2)**

**Mr. Salemo nominated Mr. Nickerson for the position of Chairman of the Zoning Commission.**

**Ms. Byrnes seconded the motion.**

Ms. Hardy called three times for further nominations for the position of Chairman –  
Hearing none –

Ms. Hardy closed nominations and called for a vote -

**Vote: 4 – 0 – 0. Motion passed.**

Ms. Hardy congratulated Mr. Nickerson.

Mr. Nickerson asked that Ms. Hardy also conduct the election of Secretary before turning the Chairing of the meeting over to him.

**b. Secretary**

Ms. Hardy called for nominations for the position of Secretary of the Zoning Commission.

**\*\*MOTION (3)**

**Ms. Bymes nominated Ms. Carabelas for Secretary of the Zoning Commission.  
Mr. Salerno seconded the motion.**

Ms. Hardy asked if Ms. Carabelas had been asked if she would be willing to take this position as she is not present this evening.

Ms. Bymes said that Ms. Carabelas had indicated that she would be willing to continue to serve should she be asked to do so.

Ms. Hardy called three times for further nominations for the position of Secretary –  
Hearing none –

Ms. Hardy closed nominations and called for a vote -

**Vote: 4 – 0 – 0. Motion passed.**

Ms. Hardy turned the Chairing of the meeting over to Mr. Nickerson.

Mr. Nickerson thanked everyone for their support.

**3. Approval of Zoning Commission 2007 Schedule of Meetings**

Mr. Mulholland said that this schedule has exactly the same number of meetings as the current year does and that consideration has been given for the school vacation and any holidays.

**\*\*MOTION (4)**

**Mr. Salerno moved to approve the Zoning Commission 2007 Meeting Schedule as presented. (Copy attached at end of minutes)**

**Ms. Bymes seconded the motion.**

**Vote: 6 – 0 – 0. Motion passed.**

**4. Approval of Minutes - Regular Meeting of November 16, 2006**

(Note: Mr. Bulmer was seated in the audience for the approval of the minutes and Mr. Dwyer was seated at the table)

Mr. Nickerson called for discussion on, or corrections to the Regular Meeting Minutes of November 16, 2006.

Mr. Salerno asked that on Page two (2) under Item 5. - that Mr. Hullolland be corrected to read 'Mr. Mulholland' and that in the last motion on that page that Dr. Byrne be changed to read 'Dr. Bymes'.

Mr. Dwyer said that when they were discussing the By-Laws (Page 2) that he knows that he said that he disagreed with the Chair and the Town Attorney regarding the alternates and seating. He asked that it be added in Item 4. on Page 2 that: 'Mr. Dwyer stated that the number six (6) is a definitive number and not an arbitrary number.'

**\*\*MOTION (5)**

**Ms. Bymes moved to approve the November 16, 2006 Regular Meeting Minutes of the Zoning Commission as amended.**

**Mr. Salerno seconded the motion.**

**Vote: 5 – 0 – 1. Motion passed.**

**Abstained: Mr. Barry**

(Note: Mr. Bulmer returned to the table and Mr. Dwyer to the audience.)

**Old Business**

**1. Stormwater**

Mr. Nickerson said that they are trying for January for an update on this from Engineering.

Mr. Mulholland passed out some copies of some excerpts from the 2004 Stormwater plan from the DEP that are being used now.

Mr. Nickerson said that they might just want to refer back to engineering with this.

Mr. Mulholland suggested that they might want it to be referred to in the Zoning regulations at some point. Right now they are thinking that this should be on the site plan.

Mr. Peck, Ms. Byrnes and Mr. Nickerson suggested that they have Mr. Morton speak to all of the land use commissions on this.

**2. Aquifer Protection**

Mr. Nickerson said that this has been scheduled for public hearing for either the second meeting in January 2007 or their first meeting in February 2007. He noted that they are looking for a lot of changes here.

**3. Subcommittee – Niantic Village – CB Zones (Mark Nickerson, Marc Salerno & Norm Peck)**

Mr. Nickerson reported that they are actively working on this.

Mr. Mulholland noted that he had ordered a few books on this for them to utilize for other ideas.

**4. By-Laws Subcommittee (Mark Nickerson & Pamela Byrnes)**

Mr. Nickerson said that the draft of these changes is with the Town Attorney for his review.

Mr. Barry noted that with regard to what Mr. Dwyer had said and the seating of alternates that they are equated to jurors.

Mr. Nickerson explained that what he was trying to do was to be definitive on what a turn was for an alternate so that it was not a wasted turn for them.

**5. Drive Thrus (Ed Gada & Bob Bulmer)**

Mr. Bulmer said that he had some information in the form of a proposal for them to review. He passed this out to everyone. (Copy attached at end of Minutes) He said that this does not make it anymore difficult or easier to get a drive thru – but it does take a lot of the guesswork out of it. He said that they had presented Mr. Mulholland with information from many Towns and that he had culled these ten items from that. He asked that Mr. Mulholland go over it for them.

Mr. Mulholland went over each item.

Mr. Peck asked if the intent was to prohibit drive-thrus in the CB zones.

Mr. Mulholland and Mr. Bulmer said yes – they did not want drive-thrus on Main St.

Ms. Byrnes asked if this would create non-conforming properties.

Mr. Mulholland said that there is no intent to abandon the 'use'. He also noted that regarding the downtown area that if they want to create one with walk-ability, then they would not want to encourage drive-thrus as drive-thrus force pedestrians to compete with cars.

Mr. Peck said that in the CB zone now that fast food restaurants are permitted and he thinks that they might clarify that and for fast food – state that they refer to Section 20.28. He also noted that this should read Section 20.28 rather than Section 20.27, which they already have.

Mr. Bulmer said that fast food should refer to Section 20.28. It was also discussed and agreed upon that the opening line in the proposal under the Section heading should be changed to read: *'Drive-thru Facilities are permitted for Banks, Financial Institutions, Pharmacies, Bakeries, and Fast Food Restaurants only in CA Zones and are subject to the following requirements.'* (Note: Words in bold italic have been added)

**\*\*MOTION (5)**

Mr. Bulmer moved to schedule the Proposed Zoning Regulation Text Amendment for Drive-thru facilities (as amended this evening) for Public Hearing as soon as possible.

Ms. Byrnes seconded the motion.

Vote: 6 – 0 – 0. Motion passed.

### New Business

1. **Application of Demetrios C. Orphanides for a Special Permit to construct a multi-family, multi-story on property identified in the Application as 12B and 10 Black Point Road, Niantic, Connecticut. The property is further identified as East Lyme Assessor's Map 11.2, Lots 200 and 201.**

Mr. Mulholland noted that this did come in before some years ago.

Mr. Nickerson asked Mr. Mulholland to schedule this for public hearing.

2. **Application of Robert Griffin for a Coastal Area Management Site Plan review to remove and reconstruct a single family dwelling at 6 Oak Street, Niantic, Connecticut.**

Mr. Nickerson asked Mr. Mulholland to schedule this for public hearing.

3. **Any other business on the floor, if any, by the majority vote of the Commission.**

Mr. Nickerson asked about changing the downtown height requirement from 40' to 30'.

Mr. Peck asked how many buildings this would make non-conforming.

Mr. Mulholland said Wynward is 40', the Assisted Living facility, Mitchell's and the Morton House.

Mr. Peck asked what happens if they do this.

Mr. Mulholland said that they could not make buildings more non-conforming, they would have to come in for permits.

Mr. Peck said that if they could not expand a non-conformity, then what could they do.

Mr. Mulholland said that if they meet the Zoning Regulations and wanted to add on a wing (30' in height), then they could – but – if they wanted the wing to go to a height of 40' then they would have to go before the ZBA.

Ms. Bymes commented that she thought that they were doing this after the fact – the horse is already out of the barn here.

### **\*\*MOTION (7)**

**Mr. Salemo moved that their downtown height regulation be changed from 40' to 30' and that they schedule this change for public hearing.**

**Ms. Bymes seconded the motion.**

**Vote: 6 – 0 – 0. Motion passed.**

### **4. Zoning Official**

Mr. Mulholland reported that the Brooks was moving right along and that they were doing the façade now. They are trying to open in February 2007. Due to the season, he said that he would take a bond for the planting, as they could not do that now. Also, they agreed to fix items that seemed to be 'off'. He also said that he is working on several other projects. Mr. Mitchell's downtown building is to be built according to the plans and he may have to come in for modifications. He said that he has scheduled the Light Industrial changes for public hearing for the second meeting in January.

Mr. Barry asked about the Ford facility parking vehicles on the grass.

Mr. Mulholland said that he has met with them and sent a letter and that they are working on this.

### **5. Comments from Ex-Officio**

Ms. Hardy had to leave and was not present to report.

### **6. Comments from Zoning Commission Liaison to Planning Commission**

No one was present to comment.

**7. Comments from Chairman**

Mr. Nickerson thanked everyone for their support and wished everyone a happy holiday.

**8. Adjournment**

**\*\*MOTION (8)**

**Mr. Salerno moved to adjourn this Regular Meeting of the East Lyme Zoning Commission at 9:35 PM.**

**Ms. Byrnes seconded the motion.**

**Vote: 6 – 0 – 0. Motion passed.**

Respectfully submitted,

Karen Zmitruk,  
Recording Secretary (Pro-Tem)

Town of East Lyme  
Zoning Commission  
Regular Meeting Schedule  
Year 2007

FILED IN EAST LYME P  
Dec 11, 2006 AT 3:45  
*L. Blais ATC*  
EAST LYME TOWN CLERK

Regular Meetings are held at the East Lyme Town Hall, Meeting Room #1  
On the following listed Thursdays beginning at 7:30 PM

Special Meetings may be called at other times.

Members are requested to advise the Zoning Office (691-4114) if they are unable to attend a meeting.

**2007 Calendar**

**January 4, 2007**  
**January 18, 2007**

**February 1, 2007**  
**February 15, 2007**

**March 1, 2007**  
**March 15, 2007**

**April 12, 2007**

**May 3, 2007**  
**May 17, 2007**

**June 7, 2007**  
**June 21, 2007**

**July 12, 2007**

**August 2, 2007**

**September 6, 2007**  
**September 20, 2007**

**October 4, 2007**  
**October 18, 2007**

**November 1, 2007**  
**November 15, 2007**

**December 6, 2007**

**EAST LYME ZONING COMMISSION**  
**DRIVE THRU SUBCOMMITTEE**  
Proposed Zoning Regulation Text Amendment  
For Drive-thru Facilities

The Sub-committee recommends adding the following new language to Section 20 General Regulations:

*20.28*  
SECTION 20.27 DRIVE-THRU FACILITIES

Drive-thru Facilities are permitted for Banks, Financial Institutions, Pharmacies, Bakeries, and Fast Food Restaurants *only* in CA Zones *only* subject to the following requirements:

- a) The drive-thru facilities shall clearly be accessory and subordinate to the primary use;
- b) Drive-thru facilities, including required stacking lanes, shall be located in the rear or side yards only;
- c) Drive-thru facilities shall not generate the need for additional driveway curb cuts;
- d) A minimum of five vehicle stacking spaces shall be provided on site for each drive-thru station, including the vehicle being serviced. Where a restaurant order board and pick up window are involved, a minimum of five (5) stacking spaces shall be provided for each station before both the window and the board for a total of ten (10) including the vehicle being serviced;
- e) Stacking lanes shall be separate from internal traffic aisles to allow traffic to circulate through the site without entering the drive-thru facilities;
- f) Stacking lanes shall be a minimum of ten feet (10') wide and each space shall be twenty feet (20') in length;
- g) Stacking lanes shall be designed to minimize traffic congestion and to promote pedestrian safety;
- h) Drive-thru facilities shall be screened from view from public streets with substantial landscaping using a variety of evergreen and deciduous species;
- i) Outdoor speakers shall be located a minimum of one hundred (100) feet from the boundary of any residentially zoned property and shall not be audible from other properties;
- j) Drive-thru facilities should be designed as a compatible architectural element of the primary building;

*may want to look at for 3 windows as would require 15 spaces*  
*only allowed in CA zones -*  
NOTE: All Fast Food Restaurants are by Special Permit. See Section 8.27.

Sub-committee Members:  
Ed Gada  
Bob Bulmer

December 7, 2006  
Mod. 4

*Sec. 20.28*

*Attachment Zoning Commission Mtg. 12/7/06*

**EAST LYME ZONING COMMISSION**  
Proposed Zoning Regulation Text Amendment  
Drive-thru Facilities

December 19, 2006

It is specifically proposed to add the following new language to Section 20 General Regulations:

**SECTION 20.28 DRIVE-THRU FACILITIES**

Drive-thru Facilities are permitted for Banks, Financial Institutions, Pharmacies, Bakeries and Fast Food Restaurants only in CA Zones and are subject to the following requirements:

- a) The drive-thru facilities shall clearly be accessory and subordinate to the primary use;
- b) Drive-thru facilities, including required stacking lanes, shall be located in the rear or side yards only;
- c) Drive-thru facilities shall not generate the need for additional driveway curb cuts;
- d) A minimum of five vehicle stacking spaces shall be provided on site for each drive-thru station, including the vehicle being serviced, where a restaurant order board and service window are proposed each service aisle shall provide ten (10) stacking spaces with a minimum of five (5) stacking spaces before the order board and five (5) before the pick up window. Each service aisle shall not have more than two service windows;
- e) Stacking lanes shall be separate from internal traffic aisles to allow traffic to circulate through the site without entering the drive-thru facilities;
- f) Stacking lanes shall be a minimum of ten feet (10') wide and each space shall be twenty feet (20') in length;
- g) Stacking lanes shall be designed to minimize traffic congestion and to promote pedestrian safety;
- h) Drive-thru facilities shall be screened from view from public streets with substantial landscaping using a variety of evergreen and deciduous species;
- i) Outdoor speakers shall be located a minimum of one hundred (100) feet from the boundary of any residentially zoned property and shall not be audible from other property;
- j) Drive-thru facilities should be designed as a compatible architectural element of the primary building;

NOTE: All Fast Food Restaurants are by Special Permit. See Section 8.27.

**EAST LYME ZONING COMMISSION**  
Proposed Zoning Regulation Text Amendment  
CB Commercial Zones

It is specifically proposed to add the following new language to Section 9.3.5 “Height” in CB Commercial Zones.

The existing language states: “Height” no building or structure shall exceed 40 feet in height”. It is proposed to delete the “40 feet” and replace it with “thirty feet (30’)”.