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PM

**EAST LYME ZONING COMMISSION  
REGULAR MEETING  
THURSDAY, FEBRUARY 2, 2006  
MINUTES**

*Esther B. Williams*

EAST LYME TOWN CLERK

**PRESENT:** Mark Nickerson, Chairman, Rosanna Carabelas, Acting Secretary,  
Pamela Byrnes, Norm Peck, Edward Gada, Joe Barry, Alternate

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

**ABSENT:** Marc Salerno

**1. Call to Order**

Chairman Nickerson called the Regular Meeting of the Zoning Commission to order at 7:31 p.m..

Pledge of Allegiance

**Public Delegation**

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

There were no delegations

**2. Application of Cornerstone Consulting for a Special Permit to operate a fast food restaurant at property located at 250 Flanders Road, East Lyme, Connecticut. The property is further identified as East Lyme Assessor's Map 26.1 Lot 6.**

**\*\* Motion (1)**

Pam Byrnes moved to reschedule for Commission's next meeting Thursday, February 16, 2006.

Rosanna Carabelas seconded the motion.

**Vote: 6-0-0, motion passed.**

MR. NICKERSON REQUESTED THAT THE APPROVAL OF MINUTES FROM JANUARY 5, 2006 AND JANUARY 19, 2006 MEETINGS BE MOVED TO LATER IN THIS MEETING.

**3. Application of Theodore A. Harris for a location approval for a new car dealership at property identified in the application as 218 Flanders Road, Niantic, Connecticut. The property is further identified as East Lyme Assessor's Map 26.1; Lot 23**

Roseanne Carabelas, Acting Secretary, read into record a letter dated January 17, 2006 addressed to Mark C. Nickerson, Chairman of the East Lyme Zoning Commission, the letter was from Attorney Edward B. O'Connell, of Waller, Smith & Palmer Attorneys at Law.

Mr. Theodore A. Harris spoke on his own behalf regarding the application. He addressed many issues that Attorney Edward B. O'Connell mentioned in his letter. He felt that the application should be approved for many reasons. One of them being that it is located on the same State Hwy. that the dealership currently resides on, also that the State Hwy. is very busy and accommodates existing traffic already, it has adequate access, there are no schools or playgrounds within the immediate area and there are many "automotive" type business' around ( i.e. gas stations, automotive repair shops, etc...). He mentioned that the building itself had already been approved and has been built.

He felt that previous approval for the building permit shows that it is a suitable location.

Mr. Nickerson opened the floor up for a motion or discussion.

**\*\* Motion (2)**

**Pamela Byrnes moved to approve the Application.**

**Joseph Barry seconded the motion.**

**Vote 6-0-0, motion passed**

**4. Application of Patricia Hansen for a Coastal Site Plan review to excavate an 8' x 30' plateau and construct a retaining wall to create a level grass recreational area at property identified in the application as 11 Cherry Street, Niantic, Connecticut. The property is further identified in the application as East Lyme Assessor's Map 17.7, Lot 18.**

Pamela Byrnes brought up the fact that there is conflicting information on the application as to where the property is actually located, Pine Grove or Giants Neck. Page 2 of 8 of the CAM application mentions the property located in both areas. Mr. David Coonrod apologized and stated the property is located in Pine Grove. The application was corrected.

David Coonrod, Land Surveyor spoke on behalf of Patricia Hansen's Application. He described to the Commission what they were proposing to do. He explained how they wanted to remove approximately 30 yards of soil, so that they could make a level area. He explained that they were not going to be interfering with the sea wall. He also explained that they need to complete this process of removing the soil "before" the foundation is in and the house built, because the lot is very narrow and they would not be able to get any excavating machines in after the structure is up. They will also be providing silt barriers to prevent any runoff into the river. He said that the soil that is being removed will not be left on the site, it will be hauled away immediately. He also said that the crew building the retaining wall would act immediately to build the wall, so that there is no erosion.

Chairman Nickerson wanted to know how the construction of the retaining wall would affect the neighbors property.

Mr. Coonrod said that it would not affect them.

Mr. Mulholland wanted to know when they would be seeding and stabilizing the soil.

Mr. Coonrod said that they would build the retaining wall immediately and stake hay mats down to retain the soil until they can seed or sod the area in the spring.

Roseann Carabelas wanted to know why they couldn't wait until spring to remove the soil, that way they could do the seeding immediately.

Mr. Coonrod explained that if they did that, it would delay construction of the home since they can't get any excavation equipment in there after the house is built, because the lot is so narrow.

Pamela Byrnes was concerned about runoff of water since they were changing the slope of the land.

Roseanne Carabelas requested that the approval of the Application be conditional upon Mr. Coonrod definitely putting the hay mats down to retain the soil.

Mr. Coonrod agreed, and said he would keep a close eye on the situation also, and do whatever was needed.

Mr. Barry very concerned about how it would affect the neighbors on both sides, he felt there would be erosion problems. He was very concerned about the area becoming a "pit". He also was very concerned about the possibility of a child or someone falling off the side of the retaining wall, since it would be a long drop.

Mr. Coonrod was confident that structure would be solid and they would not have erosion problems, he said whatever needs to be done he will do.

Several Commission members decided that the liability of someone falling off the retaining wall was the homeowner's responsibility and not up to the Commission to be concerned about.

Bill Mulholland advised that retaining walls are also monitored by the Building Inspector and safety will be addressed when he visits the site.

Chairman Nickerson said that the Commission's responsibility is to decide whether the Coastal Area is going to be affected and whether or not the builder is doing all that is possible to protect nature.

**\*\* Motion (3)**

**Pam Byrnes moved to approve the Application.**

**Norm Peck seconded the motion.**

**Vote 5-1-0**

**Joseph Barry opposing.**

**5. Approval of minutes for the meeting of January 5, 2006 Regular Meeting and minutes for meeting of January 19, 2006 Regular Meeting.**

\* January 5, 2006 minutes were tabled since Mr. Dwyer and Mr. Salerno are not present tonight. Also, Pamela Byrnes mentioned that minutes do not show whether she was present or not, she stated she was absent. Chairman Nickerson mentioned that he can not make motions and that "Motion 2" comments state that he moved to amend "Motion 1", he stated he believed that Mr. Salerno was the person who moved to amend "Motion 1". So, those comments need to be corrected. Also, that "Motion 3" comments also state that Chairman Nickerson moved for a "New Motion", the panel discussed it, and recalled that Mr. Salerno moved for the Motion and Roseanne Carabelas seconded it. So, that also needs to be corrected. There is also an issue with a statement under "Motion 2", the statement reads - "The original motion of the \$68,487 budget carried 3-2. This motion failed.", Pamela Byrnes indicated that these statements contradict each other, so Chairman Nickerson is going to review the tapes.

\* January 19, 2006 minutes, it was discussed that there had not been a clerk that night, so the minutes were transcribed simply from tapes. The date at the top of the minutes is incorrect, it should read "2006".

**\*\* Motion (4)**

**Pamela Byrnes moved to approve the January 19, 2006 Meeting Minutes.**

**Roseanne Carabelas seconded the motion.**

**Vote 4-0-2**

**Old Business**

1. Stormwater

No report

2. Aquifer Protection  
No yet.

3. Subcommittee - Niantic Village (Mark Nickerson & Marc Salerno)  
Not done yet.

**\*\* Motion (5)**

**Pamela Byrnes moved to add the Outdoor Dining Patio Subcommittee Report to tonights agenda for "Old Business" since it was not on the Agenda.**

**Roseanne Carabelas seconded the motion.**

**Vote 6-0-0**

Bill Mulholland advised he will have a modified report for the February 16, 2006 meeting.

**New Business**

1. Application of Theodore A. Harris to amend Section 20.20.8 regarding the sale of beer at small grocery/convenience stores.
2. Application of Theodore A. Harris to amend the East Lyme Zoning Regulations by providing for a definition of "Regional Shopping Center".
3. Application of William E. McCoy to amend the Zoning Regulations to permit "Special Events" on farm properties.
4. Application of Terry Mitchell, agent for Ahepa 250, Inc. to amend the East Lyme Zoning Regulations to permit "non-profit subsidized elderly housing" in SU Zones.
6. Zoning Official
7. Comments from Rose Ann Hardy , Ex-Officio - Board of Selectmen
8. Comments from Chairman Nickerson

**\*\* Motion (6)**

**Pamela Byrnes moved to adjourn the meeting.**

**Mr. Barry seconded the motion.**

**6-0-0**

**Meeting adjourned at 9:15p.m.**

Respectfully Submitted,

Michele Parks  
Kelly Services