

**EAST LYME ZONING COMMISSION
PUBLIC HEARING IV
Thursday, MARCH 16TH, 2006**

MINUTES

The East Lyme Zoning Commission held a Public Hearing on the Application of William E. McCoy to amend the Zoning Regulations to permit "Special Events" on farm properties on March 16, 2006 at Town Hall, 108 Pennsylvania Avenue, Niantic, CT. Chairman Nickerson opened the Public Hearing and called it to order.

PRESENT: Mark Nickerson, Chairman, Rosanna Carabelas, Secretary, Pamela Byrnes, Norm Peck, Marc Salerno, Ed Gada

ALSO PRESENT: Joseph Barry, Alternate
Robert Bulmer, Alternate
Attorney Theodore A. Harris, Applicant
Attorney William McCoy, Applicant
Mr. George Mitchell, Applicant
Mr. Terry Mitchell, Applicant
William Mulholland, Zoning Official

ABSENT: William Dwyer, Alternate

PANEL: Mark Nickerson, Chairman, Rosanna Carabelas, Secretary, Norm Peck, Marc Salerno, Ed Gada, Robert Bulmer, Alternate

FILED IN EAST LYME TOWN
CLERK'S OFFICE
Mar 24 20 06 at 3:10 ^{AM} ~~PM~~
Esther B. Williams
EAST LYME TOWN CLERK

Mr. Nickerson noted that Ms. Byrnes recused herself from the panel and Mr. Bulmer, Alternate was seated.

Public Hearing IV

- 1. Application of William E. McCoy to amend the Zoning Regulations to permit "Special Events" on farm properties.**

Ms. Carabelas read correspondence items into the record regarding this application.

- Letter dated 3/10/06 to Mark Nickerson, Chairman, EL Zoning Commission from Francine Schwartz, Chairman EL Planning Commission – Re: Notice of Decision – the Planning Commission found the application consistent with the Plan of Conservation and Development.
- Letter dated 3/1/06 to Rosanna Carabelas, Secretary, EL Zoning Commission from the SE CT Council of Governments Regional Planning Commission - Re: Amendment to permit special events on farm properties. The Commission found that the proposed change could have a potential adverse inter-municipal impact on residentially zoned properties in an abutting municipality.
- Email dated 3/1/06 to Wm. Mulholland from the Office of Long Island Sound Programs – Re: Found the amendment consistent with the goals and policies of the CT Coastal Management Act (CCMA). Found that such provisions would help secure a Farm's viability through multi-use and are desirable.

Ms. Carabelas stated that there were 15 letters in support of the amendment.
Mr. Nickerson stated that he wanted to continue with the presentation.

Attorney William McCoy, office address 736 Norwich-New London Turnpike, stated that his comments are related to the text amendment. He wanted to propose a special permit to allow the Commission to control these special events at site and to decide whether the permits would be renewed annually. Effects on neighbors from these events would be considered annually. He stated that farm properties need to generate additional income to remain viable. The amendment is a maximum of 12 events per year, with

weekend limitations, and with number limitations, and none of the facilities would be permanent. There would also be lighting and sound limitations. He stated that the time limit would be from April to October each year.

Mr. Nickerson requested that Atty. McCoy briefly review what he is proposing.

Atty. McCoy agreed. First, the uses would be in the nature of weddings, reunions, corporate retreats, special congratulatory events, reunions, and anniversaries. It would be a special permit limited to a one-year period. There would be no more than 150 people at such events. There would have to be traffic control. Parking must be off street, of adequate size and not permanent in nature. Lighting would have to be screened. Music would be permitted but limited to 65 decibels at the boundary line. Any tents or other structures would have to be removed after the event. Suitable sanitary facilities would be required and screened from abutting properties. Hand washing facilities must be provided for food processing. The number of events would not exceed one per weekend and no more than a total of 12 from April to October.

Mr. Nickerson asked the commission if there were any comments.

Ms. Carebelas asked if there were specific time limits.

Atty. McCoy stated he did not put that into the amendment, specifically because he thought that should be left to the special permit process. He suggested that a period of 10:00 to 10:00 would be appropriate. But he could add that to the amendment if the commission desired.

Mr. Nickerson stated that the time frame was good and it should be added to the amendment.

Atty. McCoy agreed to do that.

Mr. Mulholland stated that cleanup might be noisy and needed to be considered when setting the time limit. He also stated that he spoke with Health Sanitarian about items 8 and 9. The Health Sanitarian thinks he should have jurisdiction over items 8 and 9.

Mr. Nickerson stated that the Ledge Light Health District might come into play. He stated that the LLHD would come out to inspect. He wanted to know how the LLHD would know there was an event.

Mr. Mulholland stated that he thought the LLHD would have an office in this building

Mr. Nickerson asked if each party should be registered so that the Health District has a chance to get out there.

Mr. Mulholland stated that if it's going to be every weekend, there should be a vehicle established where his office is notified and he can notify the Health Dept. He stated that when a special permit is requested, the applicant must inform the Zoning office as to when they will have their events as a condition of the permit.

Mr. Bonner made a comment that a reference unit should be noted concerning the noise limitation. The unit of measurement should be specifically added to the amendment. He stated that Atty. McCoy should get a aquistician to define this. He asked what is the intent of the level of 65 DB.

Atty. McCoy stated that that level would be intended to be in the nature of a conversational type voice.

Mr. Bonner stated that there would be a band at an event such as a wedding.

Atty. McCoy stated that the conversational type level would be along the perimeters of the property.

Mr. Bonner stated that Atty. McCoy has a lot of work to do.

Mr. Nickerson stated that the applicant will have to be required to furnish a decibel reader. There needs to be something that's measurable and can be backed up.

Mr. Mulholland defined a farm.

Ms. Carebelas stated that a farm does not necessarily have to sell their product, according to the definition.

Mr. Peck asked if Atty. McCoy had an objection to increasing the acreage number requirement in the amendment.

Atty. McCoy stated that he could do that. He questioned if increasing the acreage would make a difference, but it is not a problem for the client that he represents.

Mr. Nickerson voiced a concern that maybe there would be more than one event in one weekend, and it might get out of hand.

Mr. Nickerson asked if there were any favorable comments from the public.

Dave Arnold, 160 Upper Pattagansett, stated he is in favor of the application. He is in favor of anything that will conserve open space in EL.

Bob Gadbois, 358 Boston Post Road, was in favor of the application.

Scott Herbig, 39 Heritage Rd, was generally in favor of this application. He stated that the things to look at are the sound and the times for the sound. 10:00 is too late and suggested that events end around 5:00 or 6:00.

Chris Foster, 141 Upper Pattagansett, was in favor of this amendment. He did not object to the 10:00 limit.

Patrick Gaffey, 2 Pepperidge Lane, was in favor of the amendment. He stated that it is an opportunity to keep farmland as farmland. Sub-dividing farm properties if they don't have the opportunity to bring in additional revenue could result in far greater adverse impacts such as noise, traffic, and congestion.

Bob Mason, 53 Heritage Rd, was in favor of the amendment. He was concerned about the 10:00 curfew. This would mean it would ultimately end at around 2:00am with cleanup, etc. He stated that specific farmlands should be looked at for different requirements that they might need.

David Murphy, 490 Boston Post Rd, was in favor of the amendment. He stated that some issues were insurance requirements, and liquor control. The Motor Vehicle Dept. allows mufflers up to 80 decibels, so 65 decibels did not seem like a lot.

Mr. Nickerson asked the public if there were any other favorable comments.
Hearing no one.

Mr. Nickerson asked the public if there were any opposing comments.

Vijay Sikand, 41 Heritage Rd, lives directly across the lake from the petitioner. He was against the amendment. He stated that he moved there for the peace and quiet. He has spoken with several dozen neighbors recently, and many were concerned. He stated that the farm is in a predominantly residential area. A special event is a euphemism for a big party. This includes loud bands, a lot of liquor in a residential area. He does not feel that the survival of that particular taxpayer's business is appropriate to have the rest of us inconvenienced. Parking and noise would also be a problem. He can hear a noise as small as a radio from across the lake. He requested that the Commission tread very slowly when considering this amendment. The fact that the number of events allowed is mentioned means that it will be a nuisance, but only 12 times a year, which is 12 times too many. He stated that another issue is assessment. Farms are taxed differently from residential. How is a farm taxed if they are having non-agricultural use? The person at the assessment office who he spoke to stated that the farm would not pay just farming taxes because it's not an agricultural use. He stated that most of the letters of approval for the amendment were customers of the farm and that would color their opinion.

Bill Kowenhoven, 7 Legendary Rd., opposed the amendment. He stated that there are other ways to help farms such as tax benefits, property tax benefits, and current use of taxes, which don't impact the surrounding neighbors. He stated that he lives in a residential area in order to maintain a non-commercial living standard, and this amendment would impact that. He stated that a 5-acre parcel could be a narrow slip with houses on each side. He also stated that if the permit is granted annually, if the first event is too loud, the neighbors would have to listen to it 11 more times before the permit is renewed or denied.

Pat Sherrill, 19 Heritage Rd, was not in favor of the amendment. She stated that if the event was only held on the weekend, that is the only free time she has and she does not want to listen to the noise during the only two days she has off. She stated that jet skis are not allowed on the lake after 6:00 because of the noise. She stated that road conditions and alcohol are also issues.

Herb Berry, 6 Legendary Rd., was in agreement with Mr. Sikand, and opposed the amendment.

Ruth Hammell, 35 Heritage Rd., was against the amendment and agreed with the previous speakers. He requested that the commission think in terms of their own houses and how they would feel if there were 12 noisy parties per year in their neighborhood.

Cynthia Paige-Desantis, 7 Monticello Dr., stated that it is a betrayal of the people in the neighborhood who were zoned as residential and now only certain people are being allowed to use that residential zone as a commercial zone.

Bill Morrison, 21 Heritage Rd, was against the amendment. He stated that he is a professional musician and makes a great deal of money at these special events. He stated that he has never performed at an event at an in-land lake. 65 decibels is very different on an in-land lake and would be like water torture.

Robert Hecht, 47 Heritage Rd., was against the amendment. He asked the Board to consider the definition of a farm and what RU-40 is. Music and noise is not part of that definition.

Tom Hammell, 35 Heritage Rd, opposed the amendment. He stated that the petitioner is suggesting bringing in a relatively noisy commercial environment to the residential neighborhood.

Mr. Nickerson asked if there were any other comments from the public.
Hearing no one.

Mr. Nickerson stated that he had 15 letters in favor of the amendment that he will not read, but would be placed in the file.

Mr. Nickerson asked Atty. McCoy if there were any further comments.

Atty. McCoy stated that this issue is not about a particular property; but the issue of how do you plan for change. People should consider the impact of agricultural land turning over to single family development.

Mr. Mulholland asked if the liquor would be provided by the guests or sold by the farm.
Atty. McCoy stated that no proposal was made on that. He stated that he believes that the farm would not be able to get a liquor permit.

At this point, the tape stopped.

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

Ms. Carabelas moved to close the public hearing.

Mr. Salerno seconded.

VOTE: 6-0-0 Motion Passed.

The Public Hearing was closed.

Respectfully submitted,



Rena M. Warmath
Recording Secretary (Pro-Tem)

White Gate Farm
83 Upper Pattagansett Road
East Lyme CT 06333

FILED IN EAST LYME TOWN
CLERK'S OFFICE

Apr 19 20 06 at 8 AM PM

Esther B. Wilshaw

EAST LYME TOWN CLERK

William Mulholland
Zoning Officer
East Lyme CT 06333

Re: Application to Zoning Commission for permission to hold special events on farm properties. 3/16/06 continued to 4/20/06

April 18 2006

Dear Bill,

I would like to enlist your help in doing what you can to encourage the Zoning Commissioners to grant White Gate Farm a special use permit for a trial number of weddings or other gatherings.

To recapitulate the activity so far on this matter: In 2003 our family decided that we needed to make every effort to help our small farm business succeed so that we can keep the land open for future generations. Offering our Pattagansett Lake site for special events seemed like an ideal low-impact activity that was consistent with our farming operation and would capitalize on our beautiful open land.

We noted that our plan was consistent with the town's Plan of Conservation and Development, to wit:

"A primary goal of the Plan of Development is to maintain and, where possible, enhance the environmental quality of East Lyme's land and water resources. Environmental quality should be the concern, not just of conservationists, but of all citizens, because destruction or disturbance of environmentally sensitive areas results in real losses to the social and economic welfare of the community. Inadequate management of natural resources can create hazards from flooding, destroy productive habitats, jeopardize drinking water supplies and limit recreational enjoyment."

I first approached you and Meg Parulis about seeking Town permission to have a limited number of events at the farm in early 2004.

We worked on changes to the Zoning Regs. I paid \$220 to the Town of East Lyme on 4/23/04. The calendar was very full; I finally went before the commission on June 17 – way too late for scheduling much of anything for that year.

Although a majority of the commissioners seemed to favor our application and 2 people from the audience spoke up on our behalf, the commissioners encouraged us to draw up a new application that addressed their specific concerns.

Both you and they suggested that this was do-able. The minutes from 7/8/04 state "Mr. McLaughlin ... hopes that they would submit a more formal presentation; Mr. Peck ... wants to make sure that the applicant understands that they want to do something and that they encourage her to reapply; Mr. Henderson and Ms. Byrnes agreed that this is an opportunity ..."

Meanwhile, more than a few people were asking us why on earth we were seeking permission when the normal thing would be to just go ahead and have events. That is not how I wanted to launch this even limited aspect of our business.

At your recommendation, I hired an attorney at the firm of Heller, Heller and McCoy. I first met with Bill McCoy on November 11, 2004. Sixteen months later, he was ready to submit the application, addressing in detail each of the concerns, with another check (now for \$230.00) to the Town of East Lyme. As you know, we went before the Zoning Commission on 3/16/06

That was a grueling experience with many neighbors from Heritage Road in vehement opposition, afraid that their quality of life was in jeopardy. However, supporting us were many others, including nearby neighbors, who respected us personally and saw the need to preserve farms and farmland. This time, especially with the recusal by Ms. Byrnes, the sentiment of the Commission appeared to be in the balance.

Once again we find ourselves late in the season to schedule much in the way of events for the year. On the lake we hear summer sounds building: from the Island campground, from the Girl Scout Camp, from the Waterford Speedbowl, from the houses on Heritage, and from motor boats and jet skis. We wonder if these noisy uses were ever approved by the Town and if we were foolish to have pursued proper channels.

I am encouraged that the Smiths of Stonington Vineyards endured a similar process and after 5 long years were allowed to hold weddings on their site. (Happy Smith at last became friends with the "opposition" leader by installing herself on the neighbor's front porch during events to gauge the sound level from his house!) But once the town finally granted them permission, no problems arose during 17 years of vineyard weddings.

I hope you agree that the success of the East Lyme's few remaining farms supports the goal of maintaining and enhancing its land and water resources. Further, I hope that you will urge the Zoning Commission to endorse this change to the regulations and soon thereafter grant a special use permit for a trial number of events at White Gate Farm.

With appreciation,

Pauline Lord

cc First Selectwoman Beth Hogan
Town Clerk Esther Williams