

**EAST LYME ZONING COMMISSION
REGULAR MEETING
Thursday, APRIL 12th, 2007
MINUTES**

FILED IN EAST LYME P
April 16, 2007 AT 7:35 M

J. A. Blair
EAST LYME TOWN CLERK

The East Lyme Zoning Commission held a Regular Meeting on April 12th, 2007 at Town Hall, 108 Pennsylvania Avenue, Niantic, CT.

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

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

ABSENT: William Dwyer, Alternate, Joe Barry, Alternate

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

1. Call to Order

Chairman Nickerson called this Regular Meeting of the Zoning Commission to order at 10:53 PM after the four previously scheduled Public Hearings.

Public Delegations

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

There were none.

Regular Meeting

- 1. Application of Mr. Greg Terracciano: Owner of Flanders Donut & Bake Shop Inc. to amend the East Lyme Zoning Regulations by adding a definition of a "Bakery"; amend Section 8 to allow a bakery as an outright permitted use and to amend Section 20 to allow a bakery with a drive-thru facility within One Thousand Feet (1000') of a business having a drive-thru that sells similar bakery products.**

Mr. Nickerson asked Ms. Byrnes to read into the record the correspondence that they had received from Mr. Mulholland.

Ms. Byrnes read the following correspondence into the record:

- ◆ Letter dated 4/12/07 to EL Zoning Commission from William Mulholland, Zoning Official – Re: Proposed Zoning Regulation Text Amendment Bakery CA Zones – noting that on March 15 a Public Hearing was held on the above application and he was asked to develop an alternative to the definition of baker as provided by the applicant – listed were five options for the Commission to review.

Mr. Nickerson called for discussion.

Mr. Peck said that he would like to first ask the Commission for a consensus on if they feel that they want to somehow approve this in some fashion.

The consensus of the Commission was that they did want to try to approve a definition.

Mr. Peck said that he would like to call it a 'Retail Bakery' and that the public area shall be no more than 10% of the total floor area.

Mr. Mulholland said that the applicant has said that they would prefer it to be 20%.

Mr. Nickerson said that he thinks that how the items are sold is more important.

Mr. Peck said that he thinks that the percentage is important and that he does not want someone to come in with an application that has a loophole.

Mr. Salerno asked Mr. Peck for an example of a loophole and said that he would prefer stating the total square feet and require that no seating be available as that would cut out the uses that they are concerned about.

Mr. Mulholland said that the reason why he has given them other options on definitions was because they had expressed the opinion that they wanted to embrace the size issue in the definition and the definition in red on the sheet that they have covers that issue.

Mr. Peck suggested that they also add that the business shall have a bakery license and that products for consumption will be taken off the premises, and that no beverages or pizza is allowed.

Mr. Mulholland said that there was also a definition in blue that added a line stating that 'the sale of beverages shall be incidental to the primary business.'

Mr. Nickerson said that he would like them to focus on that definition and fine tune it.

Ms. Byrnes and Mr. Salerno said that they would want to allow a coffee or beverage to be purchased with a donut or bagel as they could not see making people go elsewhere to get it.

Mr. Salerno said that he would not want to totally limit some wholesale and that the size limitation would help so that it did not become a commercial baker.

Mr. Peck said that he agreed with Mr. Salerno and the various changes of the Grandpa Donut business downtown were discussed by the Commission regarding this issue.

After more discussion the following modified definition was agreed upon:

'Retail Bakery. *Any establishment whose principal business is the sale of baked products such as breads, cakes, cookies, donuts, pastries, bagels, rolls, and similar products. Said products are made and baked on the premises. This process includes mixing the primary ingredients such as flour, butter, sugar, eggs and yeast on the premises. These products are then baked and sold mainly at retail on the premises for consumption off premises. The sale of any beverages shall be incidental to the primary business. The public floor area shall not be more than 20% of the total premises. It shall not include seating or a restaurant. The total premise shall not exceed 2000 square feet.'*

Mr. Nickerson asked if they were ready to make a motion.

****MOTION (1)**

Ms. Byrnes moved to modify the applicants' definition of bakery to:

'Retail Bakery. *Any establishment whose principal business is the sale of baked products such as breads, cakes, cookies, donuts, pastries, bagels, rolls, and similar products. Said products are made and baked on the premises. This process includes mixing the primary ingredients such as flour, butter, sugar, eggs and yeast on the premises. These products are then baked and sold mainly at retail on the premises for consumption off premises. The sale of any beverages shall be incidental to the primary business. The public floor area shall not be more than 20% of the total premises. It shall not include seating or a restaurant. The total premise shall not exceed 2000 square feet.'*

Mr. Gada seconded the motion.

Vote: 6 – 0 – 0. Motion passed.

Mr. Mulholland said that they would still need a motion to approve the application.

****MOTION (2)**

Ms. Byrnes moved to approve the Application of Mr. Greg Terracciano: Owner of Flanders Donut & Bake Shop Inc. to amend the East Lyme Zoning Regulations by adding a definition of a "Retail

Bakery”; amend Section 8 to allow a retail bakery as an outright permitted use and to amend Section 20.26 by adding the following: notwithstanding the foregoing provisions it is hereby expressly provided that a retail bakery as that term is defined in Section 1.3.1 of these regulations may be permitted a drive-thru facility subject to Section 8.2.12 Drive-thru facilities.

Mr. Salerno seconded the motion.

Vote: 6 – 0 – 0. Motion passed.

Mr. Mulholland said that this would public on April 19, 2007 and become effective on April 20, 2007.

2. The East Lyme Zoning Commission proposal to amend the Zoning Regulations by adding numerous additional prohibited uses in Section 13.3 of Section 13 “AqP Aquifer and Primary Recharge District and AqS Secondary Recharge District.”

Mr. Nickerson said that they had just opened and continued this Public Hearing.

3. The East Lyme Zoning Commission Proposal to amend the Zoning Regulations by adding a new Section 8.2.12 to allow Drive-thru facilities for Banks, Financial Institutions, Pharmacies, Bakeries and Restaurants by Special Permit in CA Zones and to add specific Drive-thru standards in Section 25.5 “Table of Minimum controls for specific special permit.”

Mr. Nickerson said that they had just closed this Public Hearing and called for discussion or a motion.

****MOTION (3)**

Ms. Byrnes moved to approve the East Lyme Zoning Commission Proposal to amend the Zoning Regulations by adding a new Section 8.2.12 to allow Drive-thru facilities for Banks, Financial Institutions, Pharmacies, Bakeries and Restaurants by Special Permit in CA Zones and to add specific Drive-thru standards in Section 25.5 “Table of Minimum controls for specific special permit.”

Ms. Carabelas seconded the motion.

Vote: 6 – 0 – 0. Motion passed.

Mr. Mulholland said that this would public on April 19, 2007 and become effective on April 20, 2007.

4. Application of Theodore Harris for a Special Permit and Coastal Area Management Site Plan review to construct a multi-family, multi-story dwelling at property identified in the application as 12B and 10 Black Point road, Niantic, Connecticut. Property is further identified in the application as Lots 200 and 201 on East Lyme Assessors Map 11.2.

Mr. Nickerson said that they had just continued this Public Hearing.

5. Application of Demetrios Orphanides for a change of zone for a portion of lots 12B and 10 Black Point Road from RU-40 to a Commercial CB Zoning District for property identified in the application as 12B and 10 Black Point road, Niantic, Connecticut. Property is further identified in the application as Lots 200 and 201 on East Lyme Assessors Map 11.2.

Mr. Nickerson said that they had just continued this Public Hearing.

6. Approval of Minutes – Public Hearing I and Regular Meeting of March 1, 2007; Public Hearings I and II and, Regular Meeting of March 15, 2007

Mr. Nickerson said that they would table these due to the lateness of the hour.

Old Business

1. Stormwater

There was nothing new to report.

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

Mr. Nickerson said that they are still working on this and that it is moving along.

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

Mr. Nickerson said that the draft of these changes is with the Town Attorney for his review. He said that he still has not heard anything on this and that he would check with the Attorney to see if they would be ready for a future meeting.

4. Subcommittee – Adult Uses (Rosanna Carabelas)

Ms. Carabelas reported that Mr. Mulholland sent her some information that he had found on regulations already in existence. She said that she thought that she might also want to wrap it up on the ordinance end also. She said that she is reviewing the information.

New Business

1. Affordable Housing Application of Landmark Investment Group LLC for (a) amendment of Section 32 of the East Lyme Zoning Regulations (“Affordable Housing District”) and (b) rezoning the land of Jarvis of Cheshire, LLC and Landmark Development Group, LLC.

Mr. Nickerson asked Mr. Mulholland to schedule this application for Public Hearing.

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

There was none.

3. Zoning Official

Mr. Mulholland said that they would have a special meeting on April 26, 2007 with the McDonald's application as the only item.

4. Comments from Ex-Officio

Ms. Hardy said that due to the lateness of the hour that she did not have a report.

5. Comments from Zoning Commission liaison to Planning Commission

No one was present to comment.

6. Comments from Chairman

Mr. Nickerson said that did not have anything further to report.

7. Adjournment

****MOTION (4)**

Mr. Salerno moved to adjourn this Regular Meeting of the East Lyme Zoning Commission at 11:48 PM.

Ms. Byrnes seconded the motion.

Vote: 6 – 0 – 0. Motion passed.

Respectfully submitted,

Karen Zmitruk,
Recording Secretary