

# East Lyme Zoning Commission April 7, 2005 Regular Meeting

## MINUTES

\*\*\*\*\**AMENDED*\*\*\*\*\*

**Present:** Mark Nickerson, Chairman, Ed Gada, Rosanna Carabelas, Shawn McLaughlin,  
Pamela Byrnes, Norman Peck

**Also Present:** Keith Hayden, Town of East Lyme Engineering Department  
Jonathan Katz, 38 Holmes Road  
William Mulholland, Zoning Official  
Rose Ann Hardy, Ex-Officio, Board of Selectman  
William Dwyer, Alternate

FILED IN EAST LYME  
Apr 12, 2005 AT 2:40 P M

*R. A. Blair, etc.*  
EAST LYME TOWN CLERK

**Absent:** Marc Salerno, Alternate, William Henderson, Alternate

### 1. Call to Order

Chairman Nickerson called the East Lyme Zoning Commission Regular Meeting to order at 7:30 p.m.

### Pledge of Allegiance

### Public Delegations

Jonathan Katz, 38 Holmes Road, wanted to read to the Commission's some comments made by Glenn Chadler after the Town's forum held last week which was published in the April 1, 2005 Lyme Tymes' article title "Development vs. Quality of Life." In the article, he was quoted suggesting that the Town visualize a scenario of which the Town's future build out would divide open spaces into equal thirds for residential, commercial and active adult.

### The Chairman forwarded the agenda to the Application of the Town of East Lyme.

### 3. Application of the Town of East Lyme for a Coastal Area Management Site Plan Review to raise the elevation of the gravel parking area at Cini Park and to construct and access driveway, fifty-four (54) parking spaces, and to establish a landscaped park area.

A memo was submitted to the Commission by the Zoning Department noting that a CAM Application is required which was submitted. Mr. Keith Hayden, from the Town of East Lyme Engineering Department appeared and read through the application and answered any questions from the Commission. This project will provide access to the waterfront including providing 54 parking spaces and open recreational space with benches and trash receptacles. A future project will anticipate adding floating docks. The parking and service road will be a pervious pavement which is a popcorn mix absorbing water and decreasing the run off.

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**MOTION (1):** *Rosanna Carabelas moved to approve the Application by the Town of East Lyme for a Coastal Area Management Site Plan Review to raise the elevation of the gravel parking area at Cini Park and to construct and access driveway, fifty-four (54) parking spaces, and to establish a landscaped park area.*  
*Pamela Byrnes seconded the motion.*  
*Vote: 6-0-0. Motion passed.*

Mrs. Carabelas stated the application was approved because the application meets all Coastal Management policies and standards and the applicant has taken all measures to prevent any adverse impact on coastal resources.

4. **Application of Kim Detuzzi for a Special Permit to operate an indoor gymnastics center at property identified in the application as 40 Industrial Park Road, Niantic, Connecticut, East Lyme Assessor's Map 26.3, Lot 22.**

Mark Nickerson appointed Alternate Mr. William Dwyer for this application in replace of Norman Peck.

Mr. Nickerson visited the site and the requirement of a sidewalk would not be appropriate. Mr. Mulholland commented that due to the limited space, it will also not be appropriate to require that the Town's regulated landscaping be followed. Rosanna Carabelas voiced her concern for the safety of the children walking from school to this site and suggested placing a time stipulation to this application reviewing safety concerns. Pamela Byrnes reinforced that the Commission can not hold the business owner responsible for street safety issues nor expect them to invest in a business with a stipulation in place.

- \*\*\* ***MOTION (2): Pamela Byrnes moved to approve the Application by Kim Detuzzi for a Special Permit to operate an indoor gymnastics center at property identified in the application as 40 Industrial Park Road, Niantic, Connecticut, East Lyme Assessor's Map 26.3, Lot 22 with sidewalk and landscape waivers.***  
***Alternate William Dwyer seconded the motion.***  
***Vote: 6-0-0. Motion passed.***

Mark Nickerson reinstated Regular Member Norman Peck.

5. **Application of Debra Osso for a Special Permit to operate a fast food restaurant on property identified in the application as 221 Boston Post Road, East Lyme, Connecticut. The property is further identified in the application as East Lyme Assessor's Map 30.2, Lot 62.**

Pamela Byrnes and also Mark Nickerson visited the site. This application was required to place three tables in her current restaurant. Three more parking spaces will be added on the right side of the building. Food is served through cafeteria style and there will be no drive through. Mr. Mulholland confirmed it complies with the regulations. Mr. Mulholland stated that a memo has been sent by the First Selectman to the U.S. Postal Service regarding parking and safety problems at the post office next door to this site.

- \*\*\* ***MOTION (3): Pamela Byrnes moved to accept the Application by Debra Osso for a Special Permit to operate a fast food restaurant on property identified in the application as 221 Boston Post Road, East Lyme, Connecticut. The property is further identified in the application as East Lyme Assessor's Map 30.2, Lot 62.***  
***Rosanna Carabelas seconded the motion.***  
***Vote: 6-0-0. Motion passed.***

6. **Application of Theodore A. Harris for Special Permit for golf course residential accessory use pursuant to Section 12.1.4A of the East Lyme Zoning Regulations at property described in the application as 38 Holmes Road, East Lyme, Connecticut. East Lyme Assessor's Map 57.0, Lot 29.**

Mark Nickerson called for a five minute break at 8:20 p.m.. Mr. Nickerson called the meeting back to order at 8:25 p.m.

Rosanna Carabelas read the following correspondence into the record.

- Memorandum dated April 7, 2005 from William Mulholland, East Lyme Zoning Official regarding Special Permit Application Walnut Hill Country Club, Holmes Road, East Lyme. The memo reported the results of the public hearing on the application of the Walnut Hill Country Club's special permit. Two questions were raised concerning the validity of the existing permit and the density calculation.

This memorandum was submitted because there is time limits for beginning work on permits. Mr. Peck questioned a twelve month deadline. It was clarified that work had to begin within twelve months or an extension had to be taken. The minutes state that there has been two extensions.

The Commission confirmed the permit is still valid because all agreed that substantial work had been performed after review of the regulation's permit time requirements, submitted affidavits by the applicant attesting to the work (test holes, access roads, etc.) that has been performed and past minutes.

There was a discussion regarding the resident's concern for the increase of traffic on roads deemed and conditioned low-traffic and residential. There is 300 acres and activity will be doubled in this area. The applicant is requesting 80 units. Mr. Mulholland confirmed that 122.64 units are actually permitted on the SU site exclusive of the SU-E units. There was a discussion on the reduction's financial impact on the Applicant's plan.

\*\*\* **MOTION (4): Norman Peck motioned to approve the Application by Theodore A. Harris for Special Permit for golf course residential accessory use pursuant to Section 12.1.4A of the East Lyme Zoning Regulations at property described in the application as 38 Holmes Road, East Lyme, Connecticut. East Lyme Assessor's Map 57.0, Lot 29 with the stipulation that the number of units be reduced to 40 units.**

***Pamela Byrnes seconded the motion.***

***Vote: 6-0-0. Motion passed.***

***Norman Peck motioned to add the amendment to the original motion stating that the Applicant re-submit a revised site plan demonstrating compliance with the Zoning Regulations and bringing it before the Commission for their endorsement.***

***Pamela Byrnes seconded the amendment.***

***Vote: 6-0-0. Motion passed.***

Norman Peck stated the application complies with the Zoning Regulations and Plans of development and the reason for the reduction was the concern for the traffic issues.

Mr. Mulholland said it will be published April 14, 2005 and effective on April 15, 2005.

Mark Nickerson returned to Item 2 on the original agenda.

2. **Approve the minutes of March 17, 2005 Regular Meeting**

\*\*\* ***MOTION (5): Norman Peck moved to approve the minutes of the March 17, 2005 Regular Meeting.***

***Pamela Byrnes seconded the motion.***

***Vote: 4-0-2. Motion passed.***

***Abstained: Ed Gada and Shawn McLaughlin.***

Approve the minutes of March 17, 2005 Public Hearing II and III

\*\*\* *MOTION (6): Norman Peck moved to approve the minutes of the March 17, 2005 Public Hearing II and III.  
Pamela Byrnes seconded the motion.  
Vote: 4-0-2. Motion passed.  
Abstained: Ed Gada and Shawn McLaughlin.*

Approve the minutes of March 17<sup>th</sup>, 2005 Public Hearing I

\*\*\* *MOTION (7): Pamela Byrnes moved to approve the minutes from the Public Hearing I.  
Rosanna Carabelas seconded the motion.  
Vote: 3-0-3. Motion passed.  
Abstained: Ed Gada, Norman Peck and Shawn McLaughlin.*

Approve the minutes of March 3<sup>rd</sup>, 2005 Public Hearing I

Tabled.

Approve the minutes of March 3, 2005 Regular Meeting

\*\*\* *MOTION (8): Norman Peck moved to approve the March 3, 2005 Regular Meeting.  
Ed Gada seconded the motion.  
Vote: 3-0-3. Motion passed.  
Abstained: Pamela Byrnes, Rosanna Carabelas, and Shawn McLaughlin.*

**Old Business:**

1. Stormwater

Mr Mulholland had a meeting with Mike Giannattasio, Director of Public Works and a staff engineer. A presentation should be made at a May meeting.

2. Aquifer Protection

Mr Mulholland had a meeting with Mike Giannattasio, Director of Public Works and a staff engineer. A presentation should be made at a May meeting.

3. Neighborhood Business Zone Sub-Committee (Members: Mr. Peck & Mrs. Byrnes)

Norman Peck reported that for two decades, the Plan of Development has recommended a transitional zone acting as a buffer between residential and commercial zones. The Committee has studied different areas of the town and has identified streets and sections of streets for our consideration for potential Neighborhood Business Zones. Pamela Byrnes wanted to note the Committee's appreciation for the Zoning staff's assistance. The Commission reviewed the Committee's presentation. Rosanna Carabelas questioned if the Commission can legally enforce architectural design. Mr. Mulholland stated there is enabling legislation for village-assigned districts and that many districts have adopted some type of architectural review and implemented them and they have not been challenged. To have an architectural review board in a village-assigned district, the Town has to staff an architect. Norman Peck voiced that the Commission has concern of the impact and that instead of handling the zone change and the regulation at the same time just present the regulation for approval.

\*\*\* *MOTION (9): Norman Peck moved to motion that the proposed written Neighborhood Business Zone regulation be presented for public hearing.  
Pamela Byrnes seconded.  
Vote: 6-0-0. Motion passed.*

**New Business:**

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

\*\*\* *MOTION (10): The Commission voted to place the application by Donald Bergeron for a Special Permit to construct a mixed-use building on Methodist Street, Assessor's Map 12.1, Lot 100 be placed on the agenda.  
Vote: 6-0-0. Motion passed.*

Mr. Mulholland noted that the building on the corner of Methodist and Hope has been torn down. The Applicant received a variance to reconstruct a small building with a retail office and one apartment upstairs and he will need a special permit. Mark Nickerson asked Mr. Mulholland to schedule a public hearing.

Rosanna Carabelas is waiting back to hear from a representative from the Town of Vernon to obtain information about a sidewalk fund. Ed Gada noted that so many application have been passed with sidewalk waivers and a contribution could of been made to a fund.

Mark Nickerson recognized Wayne Fraser, First Selectman. Mr. Fraser informed the Commission there is currently a sidewalk fund in the capital/non-recurring account. There was a discussion on the initial use, fund contribution requirements and placement and need of sidewalks. Mr. Mulholland said a formalized process needs to be put in place to require this contribution.

The Selectman also reported that he is currently meeting with the Postmaster and his engineers because of the safety issues regarding their lack of parking and the drive-thru post box.

Mr. Gada asked about cleaning sidewalks. Selectman Fraser said there is no plan in place to enforce residents to clean their sidewalks but there might be a maintenance balance. This issue has been reviewed for the past two years.

3. **Comments from Ex-Officio:**

Mrs. Hardy reported that Public Safety Sub-Committee has found three potential sites for the public safety building — property on the Old Lyme border, a site adjacent from the high school, and the property before the Public Works site. The Sub-Committee plans a public discussion on the preliminary sites at the high school. Mrs. Hardy asked if a Commission member could attend.

Mr. Fraser said a Town Meeting will be held Monday at the high school regarding the \$2 million appropriations for open space.

Mr. Fraser thanked the Commission Members for all their hard work, especially in the last few months.

2. **Comments from Zoning Official**

Mr. Mulholland received correspondence from Landmark and they plan to re-apply. An Attorney representing an applicant at a Public Hearing has appealed Mr. Mulholland's comments to the Zoning Board of Appeals and he will be going to Hearing by the Zoning Board of Appeals.

4. **Comments from zoning board liaison to Planning Commission**

None

5. Comments from Chairman

Mr. Nickerson informed the Commission that he was subpoenaed. He also commented that per the round table discussion results, the Commission is going in the right discussion. The April 21, 2005 Zoning Commission meeting has been canceled and the next meeting will be May 5, 2005.

\*\*\* *MOTION (11): Rosanna Carabelas made a motion to adjourn the Regular Meeting of the Zoning Commission at 10:07 p.m.*

*Pamela Byrnes seconded.*

*Vote: 6-0-0. Motion passed.*

Respectfully Submitted,



Robin G.L. Koenigs, Recording Secretary