

**EAST LYME ZONING COMMISSION
REGULAR MEETING
Thursday, MARCH 1st, 2007
MINUTES**

The East Lyme Zoning Commission held a Regular Meeting on March 1st, 2007 at Town Hall, 108 Pennsylvania Avenue, Niantic, CT.

PRESENT: Mark Nickerson, Chairman, Rosanna Carabelas, Secretary,
Marc Salerno, Norm Peck, Ed Gada, Joe Barry, Alternate,

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

ABSENT: Pamela Byrnes

PANEL: Mark Nickerson, Chairman, Rosanna Carabelas, Secretary,
Marc Salerno, Norm Peck, Ed Gada, Joe Barry, Alternate
(also, as and when indicated: Bob Bulmer, Alternate, William
Dwyer, Alternate)

**FILED IN EAST LYME TOWN
CLERK'S OFFICE**

Mar 6 20 07 at 12:35 AM PM

Esther B. Bulmer

EAST LYME TOWN CLERK

1. Call to Order

Chairman Nickerson called this Regular Meeting of the Zoning Commission to order at 8:16 PM after the previously scheduled Public Hearing. Mr. Nickerson noted that Mr. Dwyer and Mr. Barry; both Alternates were seated at the table. Mr. Peck recused himself and was seated in the audience.

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. Request of Dick Karsmarski of Ford Plaza Inc. of 218 Flanders Road for a site plan modification to install lighting on the northerly lot.

Mr. Nickerson called for the applicant or their representative to present this.

Attorney Theodore Harris, 351 Main Street said that he was here to present this site plan modification to add lighting to the northerly lot. He said that Mr. Gerwick was also present and would answer any questions that they had. He recapped that the lot has been paved and that Mr. Mulholland has requested some additional plantings which will be done in the spring. Other plantings will also be replaced. He cited the uses of the lot saying that there is a need for a certain level of light for the vehicles to be seen. It has also become a safety and security issue as they have had tires and wheels stolen off of a truck located in that lot. He presented them with a copy of the police report which was entered into the record as Exhibit A. (Attached) He said that there are two lights on the north side of the building that face the north side lot. Mr. Gerwick presented the site plans that propose seven (7) 25' poles containing two types of lights with full cut off to give some reasonable light but that will not broadcast the light or light up the night sky. These will be lit during business hours and all but one or two will be shut off when the business closes at 8 PM. Once the business closes the lights will go to security levels and the entire lot will have three (3) double standard lights at low levels. This is

necessary for security reasons and because customers frequently look at vehicles, especially during the fall and winter months when it is dark out and with this light they would be able to see the vehicles. Attorney Harris then passed out 'Foot Candles for Various Plazas in East Lyme, CT' which was entered into the record as **Exhibit B**. (Attached) He said that Mr. Brian of E. Brian's Electric Inc. of Quaker Hill, CT had taken the light measurements with a light meter at night. He said that typical car dealers have 80' candles – like a football stadium. The lighting that they are proposing will be compatible with the businesses in the area. He pointed it out to them on the site plan. The proposed site plan – light for Plaza Ford dated 2/28/07 was entered into the record as **Exhibit C**. He said that Mr. Brian was present to answer any questions they might have.

Mr. Nickerson asked about lighting in the front of the building.

Attorney Harris explained that there is an average of 6.8 candles and that this equals approximately, in watts 175 metal halides.

Mr. Brian confirmed that the lighting along the street is 175 watt metal halides. He added that there are a couple of 400 watt metal halides that shine on the building to light up the side of the building.

Mr. Nickerson asked what is on the building now that was not there before.

Mr. Brian said that there are two light packs that were put there due to the theft and that they will come down and they will revert to the down lighting – around 275 watts, project spot and some flood lights.

Ms. Carabelas asked about the 55 foot candle and what that means.

Attorney Harris said that it is a measurement of light intensity and that the higher the number the higher the intensity.

Mr. Bulmer said that he went on the internet and researched foot candles and had obtained much smaller measurements than they were presenting and that a .9 was considered enough light.

Mr. Gerwick said that he would have to look up the specific task to compare the lighting.

Mr. Bulmer said that his information had come from studies on lighting and that they were recognized in the field by the experts.

Mr. Nickerson asked Mr. Mulholland what they consider to be typical lighting for this type of application.

Mr. Mulholland said that they have been concerned with lighting and that if they see Citgo as being the brightest along that stretch of road and then they look at Stop & Shop as being the least bright – the law states that they can use their common knowledge and make a common sense decision. In this case, they also have existing lighting around the building now and they can go from there.

Mr. Bulmer said that he was concerned with light spillage.

Mr. Brian explained that light fixtures and the shields and shape of the lights that would be used to have the light directed down and not all over or up.

Ms. Carabelas asked if they make any of these lights in energy efficient style.

Mr. Brian said no. He added that the lighting that they are discussing here would be of the intensity of the KFC Plaza next door and that the wall lights will be removed.

Mr. Barry referenced the police report and asked where the vehicle was located.

Mr. Karsmarski said that it was on the northern lot.

Mr. Barry said that the vehicle was not supposed to be there.

Mr. Karsmarski said that he had spent some \$800,000 more on this building to satisfy the various items that the Town wanted. He asked if they were trying to put him out of business. He said that when it snows that they have to move the vehicles around to clear the lot and clear the snow off of the vehicles. They wanted that area paved so he spent \$75,000 to pave it to satisfy the Town.

Mr. Nickerson said that they are there for the lights only and not the cars. He noted for the record that he still disagrees with the Town Engineer about the curbing and that there should have been curbing in the back of the lot.

Mr. Mulholland said that the DEP mandates and encourages the flow. He also reminded them that they are only here this evening for the lights.

Mr. Salerno asked if the plan is showing peak light.
Attorney Harris said yes.

Mr. Salerno asked that they point out which will be on at night after closing.
Mr. Brian said that there would only be one on at full power after closing. They indicated this one on the site plan and marked the site plan accordingly.

Mr. Gada said that he has driven the area during the day and evening and has compared the light candles and that they do not appear to him to be overbearing in any way. The newly paved area is extremely dark at night and he said that he could easily see how it needs light, especially knowing how people like to look at vehicles at night when they know that they can look at their leisure – the light is necessary.

****MOTION (1)**

**Mr. Salerno moved to approve the request of Dick Karsmarski of Ford Plaza Inc. of 218 Flanders Road for a site plan modification to install lighting on the northerly lot.
Ms. Carabelas seconded the motion.**

Ms. Carabelas said that she thinks that this request is appropriate and that it will be an improvement there.

Mr. Gada said that he has already commented on how he feels about this application.

Mr. Bulmer said that he wished that he knew more from the experts on the website regarding the various task lighting.

Mr. Barry said that he understands the need for security of personal property and that he personally would approve this if they state that this is the last time that they will apply for anything – otherwise, he will vote against this.

Mr. Nickerson said that an applicant can come before them as many times as they want for a modification. He then called for a vote on the motion.

Vote: 4 – 2 – 0. Motion passed.

For: Ms. Carabelas, Mr. Gada, Mr. Nickerson, Mr. Salerno

Against: Mr. Barry, Mr. Bulmer

2. Application of Gray School if Irish Dance LLC, for a Special Permit (indoor recreation) to operate a dance school at property identified in the application as 11 Freedom Way Suite A-4 and A-5, Niantic, CT.

Mr. Nickerson recused himself for this discussion and seated Mr. Dwyer, Alternate in his place. Ms. Carabelas was Acting Chairman. Mr. Peck remained recused.

Ms. Carabelas, Acting Chairman said that they had just closed this public hearing and called for discussion.

Mr. Salerno asked if they would have to indicate a number of parking spots if they approve this application.
Mr. Mulholland said that they can approve the application and recognize the eight (8) spots that the applicant has stated that they are entitled to based upon their lease agreement.

Mr. Bulmer said that they were very well prepared.

Mr. Barry said that this application seems to be consistent with others that they have seen.

Mr. Dwyer said that he would approve this as their presentation indicates that they have done their homework.

Mr. Gada complimented them on their very professional presentation.

****MOTION (2)**

Mr. Salerno moved to approve the application of Gray School of Irish Dance LLC, for a special permit (indoor recreation) to operate a dance school at property identified in the application as 11 Freedom Way Suite A-4 and A-5, Niantic, CT with the eight (8) parking spaces as indicated.

Mr. Barry seconded the motion.

Vote: 6 – 0 – 0. Motion passed.

Mr. Peck and Mr. Nickerson returned to the table and Mr. Dwyer and Mr. Bulmer were seated in the audience.

3. 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, CT. The property is further identified in the application as Lots 200 and 201 on East Lyme Assessors Map 11.2.

Mr. Mulholland said that the public hearing for this application has been rescheduled for April 12, 2007.

4. Approval of Minutes – Special Meeting, Public Hearings I and II and, Regular Meeting of February 1, 2007 and Public Hearing I and Regular Meeting of February 15, 2007

Mr. Nickerson called for discussion or corrections to the February 1, 2007 group of meeting minutes.

Ms. Carabelas said that she had thought that she had confirmed the March 12, 2007 date for the NEMO presentation rather than call it tentative.

Mr. Nickerson asked that she and Mr. Mulholland confer on this regarding the time and place.

****MOTION (3)**

Mr. Salerno moved to approve the February 1, 2007 Special Meeting, Public Hearing I, Public Hearing II and Regular Meeting Minutes of the Zoning Commission as presented.

Ms. Carabelas seconded the motion.

Vote: 6 – 0 – 0. Motion passed.

Mr. Nickerson called for discussion or corrections to the February 15, 2007 set of meeting minutes.

Mr. Nickerson asked that on Page 3 of the Regular Meeting Minutes under the Zoning Official, Item 2. that the second line where he is speaking be stricken from the record. He also asked that further down in that section, that after the line where Mr. Salerno stated that he 'hates putting in regulations that push people to have to go to the ZBA for variances especially before the mapping is complete.'

That it be added:

'Mr. Nickerson said that while he understands what Mr. Salerno is saying, that they have a whole Town to protect and not just the businesses and that he would like to have this go to public hearing so that people can weigh in on it.'

Mr. Peck asked that the both 'they's in the second to the last paragraph where he is speaking be changed to 'we'.

****MOTION (4)**

Mr. Salerno moved to approve the February 15, 2007 Public Hearing I and Regular Meeting Minutes of the Zoning Commission as amended.

Mr. Barry seconded the motion.

Vote: 4 – 0 – 2. Motion passed.

Abstained: Ms. Carabelas, Mr. Gada

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 their next meeting.

4. Subcommittee – Adult Uses (Rosanna Carabelas)

Ms. Carabelas reported that she has been collecting information on this.

New Business

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

Mr. Nickerson said that he would take from the floor, the request from Mr. Mulholland for an application that would need to have a public hearing scheduled. He asked Mr. Mulholland to explain this to them.

Mr. Mulholland said that he has an application from Attorney Harris for Demetrios Orphanides for a zone change request to change a portion of the lots currently zoned RU-40 to CB for 12B and 10 Black Point Road.

Mr. Nickerson asked that Mr. Mulholland schedule this for a Public Hearing.

2. Application of Theodore A. Harris for Gateway Development/East Lyme LLC to amend the East Lyme Zoning Regulations.

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

3. Application of Theodore A. Harris for a site plan modification to the Sea Spray Affordable Housing Development for property identified in the Application as 15 Freedom Way, East Lyme Assessors Map 9.0 Lot 28.

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

4. Application of Theodore A. Harris for a change of zone from an Affordable Housing District to Light Industrial for property identified in the application as 22 Liberty Way, East Lyme Assessors Map 9.0, Lot 28-1.

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

5. Zoning Official

Mr. Mulholland reported that the Brooks is very close to being done and that spring will be a very busy time for them.

Mr. Nickerson asked Mr. Mulholland if he could provide them with some sort of schedule so that they can have enough people present for the various applications in the event of conflicts.

Mr. Mulholland said that he could send him a tentative schedule although he cautioned that things tend to change around depending upon issues that come up.

6. Comments from Ex-Officio

Ms. Hardy said that she did not have anything to report.

7. Comments from Zoning Commission liaison to Planning Commission

No one was present to comment.

8. Comments from Chairman

Mr. Nickerson said that he had no further comments.

9. Adjournment

****MOTION (5)**

Mr. Salemo moved to adjourn this Regular Meeting of the East Lyme Zoning Commission at 9:30 PM.

Mr. Gada seconded the motion.

Vote: 6 – 0 – 0. Motion passed.

Respectfully submitted,

Karen Zmitruk,
Recording Secretary

Exhibit A
Plaza Ford

DPS-633-C Rev. 7/94

STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC SAFETY
DIVISION OF STATE POLICE

Case Number 06-321424
Date 09/18/06
Time Started 0810
Time Ended _____

WITNESS STATEMENT OF James Karmsarski

I, James Karmsarski, date of birth 01/18/54
of 218 Flanders Road (739-5403), town/city of Niantic

make the following statement, without fear, threat, or promise. I have been advised that any statement(s) made herein which I do not believe to be true, and which statement is intended to mislead a public servant in the performance of his/her official function, is a crime under C section 53a-157.

On 09/18/06 at approximately 0645^{hrs} I arrived for work at Plaza Ford.
At 0650 Tom Noonan, an employee here, informed that one of our trucks on the lot had the wheels stolen. I went + verified that 2003 Ford F-Black pick-up truck (vin 1FTRX18W73MB71840) had four tires stolen. On Saturday, Sept. 10, 2006 was the last time this truck was seen with the tires. One of our salesman, Bob Dixon, showed the truck on Saturday at approximately 4 pm Saturday. To my best knowledge no wheels have been stolen from this dealership before. I have no idea who could have done this.

Case No. 06-321424



OFFICER RICK MCSWAIN
POLICE DEPARTMENT
TOWN OF EAST LYME

P.O. Box 519
NIANTIC, CT 06357

(860) 739-5900
FAX: (860) 739-0337

By affixing my signature to this statement, I acknowledge that I have read it and/or have had it read to me and it is true to the best knowledge and belief.

Witness: Rick McSwain EC-22

Signature: James Karmsarski

Witness: _____ Signature: _____

Personally appeared the signer of the foregoing statement and made oath before me to the truth of the matters contained therein.

If notarized, endorse here: _____

Zoning 3/1/07

*Exhibit B
Plaza Ford*

E. BRIAN'S ELECTRIC INC.

**P.O. BOX 156
QUAKER HILL CT. 06375
860-442-0585
Lic. # E1-103981**

**FOOT CANDLES FOR VARIOUS PLAZAS
IN EAST LYME, CONNECTICUT**

All measurements were made at ground level four feet (4') from pole at each site

**Brooks Plaza: 2 headed light pole
400 Watt High Pressure Standard
19.5 foot candle**

**Stop & Shop: 2 headed light pole
400 Watt Metal Halide
5.0 foot candle**

**KFC Plaza: 1 headed light pole
400 Watt Metal Halide
12.5 foot candle**

**Citgo: Sign
400 Watt Metal Halide (short pole)
35.0 foot candle**

**Midway Plaza: 3 headed light pole
250 Watt High Pressure Standard
8.0 foot candle**

**Dunkin Donuts: 2 headed light pole
400 Watt High Pressure Standard (short pole)
55.0 foot candle**

**Burger King: 1 headed light pole & 4 headed light pole
400 Watt Metal Halide 400 Watt Metal Halide
12.5 foot candle 35.0 foot candle**

*Done w/ a light meter at site
Zoning 3/1/07 Tami*