

FILED IN EAST LYME P
Mar 22, 2005 AT 3:55 M

**EAST LYME ZONING COMMISSION
REGULAR MEETING
Thursday, MARCH 17th, 2005
MINUTES**

J. Blais, arc
EAST LYME TOWN CLERK

PRESENT: Mark Nickerson, Chairman, Rosanna Carabelas, Secretary,
Norm Peck, Pamela Byrnes, William Henderson, Alternate,
Marc Salerno, Alternate

ALSO PRESENT: Kim Detuzzi, Applicant
- Attorney Theodore Harris, Representing the Applicant
Rose Ann Hardy, Ex-Officio, Board of Selectmen

ABSENT: Ed Gada, Shawn McLaughlin, William Dwyer, Alternate

1. Call to Order

Chairman Nickerson called the Regular Meeting of the Zoning Commission to order at 8:25 PM immediately following the three 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 no delegations.

2. Approval of Minutes – Public Hearing I, II & III and Regular Meeting Minutes of February 17, 2005 and Public Hearing I and Regular Meeting Minutes of March 3, 2005.

Mr. Nickerson asked if they could, that they motion the Minutes together by date.

Mr. Nickerson then called for any corrections to or discussion on the Zoning Commission Public Hearing I, II & III and Regular Meeting Minutes of February 17, 2005.

****MOTION (1)**

Ms. Carabelas moved to approve the Zoning Commission Public Hearing I, II & III and Regular Meeting Minutes of February 17, 2005 as presented.

Ms. Byrnes seconded the motion.

Vote: 4 – 0 – 2. Motion passed.

Abstained: Mr. Henderson, Mr. Salerno

There was not a sufficient quorum of members to vote on the March 3, 2005 minutes so they were tabled until the next meeting of the Commission.

3. Application of Theodore A. Harris, for a 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. This Public Hearing was closed on February 17, 2005 with the understanding that Staff would provide information on a few issues that were raised. (See last page of the Public Hearing I Minutes of February 17, 2005)

Mr. Nickerson noted that some of the information that they had requested was still being reviewed and was to be presented to them by Mr. Mulholland who was unable to be here this evening. He said that they would table this until their next meeting.

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.

Mr. Peck recused himself from this discussion and seated himself in the audience.

Mr. Nickerson said that he hears them on the sidewalk and he is also looking at this property being on the edge of the school however, this would be a sidewalk to nowhere.

Ms. Carabelas said that she does not have an issue with the sidewalk. She wants to make sure that they are somehow directed by sign or other method to follow the path in the back and not to use the road.

Mr. Nickerson suggested giving a two-year waiver on the sidewalk to see if the kids are walking through there or what is happening. If there is no problem then they can make it a permanent waiver.

Ms. Byrnes said that while she understands what he is saying that she has two concerns. Assuming that Mike's goes in, people would want to walk there for a burger and a shake. But, also, these people are making a considerable investment in this Town and she said that she questions requiring them to put a sidewalk in two years from now when they would already have made a huge investment.

Mr. Nickerson said that sidewalks are normally required as they are looking to connect the Town. A two-year waiver here could give them some room to better decide on this, as they do not want to encourage traffic through that area.

Ms. Hardy waved to the Chair to be recognized.

Ms. Hardy said that the Board of Selectmen has discussed this issue as well. Regarding this – the discussion was that they do not want to encourage pedestrian traffic in the Industrial Park. However, that was prior to Mike's Famous and the idea that people might want to get a burger and shake there. She said that the Board of Selectmen would have to revisit this and that she would get back to them on it. She added that there were funds in this year's budget for sidewalks from in front of the Middle School (going in the opposite direction) to the Community Center with a proposal for crosswalks there. However, when they had that discussion, there was a different owner of 40 Industrial and they did not have Mike's Famous, so they have not discussed this since then and they probably should revisit it. At the time of that discussion though, she said that they wanted to discourage pedestrian traffic through there regardless of age or person.

Mr. Nickerson asked if Ms. Hardy was suggesting that she might have an answer for them in the next few weeks from the Board of Selectmen on this.

Ms. Hardy said that she thought that she could.

Mr. Henderson asked for clarification on the path that would be connecting them from the school to the property and if it would be coming through the snow bank. He said that his concern was that a path would be snowed in and that a paved or hard top surface would keep the pathway clear. Next, he said that they waived the sidewalks for Mike's and that he felt that they could not place the burden of sidewalks on these people and felt that it would be a difficult argument to prove to make them have them. He also said that he is concerned that they are in a Light Industrial area and that even the best children get out of hand and might bolt out of a car. With this in mind, he thinks that there should be a buffer between the two buildings as one is Light Industrial and the other will not be.

Mr. Nickerson said that he tended to agree that the area should be defined and that there is probably a way to clear up that island and that it would not take much to do it. He said that they could address this with Staff the next time.

Ms. Carabelas said that she wants this worded so that there is an amendment to the permit stating that there is a waiver of a year and a half or two years on the sidewalk. She said that she would also like something that states that the pathway is to be kept clear and that it is defined as a pathway from the school to the facility.

Mr. Nickerson said that he thought that they needed direction from Staff on this and that they would table discussion on this until the next meeting of the Commission on April 7, 2005.

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.

(Note: Mr. Peck rejoined the table)

Mr. Nickerson said that his concern is if there is enough parking there. He noted that Mr. Mulholland has indicated that there is enough. However, they could use a good 25 more spaces there due to the log jam with the Post Office although that is not the problem of this applicant and not fair to her.

Ms. Hardy said that the Board of Selectmen has discussed this issue as well as the Post Office is creating a lot of problems with traffic and inadequate site lines. The First Selectman is writing the Post Office a letter asking them to relocate due to this issue.

Mr. Nickerson said that would be years away and suggested that if they removed the three mail receptacles and put them at Tri-Town, that they would gain some much needed parking spaces.

Ms. Hardy said that if Mr. Fraser has not sent the letter off yet that she would ask that he put that suggestion in it regarding moving the mail boxes.

Ms. Byrnes said that while she is supportive of this application and would vote for it that she would like to reiterate that in the future that she will make it a practice not to vote on items on the agenda if she has not received all of the materials beforehand so that she can review them. She said that she has asked for this before and she thinks that they need this to make an educated decision.

Mr. Peck asked if they have a parking plan that they can look at.

Mr. Nickerson said that Ms. Osso indicated that there is a parking plan that she discussed and signed off on with Mr. Mulholland that satisfies what is needed. He said that he could not locate it at the moment.

Mr. Nickerson added that they did have the information that they needed prior to discussion on this application and that they might recall that in January when the application came before them to be scheduled that they received the information that they needed regarding what she was looking for. He suggested that in the future that they take the time to look over the information that they get rather than racing through to have it scheduled in the future for a public hearing. In this way, they can determine if more information is needed and if they understand what is being requested in the application.

Mr. Nickerson then suggested that they table this until the next meeting so that they could look over the parking plan that Ms. Osso worked on with Mr. Mulholland. Mr. Mulholland could also answer any questions that they might have on it.

6. Application of Theodore A. Harris, Agent for Mariner Health Care, for a modification to an existing Special Permit to change the number of beds allowed from 120 to 130 at property located at 23-25 Liberty Way, Niantic, Connecticut. The property is further identified on the application as East Lyme Assessor's Map 9.4, Lot 6 and Map 9.4, Lot 29.

Mr. Nickerson said that this is just what it states and that they far exceed the number of parking spaces that are required for this change.

****MOTION (2)**

Mr. Salerno moved to approve the Application of Theodore A. Harris, agent for Mariner Health Care, for a modification to an existing Special Permit to change the number of beds allowed from 120 to 130 at property located at 23-25 Liberty Way, Niantic, Connecticut. The property is further identified on the application as East Lyme Assessor's Map 9.4, Lot 6 and Map 9.4, Lot 29.

Mr. Henderson seconded the motion.

Vote: 6 – 0 – 0. Motion passed.

Old Business

1. Stormwater

This is a work in progress.

2. Aquifer Protection

Mr. Nickerson said that the Town has been asked to appoint a Commission as an Aquifer Commission Board. This would be done in accordance with State Statute. The Town officials in conjunction with the Town Attorney are working on this language and it is anticipated that the Zoning Commission will continue to be the governing Commission and administer the duties regarding aquifer protection as they have since 1973.

3. Neighborhood Business Zone Sub-Committee – Mr. Peck and Ms. Byrnes

Mr. Peck suggested that they hold off on this until Mr. Mulholland could be present and that they continue to look over the information that they had received in their packets so that they can discuss it at their next meeting. They need to hash this out with everyone present.

New Business

1. Application of Jeffrey A. McNamara for a text amendment to the East Lyme Zoning Regulations, Section 32, Affordable Housing District.

Mr. Nickerson suggested that they look at this to see what was included with the application prior to scheduling it for a public hearing. A letter with Section 32 of the regulations was included in the packet for their review. The Commission members agreed that they did not have the exact change spelled out for them to see and that they needed to get that information. This would be scheduled for a 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 was not present.

4. Comments from Ex-Officio

Ms. Hardy reported that the Board of Selectmen has approved the \$2M bonding package for open space. This now goes before the Board of Finance. This would not be bonded all at once and it is to be used for open space, as property becomes available. Each property would have to come up before them but this would move it quicker. She also reported that the Public Safety Building Subcommittee information/report would be coming in April with a presentation. The architect will also make recommendations on the properties as he has reviewed them. The Millstone Building has been discussed a lot and is still up in the air. There is opposition from the Main Street Merchants on using this as a temporary site for the Police as they are afraid that it will become permanent. They would like to see it used as a restaurant. They are still waiting on an environmental review and an inside survey and in the meantime Millstone has come back with a counter offer to the Town to lease the building for \$1/year. They have not voted on this yet although the \$1/year lease option might best suit them at this point.

Ms. Carabelas asked if they had figures on how much it would cost to renovate the building for temporary use by the Police.

Ms. Hardy said that they do not have all of that yet, as it is contingent upon a lot of other factors and the study that is being done regarding other buildings.

5. Comments from Zoning Board liaison to Planning Commission

There was no report.

6. Comments from Chairman

Mr. Nickerson said that they were looking to be able to cancel their meeting on April 21, 2005, as that is school vacation week. He asked that they not scratch it yet, as they will have to load up on their next meeting in order to be able to cancel the one on April 21.

7. Adjournment

****MOTION (3)**

Mr. Salemo moved to adjourn this Regular Meeting of the East Lyme Zoning Commission at 9:05 PM.

Ms. Byrnes seconded the motion.

Vote: 6 – 0 – 0. Motion passed.

Respectfully submitted,

Karen Zmitruk,
Recording Secretary

(Recording Secretary Note: As you know this is the last meeting that I will be covering as the regular Recording Secretary for this Commission. Some time ago in 2003 I agreed to cover this Commission on a temporary basis when you suddenly found yourselves without a Recording Secretary. Fast forward to now, some two years later and the terms of the two-month notice I gave to the Chair and Staff in January 2005 has now expired. - So long, farewell and good luck to all. - Karen)