

**EAST LYME ZONING BOARD OF APPEALS
PUBLIC HEARING AND REGULAR MEETING
MONDAY, MARCH 14th, 2022
MINUTES**

A Public Hearing and Regular Meeting of the East Lyme Zoning Board of Appeals was held on Monday, March 14, 2022 at 6:30 PM at the East Lyme Town Hall, 108 Pennsylvania Avenue, Niantic, CT.

PRESENT: Steve Carpenteri, Chairman, Wayne Blair, Larry Fitzgerald, Kevin Mace, Spencer Clapp, Alternate

ALSO PRESENT: Joe Wren, PE Indigo Land Design, representing the applicant
Mark Margiotta, Applicant/Owner

ABSENT: John Smith

1. Call Public Hearing to Order

Chairman Carpenteri welcomed everyone and called the Public Hearing to order at: 6:30 PM. The Pledge was observed.

2. Read Notice of Public Hearing

Mr. Carpenteri read the Agenda call of Case #1-2022 of the Public Hearing.

Case No. 1-2022: Application of Mark Margiotta, Owner for a variance of the East Lyme Zoning regulations Section 20.15 Setback from Wetland or Water body (tidal) for property located at 16 South Dr, Niantic, CT. Said parcel appears on the East Lyme Assessor's Map 08.2, Lot 143.

The Public Hearing notice was sent to the New London Day for publication on 3/2/2022 and 3/10/2022.

Mr. Carpenteri introduced the Board members and polled each for any conflict of interest. Hearing no conflicts of interest from the members, he explained the rules of the meeting, and noted that notices had been sent to abutters.


Mr. Carpenteri then called for the applicant or their representative to make their presentation.

Joe Wren, PE, Indigo Land Design LLC explained that they are proposing an in-ground pool with a covered area to a patio and a pool house. Because the ground drops off this is the best location for this. The only variance needed is to allow less than 100 sq. ft. of proposed improvements within the 25-foot tidal wetlands setback as they have depicted on the site plan. The improvements would consist of small portions of a pool patio, some fill (less than 25 cu. yd) and pool equipment. The proposed pool and patio would be within an existing yard area; the proposed minor fill and pool equipment would be within an area used for leaf and grass clippings for some time. The applicant proposes to plant a native buffer along the wetlands side of the existing stone retaining wall with native plants including ferns, flowers and sedges appropriate to the location. The hardship is that the existing house was constructed in the current location in 1967 well before the adoption of tidal wetland regulations and the associated buffer and setback requirements; and there is no other reasonable or suitable location for the pool on the property. He added that the patio would be paved allowing for infiltration and the plantings will benefit the health of the tidal marsh.

Mr. Carpenteri noted that the pool is fine however they have three other areas that are within the 25' setback area.

Mr. Wren said that they talked about alternate locations and with the pool equipment and tanks they made some modifications pulling them closer to the deck. They felt that this was a practical request.

FILED

March 22 2022 AT 10:15 AM/PM

EAST LYME TOWN CLERK

Mr. Carpenteri said that if there are other means to achieve this with some minor changes to the proposed plan without coming here to the ZBA then they need to do them. He explained to Mr. Wren the areas that could be altered to conform to the setback.

Mr. Wren in turn called Mr. Margiotta up to explain to him the areas that could be changed to allow them to have what they want.

Mr. Blair noted that they do have the area to put the pool equipment in.

Mr. Clapp asked if the elevation of the house is higher and then explained where the pool house can fit in without a variance.

Mr. Wren noted the separation needed between the propane tanks and the pool equipment.

Mr. Clapp noted that it is only about 5 feet.

Mr. Carpenteri explained that request for a variance does not refer to the owners' inability to fulfill a purely personal wish and that the Board is not permitted to approve variances which would constitute a personal license to violate the zoning ordinance. That being said, there are other means to achieve what they want without a variance.

Mr. Margiotta said that it is a small area that they want to reclaim.

Mr. Clapp said that it is a small area that can be adjusted.

Mr. Wren said that in order to put fill in that they would also need a variance.

Mr. Margiotta asked if they move the pool house closer to the house – what about the patio.

Mr. Mace said that they would have to keep the other three portions inside of the area and that with some adjustment to the plan it could be done.

Mr. Carpenteri asked if there were any comments from the public –

Jane Storms, 6 Barrett Drive said that she is opposed to this. She has reviewed the rules and regulations regarding the tidal wetlands (1969 and CAM 1980) and the most serious threat to the tidal wetlands is this type of piecemeal degradation. She said that she had lived here for 27 years and the people have Chemlawn come and that goes into the tidal wetlands. They also deposit their leaves and grass debris in the tidal wetlands. They need to refrain from depositing their leaves and grass debris in the tidal areas. She has watched for years, the people from this property dump clippings and debris into the tidal wetlands. There is a uniform 100' buffer to all tidal wetlands and the taking to area out of that buffer applies here as well. She said that she does not see the parcel as being unusable without a pool, not having a pool is not a hardship. She said that she is opposed to this and further does not want to see any precedent set.

Dan Storms, 6 Barrett Drive said that CGS 22a-293 references dumping, filling etc. and that the dumping of yard waste has been going on at that property for years. He said that he also worries about the pump house and the chemicals going into the marsh. The construction itself will also disrupt the marsh.

Mr. Wren said that they are not degrading the wetland buffer – they are going up to the stone wall there. The area with the leaves etc. would have that removed. There is a full lawn there now but the area closest to the marsh would see less chemicals etc. He noted that each case is treated individually and not on a precedent basis. Also, this is a saltwater pool which would require much less chemicals. There is an osprey platform there however with construction – a fiberglass and liner pool takes much less time to construct – about 3 months total from start to finish. They are also proposing supplementation of the vegetation.

Mr. Carpenteri asked if the Board members had any further questions.

Mr. Wren said that after some discussion with the applicant that they could see that their request would be denied and that they would like instead to table this application for the present. They would like the time to discuss the suggestions that they had received to see what they could do to make it work.

****MOTION (1)**

Mr. Blair moved at the request of the applicant to table the application of Mark Margiotta, Owner for a variance of the East Lyme Zoning regulations Section 20.15 Setback from Wetland or Water body

**(tidal) for property located at 16 South Dr, Niantic, CT. Said parcel appears on the East Lyme Assessor's Map 08.2, Lot 143.
Mr. Clapp seconded the motion.
Vote: 5 – 0 – 0. Motion passed.**

Mr. Carpenteri noted that they would help them where they could.

REGULAR MEETING

ADJOURNMENT

Mr. Carpenteri called for a motion to adjourn.

****MOTION (2)**

Mr. Mace moved to adjourn this meeting of the East Lyme Zoning Board of Appeals at 7:20 PM.

Mr. Clapp seconded the motion.

Vote: 5 – 0 – 0. Motion passed.

Respectfully submitted,

Karen Zmitruk,
Recording Secretary