

FILED IN EAST LYME
Feb 12, 2008 AT 2:10 M

**EAST LYME ZONING COMMISSION
REGULAR MEETING
Thursday, FEBRUARY 7th, 2008
MINUTES**

L. A. Blais arc
EAST LYME TOWN CLERK

The East Lyme Zoning Commission held a Regular Meeting on February 7, 2008 at the East Lyme Town Hall, 108 Pennsylvania Avenue, Niantic, CT.

PRESENT: Mark Nickerson, Chairman, Rosanna Carabelas, Secretary,
Norm Peck, Steve Carpenteri, Ed Gada, Marc Salerno

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

ABSENT: John Birmingham, Alternate, William Dwyer, Alternate

1. Call to Order

Chairman Nickerson called this Regular Meeting of the Zoning Commission to order at 8:56 PM after the two previously scheduled Public Hearings. The Pledge had been previously observed.

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 Theodore A. Harris for Gateway Development/East Lyme LLC to amend the East Lyme Zoning Regulations to add proposed Section 11.A.9. This proposal serves as an alternative to the existing Zoning regulatory guidelines in the Gateway Zoning District and would establish Zoning requirements for development under a set of 'Master Development Plan' regulations. The proposal provides the specific criteria for mixed-use development (retail & residential), building sizes, eligibility, submission requirements, approval criteria, implementation phasing and public improvements.**

Mr. Nickerson said that they had just continued this Public Hearing to the March 6, 2008 meeting of the Commission.

- 2. Application of Flanders Donut & Bake Shop, Inc., for a Special Permit for a drive thru for an existing bakery located at 323-327 Flanders Road, East Lyme, CT.**

Mr. Nickerson called for a motion for discussion.

****MOTION (1)**

Ms. Carabelas moved to approve the application with the exceptions as requested by the applicant, of Flanders Donut & Bake Shop, Inc. for a Special Permit for a drive thru for an existing bakery located at 323-327 Flanders Road, East Lyme, CT.

Mr. Gada seconded the motion.

Ms. Carabelas said that she had moved to approve this as she would like to see a local business be competitive with other businesses that are relatively new to the area while this one has been here for many years. She added that she was also concerned about the future and that if this business is ever sold, it can only be another bake shop.

Mr. Nickerson noted that Mr. Gadbois started the public comments during the Public Hearing portion speaking in favor of this application and that the rest of the people who came up to speak about this business all spoke in favor of it and the goodness of this business. He noted that it was of interest to him that this does not add to the traffic but that it actually manages it better in that area. He said that he wishes them well as this is an investment. He recalled that when he and his family moved here over 20 years ago that this was one of the very first places that they frequented and found very warm and inviting. He said that they still frequent it and that it is extremely well known. He said that he thinks that everything that is being done here is an improvement to the area.

Mr. Salerno agreed with the previous comments and said that he thinks that this site plan works and that the sidewalk will be a great improvement.

Mr. Carpenteri said that he totally agreed with the comments of his fellow Commissioners.

Mr. Nickerson called for a vote on the motion.

Vote: 6 – 0 – 0. Motion passed.

Mr. Mulholland said that this decision would publish on 2/14/08 and become effective on 2/15/08.

- 3. The East Lyme Zoning Commission proposal to amend the Zoning Regulations Section 20 of the code, specifically to delete from Section 20.1.1 “public schools, fire departments, libraries and other Town Buildings and uses.” And to add a new Section (F) “Town Buildings and Uses” to Section 20.1.2. This change would require a Special Permit approval from the Zoning commission for all Town buildings and uses.**

Mr. Nickerson called for a motion on this amendment.

****MOTION (2)**

Ms. Carabelas moved to approve The East Lyme Zoning Commission proposal to amend the Zoning Regulations Section 20 of the code, specifically to delete from Section 20.1.1 “public schools, fire departments, libraries and other Town Buildings and uses.” And to add a new Section (F) “Town Buildings and Uses” to Section 20.1.2. This change would require a Special Permit approval from the Zoning commission for all Town buildings and uses.

Mr. Salemo seconded the motion.

Vote: 6 – 0 – 0. Motion passed.

4. Zoning Fees

Mr. Mulholland noted that he is working on some changes to this and that they would take it up at the next meeting of the Commission.

- 5. Approval of Minutes – Public Hearing I, Public Hearing II and Regular Meeting Minutes of January 17, 2008**

Mr. Nickerson called for discussion on, or corrections to the Public Hearing I, Public Hearing II and Regular Meeting Minutes of January 17, 2008.

****MOTION (3)**

Mr. Carpenteri moved to approve the Public Hearing I, Public Hearing II and Regular Meeting Minutes of January 17, 2008 as presented.

Ms. Carabelas seconded the motion.

Vote: 4 – 0 – 2. Motion passed.

Abstained: Mr. Gada, Mr. Salerno

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 working on this.

3. Subcommittee – Adult Uses (Rosanna Carabelas)

Ms. Carabelas reported that she has a whole folder of information that she has researched on-line and that she would get it to Mr. Mulholland to get to the Town Attorney for review.

Mr. Mulholland reported that the Town Attorney has someone working on the ordinance.

4. Transitional Zones Subcommittee – (Marc Salerno & Norm Peck)

There was no report.

New Business

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

Mr. Peck asked if they could discuss the cutting of trees along the roadside.

****MOTION (4)**

Mr. Peck moved that they have a discussion regarding the cutting of trees along the (main) roadsides.

Ms. Carabelas seconded the motion.

Vote: 6 – 0 – 0. Motion passed.

◆ Discussion – cutting of trees along the main roadsides

Mr. Peck explained that they require people to plant trees and to put buffers with trees, etc. however, they allow trees to be taken down along the main roads in the Town. As an example he said that on West Main Street that there were some beautiful Norway Spruce trees that were planted many years ago and that he thought that they were cut down for a restaurant to go in however there is no restaurant there yet. He said that it was a shame to have those trees cut down as they beautify the Town and asked what they would think if they were to have a policy where within a certain distance of a Town or State road that trees of a certain diameter could not be cut down without approval. He said that he is not looking to over-regulate but lately it seems that a lot of trees are being cut down.

Ms. Carabelas suggested that they would perhaps have to have an application submitted first, before they could get involved in someone cutting trees on their land.

Mr. Carpenteri asked if they thought that they were going to tell people that they cannot cut trees on their own property as that would certainly create a property rights issue.

Mr. Mulholland said that they do require landscaping on property that is part of an application and he suggested that they could perhaps put in the regulations that if they are required to put in trees and landscaping on common property that they also have to maintain it and keep it in the fashion that it was required as a part of that application. He said that he would check into State Statute and see if there is anything on this there.

Mr. Nickerson said that he could see both sides. He said that perhaps this would fall under a tree warden or other such type person rather than the Commission.

Mr. Carpenteri suggested that they look into the legality of this first.

Ms. Hardy said that it is within the purview of the Tree Warden to say trees of historic value must stay and may be tagged to remain. She added that they do have specific dimensions, sizes and varieties that they look at when making these decisions.

The Commission decided that Mr. Mulholland would research more information for them from the Tree Warden and in the State Statutes.

Mr. Mulholland said that the Eclectic Chef is open in the new location and is requesting outdoor dining.

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

2. Zoning Official

Mr. Mulholland reported that the Starbucks has opened as they well know. The Irish Pub is moving along and while the Eclectic Chef is doing well in its new location, the place that he left is going to be another deli with outdoor and indoor dining. He said that they will also be seeing some applications on multi-family housing and that for now they are still quite busy.

3. Comments from Ex-Officio

Ms. Hardy said that she has received comments from some of the business people regarding the fee structure that was proposed. She said that they feel that the re-application fee for outdoor dining is quite steep and that they have asked that it be reconsidered.

Mr. Mulholland said that those fees are part of what he is re-writing so that they will be fairer. He added that \$30 of it goes to the State and there is nothing that they can do about that part.

Ms. Hardy said that they have also suggested that some sort of re-inspection be done prior to reissue of the permit as there are places that have very shabby umbrellas and that are rundown looking that detract from the rest of the places and the Town.

Mr. Mulholland said that he was aware of what she was mentioning however, those places are grandfathered. There are only two (2) permits that they have given out. He said that in working on the downtown district that they hope to get their hands around issues such as these.

4. Comments from Zoning Commission liaison to Planning Commission

There were no comments.

5. Comments from Chairman

Mr. Nickerson said that Mr. Mulholland had passed out a copy of the most recent court decision where the Town won the Landmark II Appeal. He asked that they review the decision as it is good news for the Town. He thanked them all for their hard work.

6. Adjournment

****MOTION (5)**

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

Mr. Carpenteri seconded the motion.

Vote: 6 – 0 – 0. Motion passed.

Respectfully submitted,

Karen Zmitruk,
Recording Secretary