

**EAST LYME ZONING COMMISSION  
REGULAR MEETING  
Thursday, JANUARY 3rd, 2008  
MINUTES**

The East Lyme Zoning Commission held a Regular Meeting on January 3, 2008 at Town Hall, 108 Pennsylvania Avenue, Niantic, CT.

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

**ALSO PRESENT:** John Birmingham, Alternate  
Bob Bulmer, Alternate  
William Dwyer, Alternate  
Rose Ann Hardy, Ex-Officio  
William Mulholland, Zoning Official

**ABSENT:** No One

FILED IN EAST LYME TOWN  
CLERK'S OFFICE

Jan 8 2008 at 9:05 <sup>AM</sup> ~~PM~~  
*Ethel B Williams*  
EAST LYME TOWN CLERK

**1. Call to Order**

Chairman Nickerson called this Regular Meeting of the Zoning Commission to order at 7:49 PM after the previously scheduled Public Hearing. The Pledge was previously observed.

Mr. Nickerson welcomed the new members; Mr. Birmingham and Mr. Carpenteri to the Commission.

**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 Richard McFadden d/b/a The Eclectic Chef for a Special Permit to operate a fast food restaurant at property identified in the application as 281 Main Street, Niantic, CT.**

Mr. Nickerson called for a motion and/or discussion.

**\*\*MOTION (1)**

**Mr. Salerno moved to approve the application of Richard McFadden d/b/a The Eclectic Chef for a Special Permit to operate a fast food restaurant at property identified in the Application as 291 Main Street, Niantic, CT with the following exceptions:**

- ◆ **Application exempt from complying with Sections 24.6 E-2 front landscaping and 24.6 E-3 six foot (6') buffer along side and rear property lines.**

**Mr. Carpenteri seconded the motion.**

Ms. Carabelas asked if it is impossible to put in something regarding the landscaping.

Mr. Mulholland said that the area is mostly paved and that it is a pre-existing area. However, that would be something that they could address on the patio portion and perhaps suggest planters.

**Vote: 6 – 0 – 0. Motion passed.**

**2. Request of Gerwick-Mereen LLC for a waiver of Section 24.6-C "Sidewalks" for a property identified in the Application as 279 Boston Post Road, East Lyme, CT**

Mr. Peck recused himself from discussion on this application and sat in the audience.  
Mr. Nickerson seated Mr. Bulmer, Alternate at the table for this discussion.

Donald Gerwick, PE, place of business 1020 Hartford Turnpike, Waterford said that this is the site of a new dental office for Dr. Robson. The site is very tight and is only 80' wide. It is located to the west of Islanda Court on Boston Post Road. The site plan was approved by Mr. Mulholland and they have all of the elements except the sidewalk. There is a telephone pole that would fall partially where the sidewalk would be constructed. The site is 1000' west of any existing sidewalks on Boston Post Road so this would be a section of sidewalk that begins nowhere and ends nowhere. Dr. Robson has made a significant investment in this Town and has indicated that if sidewalks were to come to this area that he would be willing to put them in at that time.

Mr. Nickerson said that the issue from Mill Road is that there is a tractor facility without a sidewalk and that there are many properties that have dirt paths that people utilize all the time. The dirt path ends at the boat launch and while this would, no doubt, create a sidewalk to nowhere, they need to decide how they are going to handle this regulation as they have it on the books and it cannot just continually be waived.

Mr. Gerwick asked that they consider that the dental office is not the type of facility that will generate a lot of foot traffic and the fact that Dr. Robson has agreed to put in sidewalks should they get down to that area.

Mr. Nickerson asked Mr. Mulholland if that was something that could be done that way.  
Mr. Mulholland said that they are not sure how long it would be before sidewalks will get to that area and that long ago the determination was made that they did not want sidewalks to nowhere so there comes a time where they have to start doing sidewalks and stop waiving them.

Mr. Salerno, Ms. Carabelas and Mr. Nickerson agreed that they need to do this.

Mr. Bulmer said that he has been by that area quite frequently and that the students go to the lake and that as part of their crew training they have to run back to the school and without sidewalks there, they run in the road. Traffic has increased there and people walk all the time. He said that he feels that there should be a sidewalk there and that they should just get the ball rolling on putting them in.

Mr. Gerwick said that their points are well taken but said that he wished to note that most runners use the road even when there is a sidewalk available.

Mr. Gada asked where the on-site parking is located.  
Mr. Gerwick pointed it out on the landscape plan for the site.

Mr. Gada asked if a sidewalk in the front would interfere with the handicap parking.  
Mr. Gerwick said no.

Mr. Salerno asked about the anticipated opening date for this office and if it was a new business.  
Dr. Robson said that he expected to open in the summer and that he was moving from Flanders Four Corners to this location.

Mr. Gerwick showed the Commissioners the architecture of the new building.  
The Commissioners were quite impressed with the design elevations.

**\*\*MOTION (2)**

**Mr. Salerno moved to deny the request of Gerwick-Mereen LLC for a waiver of Section 24.6-C "Sidewalks" for a property identified in the application as 279 Boston Post Road, East Lyme, CT.**

**Mr. Bulmer seconded the motion.**

**Vote: 5 – 0 – 1. Motion passed.**

**Abstained: Mr. Gada**

Mr. Peck returned to the table and was seated and Mr. Bulmer returned to the audience.

**3. CAM Application of Bernstingle for 20 Atlantic Street, Niantic, CT - (Crescent Beach) Repair of a Seawall**

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

Kenneth Petrini, Engineer with DiCesare-Bentley Engineers, Inc. said that he is representing the applicant. He submitted a site plan of the area dated 12/7/07 which was entered as **Exhibit A** and five (5) photos of the site taken in November 2007 which were entered as **Exhibit B**.

Mr. Mulholland noted to the Commission that the property is located in Crescent Beach and that they have their own Zoning so what they are looking at here is strictly the soil & erosion for the seawall repair.

Mr. Petrini explained that this parcel and the seawall are located between Crescent Beach and McCook's Point and that it is a one-quarter acre site. They are here for the seawall as there was damage to it. The house predates 1938 and the seawall was there in 1942. The CAM report shows that there is no impact as there is an existing structure there and they are just repairing it. He said that they have also submitted the application information to the DEP for their input. He asked if they had any questions.

Mr. Salerno asked when this project is done how they will prevent the soil from getting onto the beach. Mr. Petrini said that there is very little excavation to the wall as this is only a repair.

**\*\*MOTION (3)**

**Mr. Salerno moved to approve the CAM Application of Bernstingle for repair of an existing seawall at 20 Atlantic Street, Niantic, CT (Crescent Beach).**

**Ms. Carabelas seconded the motion.**

**Vote: 6 – 0 – 0. Motion passed.**

Mr. Salerno said that this was approved because it is consistent with all of the applicable rules and measures will be taken to mitigate any adverse impacts.

**4. Zoning Commission Budget 2008/2009 and Zoning Commission Fee Schedule**

**♦ Zoning Commission Budget for 2008-2009**

Mr. Mulholland explained the budget noting that it is the same as it has been and that the salary increases would be determined by the Board of Selectmen at a later time.

Mr. Peck noted that he would not feel comfortable discussing a salary increase in front of the person that it was meant for.

Mr. Mulholland explained that ultimately it is the Board of Selectmen who determines the increase.

**\*\*MOTION (4)**

**Ms. Carabelas moved to approve the Zoning Commission budget for 2008-2009 in the amount of \$77,850 as proposed.**

**Mr. Carpenteri seconded the motion.**

**Vote: 5 – 0 – 1. Motion passed.**

**Abstained: Mr. Peck**

**♦ Zoning Commission Fee Schedule**

Mr. Mulholland passed out a copy of the fee schedule for Zoning with some proposed changes. He explained that he was asked by the First Selectman to review the fees that are being charged as they were last changed three to four years ago.

Mr. Salerno said that his concern is that to build a tool shed that it might cost \$1000 with a \$117 cost for permits which he finds outrageous because they want people to pull permits and to do things correctly and this type of fee for such a small item discourages them. He noted for instance that to do a large addition to a house of \$20,000 that it would only cost \$140 in permit fees versus the \$117 for a \$1000 tool shed.

Mr. Mulholland cautioned that they are only discussing the Zoning permit fee and not the Building permit fees which are a lot higher and figured in a different way. Plus, there is also the \$30 State fee that does not go away and gets charged on top of their local fee. He said that he looked at other Towns in the area and has found that they are fairly comparable in their fee structure. They could further break down their fees by size although the current structure seems to be pretty straightforward to follow and implement.

Mr. Carpenteri noted that in Section 3.9 that the \$100 going to \$400 seems a bit high.

Mr. Salerno and Ms. Carabelas suggested keeping the fees at the low end for the small businesses versus the large type chain businesses.

Mr. Peck suggested that some research be done by obtaining the 2007 figures for each category so that they can look at it in that way to see what has been happening and how the income from the past year was distributed.

Mr. Nickerson asked if the consensus is to get more information on this and to revisit it.

Ms. Hardy, Ex-Officio noted that there seems to be a big discrepancy between single family and mega commercial in that they have only a \$50 difference and that this does not seem fair.

Mr. Mulholland said that he could break this down further based upon square footage.

Mr. Nickerson said that they would take this up at their next meeting when they had more information to review.

#### **5. Approval of Minutes – Regular Meeting of December 6, 2007**

Mr. Nickerson called for discussion on, or corrections to the Regular Meeting Minutes of December 6, 2007.

#### **\*\*MOTION (5)**

**Mr. Peck moved to approve the Regular Meeting Minutes of December 6, 2007 of the Commission as presented.**

**Ms. Carabelas seconded the motion.**

Ms. Carabelas asked as a general note that Ms. Byrnes name be removed as she is no longer on the Commission.

**Vote: 5 – 0 – 1. Motion passed.**

**Abstained: 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 working on this.

##### **3. By-Laws Subcommittee (Mark Nickerson & Pamela Byrnes)**

Mr. Nickerson asked if they were ready to vote on these.

Mr. Carpenteri said that he has reviewed them and that he did not have any issues with them.

#### **\*\*MOTION (6)**

**Mr. Peck moved to adopt the Zoning Commission Bylaws as amended.**

**Ms. Carabelas seconded the motion.**

**Vote: 6 – 0 - 0. Motion passed.**

#### **4. Subcommittee – Adult Uses (Rosanna Carabelas)**

Ms. Carabelas said that they were waiting on the Attorney for his review.

Mr. Mulholland said that it would be a two-pronged attack – by Town Ordinance and a Zoning Regulation so that they are compatible and enforceable.

#### **5. Transitional Zones Subcommittee – (Marc Salerno & Norm Peck)**

Mr. Salerno asked that this be added to the agenda.

#### **New Business**

##### **1. Application of Harry & Trifonas Loginidis d/b/a Family Pizza for the renewal of a Special Permit for Outdoor Dining at 233 Main Street, Niantic.**

Mr. Nickerson asked Mr. Mulholland to schedule this for Public Hearing.

##### **2. Application of Kim Burrows, for Broadway Kids and Co., for a Special Permit to operate a private training facility, trade or technical school at 5 Freedom Way, Units D1-D4, Niantic.**

Mr. Nickerson asked Mr. Mulholland to schedule this for Public Hearing.

##### **3. Any other business on the floor, if any, by the majority vote of the Commission.**

Mr. Mulholland passed out information on Mixed Use Development CA and CB zones suggesting a modification of the controls governing this in Section 25.5 by elimination of the restrictions to office and retail use. He noted that it has been talked about many times.

Mr. Salerno suggested pushing forward with it noting that they already have a lot of apartments over retail established within the Town. He cited Midway Mall as an example.

Mr. Mulholland concurred and added that the units tend to be more affordable and with this change the marketplace would dictate and they might see more housing above retail.

#### **\*\*MOTION (7)**

**Mr. Peck moved that they schedule the Mixed Use Development CA and CB zones change for public hearing.**

**Mr. Salerno seconded the motion.**

**Vote: 6 – 0 – 0. Motion passed.**

#### **4. Zoning Official**

Mr. Mulholland reminded the Commission that they have the Gateway application coming up and that they have an aggressive schedule.

Mr. Nickerson asked that they also have the person who will do a presentation on the economic impact of the Gateway at that meeting so that the information can all be presented the same evening.

Mr. Mulholland said that a person has been engaged to do this and that he is not sure if he can get this done in the two weeks time however he is in discussion with them.

Mr. Nickerson and Mr. Mulholland said that they would work together on the scheduling.

#### **5. Comments from Ex-Officio**

Ms. Hardy said that the Board of Selectmen has been busy with appointments and that she did not have anything to report.

#### **6. Comments from Zoning Commission liaison to Planning Commission**

Mr. Bowers was present. There were no comments.

#### **7. Comments from Chairman**

Mr. Nickerson said that he did not have anything further to report.

**8. Adjournment**

**\*\*MOTION (8)**

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

**Mr. Salerno seconded the motion.**

**Vote: 6 – 0 – 0. Motion passed.**

Respectfully submitted,

Karen Zmitruk,  
Recording Secretary

# Town of

P.O. Drawer 519  
Zoning Department

January 3, 2008



# East Lyme

108 Pennsylvania Ave  
Niantic, Connecticut 06357

(860) 691-4114  
Fax (860) 691-0351

TO: East Lyme Zoning Commission  
FROM: William Mulholland *WML*  
RE: Mixed use development CA and CB zones

Over the last several months I have received a number of inquiries from parties interested in mixed-use development in our CA and CB Commercial Zones. During discussions on the subject it became apparent that the limitations of the existing regulations were an obstacle to this type of development. Specifically, Section 25.5 "Table of Minimum Controls for Specific Special Permit" provides additional regulatory controls, which requires all mixed uses to have residential units above the business component, which is restricted to office, and retail uses. The restriction to office and retail can be limiting. For example you could have a small business in a stand-alone building, which is not retail or office use, which could benefit from having second floor apartments. Such uses as restaurants, personal service establishments, educational uses and other uses would seem to fall into the mixed use business category.

I would suggest that the Commission modify the controls governing mixed uses in Section 25.5 by eliminating the restrictions to office and retail use.

Currently this section states:

Residential Units in CA and CB  
Commercial Structure

1. Residential units above first floor.
2. Required floor area of dwellings shall not be less than

<u>MINIMUM FLOOR AREA</u>	<u>BEDROOMS</u>
EFFICIENCY	500 square feet
ONE	650 square feet
TWO	800 square feet
3. The business use shall be restricted to offices or retail.

I would propose that you delete item number 3.

Should the Commission endorse this modification the proposal could be scheduled for a hearing in the near future.

*to PH*  
*V87c 6-0-0*