

FILED IN EAST LYME  
Nov 13, 2008 AT 11:15 AM

**EAST LYME ZONING COMMISSION  
REGULAR MEETING  
Thursday, NOVEMBER 6th, 2008  
MINUTES**

*L. Blais*  
EAST LYME TOWN CLERK

The East Lyme Zoning Commission held a Regular Meeting on Thursday, November 6, 2008 at the East Lyme Town Hall, 108 Pennsylvania Ave., Niantic, CT.

**PRESENT:** Mark Nickerson, Chairman, Rosanna Carabelas, Secretary, Ed Gada,  
Norm Peck, Marc Salerno, William Dwyer, Alternate

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

**ABSENT:** Steve Carpenteri, Bob Bulmer, Alternate, Greg Massad, Alternate

**1. Call to Order**

Chairman Nickerson called this Regular Meeting of the Zoning Commission to order at 7:30 PM. He noted that he had seated William Dwyer, Alternate at the table this evening.

**Pledge of Allegiance**

The Pledge was 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 no delegations.

**Regular Meeting**

**1. Request of David M. Coonrod on behalf of RCB Properties LLC, owner and developer of the Ballestrini Day Care located at 161 West Main Street, Niantic, CT for a waiver of Section 24.6C (sidewalks) of the East Lyme Zoning Regulations for this site.**

David Coonrod, LS representing Ballestrini Day Care said that Rusty Ballestrini was also present this evening to answer any questions that they might have. He explained that this new building is located next door to the Yankee Clipper restaurant and that the nearest sidewalk heading towards downtown (Smith Acres & the school) is 1.3 miles away and heading towards Liberty Park in the other direction, is .9 mile away with the prison and some wetlands in-between. A sidewalk put here would require people to walk out into the street before getting to it. This site is located diagonally across from the Henny Penny.

Mr. Nickerson asked for input from the Commissioners on this and what their concerns are.

Ms. Carabelas asked if having the sidewalk would add to the safety of the children walking there.

Mr. Coonrod said that they do not want to encourage this type of use as they do not want the parents to just drop their kids off on the road near the sidewalk and drive away. There will be an interior sidewalk around the building and the parents have to come in to pick up their kids and they want to encourage them to drop them off in the same manner and not out at the street.

Ms. Carabelas asked Mr. Mulholland if this could be held for a re-visit a year from now.

Mr. Mulholland said no.

Mr. Nickerson asked if Corey Lane or Spinnaker across the street from Corey Lane have sidewalks.

Mr. Mulholland said that Spinnaker has internal sidewalks but not external.

Mr. Nickerson said that he is not in favor of waiving sidewalks however; this is not on a pedestrian friendly road or connecting to anything else so he would be inclined to go with this request based on those reasons. (Note: 7:45 PM – Ms. Hardy joined the meeting)

Mr. Coonrod said that there is a prison nearby and ball fields and that it is not likely that sidewalks will be put in there.

Mr. Dwyer commented that it would be a sidewalk to nowhere and a waste of money.

Mr. Mulholland said that they do have a piece of sidewalk on Boston Post Road for a dentist office however that was due to a path that people were using to cut across that property prior to the dentist office being there.

Ms. Carabelas asked Mr. Mulholland if he saw any possible potential that at some future point in time something would be built in the area and they would need connection to a sidewalk here.

Mr. Mulholland said that while he could not say never, that it seemed at this time highly unlikely.

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

**Mr. Salerno moved to approve the request of David M. Coonrod on behalf of RCB Properties LLC, owner and developer of the Ballestrini Day Care located at 161 West Main Street, Niantic, CT for a waiver of Section 24.6C (sidewalks) of the East Lyme Zoning Regulations for this site.**

**Mr. Dwyer seconded the motion.**

**Vote: 5 – 1 – 0. Motion passed.**

**Against: Ms. Carabelas**

**2. Zoning Commission Meeting Schedule for 2009**

Mr. Nickerson asked that they look this over and vote on it at the next meeting of the Commission.

**3. Approval of Minutes – Regular Meeting Minutes – October 16, 2008**

Mr. Nickerson called for discussion on, or corrections to the Commission's Regular Meeting Minutes of October 16, 2008.

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

**Ms. Carabelas moved to approve the October 16, 2008 Regular Meeting Minutes of the Commission as presented.**

**Mr. Salerno seconded the motion.**

**Vote: 5 – 0 – 0. Motion passed.**

**Old Business**

**1. Stormwater**

Mr. Mulholland recalled that the Planning Commission held a Public Hearing on these on Tuesday October 21, 2008. They closed the Public Hearing that same evening and will make a decision at their upcoming meeting later this month. Once that is done, it will come to them although they are already following the 2004 DEP Stormwater Standards.

**2. Subcommittee – Niantic Village – CB Zones (Mark Nickerson, Marc Salerno & Norm Peck)**

Mr. Mulholland said that they should review information regarding the overlay zone and look at what they might want to do for the future development of downtown.

Ms. Carabelas said that she thinks that if people have a destination in mind that they will park as close as possible to it regardless of what is done.

Ms. Hardy said that the signage is poor directing people to the municipal parking lot and suggested that it be determined under whose jurisdiction that falls.

Mr. Mulholland said that it falls with the Board of Selectmen and noted that there is a municipal lot almost directly across from Hope Street. The Zoning Commission regulates the size and style of signage with regard to the regulation.

Mr. Mulholland asked the Commission if they would want to entertain a 40' height and a 30' height on different sides of Main Street and; would they want a theme incorporated with their architectural styles or just the New England look. He asked that they think about how they want to handle this and incorporate this. In looking at the lifestyle of buildings; they last some 20, 30 or even 50 years and many downtown are in this range and they may now find themselves in the position to influence some changes and he would like to see them get the best product that they can.

Mr. Nickerson said that he thought that they should get something together and out there on what they expect.

Mr. Mulholland noted that the Randall Arendt seminar would be rather important and beneficial here as he would be speaking on commercial strips, etc. Also, the Town of East Haddam will be sharing the cost of this seminar with them and there will be a working session utilizing M & M's as a tool. He said that he had passed out their invitations to the seminar. It will be in two parts and will start at Town Hall and then move over to Camp Rell. He said that he thought that this should be very informational. He said that they had also recently had a good POCD meeting where a lot of information was presented.

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

Ms. Carabelas passed out an updated copy of the information that she had put together and noted the changes that were made. The first page has the regulation and the latter pages have the definitions. She said that she compiled the information from Towns within Connecticut that had this type of regulation and that had been tried out in the Court system and been upheld already.

Mr. Nickerson said that he was having trouble with the second page as it does not seem to fit in with their regulations and contains statistics that are not really relevant.

Ms. Carabelas said that they could delete the Findings and Purpose section on page 2 and License section III on the last page.

Mr. Mulholland suggested that he work with Ms. Carabelas on this and go over it to finalize it.

Mr. Peck noted that the rest of their regulations are written in a different way – basically – if it is not listed – it is not permitted.

Mr. Nickerson asked what 'visible' means.

Mr. Peck said that he thinks that could be determined at the special permit stage of the process and that they could decide on it then.

Mr. Nickerson asked what if you have no idea of what is inside a building – is that a problem.

Mr. Mulholland said that is really two issues and asked if signage is the issue.

Mr. Peck suggested that no adult use establishment and or their signage shall be permitted ..... for some potential rewording.

Mr. Dwyer said that they had bookstores like this in this Town for years and that they never created a problem.

Mr. Peck said that he thought that they should be in CA zones and not in the LI as the CA zone has larger lots and more places to typically 'hide' within strip malls, etc. They would also have some self-regulation in these areas as the mall owners will take care of this.

Ms. Carabelas said that the LI is also protected by some of the regulations.

Mr. Salerno said to Mr. Peck that if they say 'CA' that it will be easy to put something in and suggested that they stick with what they originally had. He said it could be a two-part process of no adult establishment on or adjacent to any State road or highway and –

Mr. Dwyer said that it is his opinion that they are going overboard with this.

Ms. Hardy said that she thinks that this regulation is clearly trying to prevent an outwardly visible business.

Mr. Nickerson said that if they are going in this direction that he thinks that they have to look at potential areas for this type of business or they will be looking at lawsuits.

Ms. Carabelas said that she disagreed and that she does not look at it in that way.

Ms. Hardy said that the Supreme Court has ruled that a community has the right to establish standards.

Mr. Mulholland noted that they would have to permit it somewhere.

Ms. Carabelas said that she thinks that it is up to the applicant to come to them with a spot that they feel it would fit in.

Mr. Peck said that the more that they could push the decision making limitations to the landlord that the better they might be.

Mr. Nickerson suggested that they table this for now and that it be more finely tuned.

Ms. Carabelas said that she would like to better know where this will go and that she wants their input on the direction that they want to take as she has spent a considerable amount of time on it.

Mr. Nickerson suggested that Mr. Mulholland and Ms. Carabelas work together on this to more finely tune it.

Mr. Dwyer noted that some 20 years ago that the Planning Commission wanted to make the southern part of Main St. residential and that it did not happen and asked why.

Mr. Gada said that he thought that he had heard that there is a massive amount of ledge on the south side and that building there would be cost prohibitive.

Mr. Dwyer noted that it is still in the POCD.

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

There were no comments.

#### **New Business**

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

Mr. Peck noted that they have an alternate that he does not know very well who has not attended many meetings and asked if they could be contacted regarding their interest as it is nice to have people lend their talent to these discussions.

Ms. Hardy said that the Chair has the right to and could call the person and ask if they are still interested in the Commission.

##### **2. Zoning Official**

Mr. Mulholland said that he had reported earlier in the meeting.

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

Ms. Hardy said that she had nothing further to report.

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

There was no report.

##### **5. Comments from Chairman**

Mr. Nickerson asked that they please mark their calendars for November 24, 2008 for the Randall Arendt seminar and workshop as it promises to be an informative and exciting event. He suggested that they may

want to think about canceling their next Regular Meeting as the Monday after that would be the seminar and workshop and it would be a considerably long day for them.

**6. Adjournment**

Mr. Nickerson called for a motion to adjourn.

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

**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