

EAST LYME ZONING COMMISSION
REGULAR MEETING
Thursday, OCTOBER 16th, 2008
MINUTES

10/21 2008 at 10 AM PM

Esther B. Williams

EAST LYME TOWN CLERK

The East Lyme Zoning Commission held a Regular Meeting on Thursday, October 16, 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

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

ABSENT: Steve Carpenteri, Bob Bulmer, Alternate, William Dwyer, Alternate, Greg Massad, Alternate

1. Call to Order

Chairman Nickerson called this Regular Meeting of the Zoning Commission to order at 7:35 PM.

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. Approval of Minutes – October 2, 2008 - Regular Meeting Minutes

Mr. Nickerson called for discussion on, or corrections to the Commission's Regular Meeting Minutes of October 2, 2008.

****MOTION (1)**

Ms. Carabelas moved to approve the October 2, 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 said that there will be a Public Hearing on this in Planning on Tuesday October 21, 2008. The Town Engineer will be present to answer questions and they hope to pass these regulations. 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 many of the downtown merchants are looking to improve their properties and that they are looking to do so under mixed use however we have the 50% rule and in order to make this economically viable to them, they might want to consider two stories of apartments over commercial use or

two floors of commercial with an apartment. He suggested that this might be something that they want to think about. As CB they would need to look at uses with respect to size and bulk.
(Note: 7:40 PM – Ms. Hardy joined the meeting)

Mr. Peck suggested that they might want to pull the multi-family use right out of the CB as he feels that they have done their job and have brought enough residential to downtown.

Mr. Salerno suggested that they strike gas stations.

Mr. Peck said that he does not think that they have anything to worry with gas stations as those businesses are so expensive to build and maintain that they cannot operate without high volume and it is common knowledge that one of them is currently for sale. He said that in zoning that they should avoid making things non-conforming if they can.

Mr. Mulholland suggested that they move ahead with Mr. Peck's thought and think about other issues as separate so as to not cloud what they are presenting. He also agreed that they try not to create non-conformities in zoning.

Mr. Salerno suggested that they also delete the formula of items 1 through 4 in Section 25 on Page 117 as they refer to the multi-family.

Mr. Peck asked if they should leave Section 25, items 1-4 in as reference to the pre-existing buildings.

Mr. Mulholland said that when they make changes to the regulations that they keep a running list of the dates and changes in the back of the book as reference.

Mr. Salerno said that he thought that they would also be creating non-conformities here.

Mr. Peck said that there is also resurgence in the realm of assisted living and that they have an aging population and suggested that they also pull assisted living facilities from allowable uses in the CB zone.

****MOTION (2)**

Mr. Peck moved that they send to public hearing the deletion of Section 9.2.5 and 9.2.8 as uses in the CB zone and to also delete the corresponding items in Section 25.

Mr. Salerno seconded the motion.

Vote: 5 – 0 – 0. Motion passed.

Mr. Nickerson said that they could call a subcommittee meeting prior to the next meeting to discuss other items that they might want to change.

3. Subcommittee – Adult Uses (Rosanna Carabelas)

Ms. Carabelas noted that it is the zoning piece that goes to public hearing and that the ordinance part is handled by the Board of Selectmen and that Attorney O'Connell had indicated that the ordinance part would be very expensive. They also need to discuss where it could be allowed or if they just want to leave it as it is. She said that her concern with moving this ahead quickly is that someone can come in under a different use and then set up some sort of adult use also.

Mr. Mulholland said that they could do that anyway and that in zoning if something is not addressed that it is not allowed.

Mr. Mulholland and Mr. Nickerson suggested that everyone review this carefully and be ready to move this to public hearing from the next meeting.

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

Mr. Salerno said that as the Scenic Roads subcommittee was not done that he and Mr. Peck would meet and work on this.

New Business

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

Mr. Nickerson asked that they take two (2) items from the floor – a CAM application for 14 Atlantic Street and discussion on 38 Hope Street.

****MOTION (3)**

Mr. Salerno moved to take the following two (2) items from the floor for action by the Commission – Application of J. Robert Pfanner & Associates PC for Emily & George Haines of 14 Atlantic Street, Niantic for a Coastal Area Management Site Plan Review for property identified in the Application as 14 Atlantic Street, Niantic for elevation and relocation of existing residence; and Discussion/action – 38 Hope Street.

Ms. Carabelas seconded the motion.

Vote: 5 – 0 – 0. Motion passed.

- ◆ **Application of J. Robert Pfanner & Associates PC for Emily & George Haines of 14 Atlantic Street, Niantic for a Coastal Area Management Site Plan Review for property identified in the Application as 14 Atlantic Street, Niantic for elevation and relocation of existing residence**

Mr. Mulholland noted to the Commission that this application is not within their jurisdiction (it falls under Crescent Beach zoning) except for the CAM review and any potential for adverse impacts.

Mr. Nickerson asked J. Robert Pfanner Jr. to make the presentation.

Mr. Pfanner said that the house is currently in the flood plain at 10.4' and that they want to jack it up on piers to get above the flood plain and also shift it to make it fit better on the property. In order to do this, the decks will have to be ripped off so that it can be set on piers. The actual elevation of the site will revert to what it is once everything is done. As it is a very tight site, anything put there (soils) will be removed from the site and not stock piled on it, each day.

Mr. Nickerson asked how tall the existing seawall is and how far from the house.

Mr. Pfanner said that it is three to four feet tall and about 30' from the seawall to the house.

Ms. Carabelas said that she was familiar with this location and asked about the stockpiling of dirt.

Mr. Pfanner said that it would be used or moved within the same day and not stockpiled.

Mr. Salerno asked what the house is situated on now.

Paul McMasters, 18 Century Restoration, Waterford, CT, contractor for the job said that it is currently on shorter piers without a foundation.

Mr. Salerno asked how long the job would take and if the area would be stabilized for storms, etc.

Mr. McMasters said that it would take about six (6) weeks and they want to start by November 1, 2008 and be done before the end of December as they are also trying to get ahead of the bad weather. The area will have silt fenced to protect from any type of run-off.

****MOTION (3)**

Mr. Salerno moved to approve the Application of J. Robert Pfanner & Associates PC for Emily & George Haines of 14 Atlantic Street, Niantic for a Coastal Area Management Site Plan Review for property identified in the Application as 14 Atlantic Street, Niantic for elevation and relocation of existing residence finding that all reasonable measures are being taken to mitigate any potential adverse coastal area impacts.

Ms. Carabelas seconded the motion.

Vote: 5 – 0 – 0. Motion passed.

- ◆ **38 Hope Street - Discussion/action**

Mr. Mulholland recalled to the Commission that in the spring that Mr. Frey had come before them and that at that time they had agreed to have windows and louvers on the first floor of the building. The original design had called for windows only. They have now installed all windows and he said that while he does not find it offensive that he wanted to bring this before them.

Attorney Theodore Harris, representing the applicant noted that the site manager had the original site plan and was able to get a good deal on the windows some time ago and was not aware of the change in the plans.

Mr. Nickerson said that he has driven by it and that it does look good and it is what they had originally requested.

Ms. Carabelas said that she would agree as they had put something there that they had originally approved.

****MOTION (4)**

Mr. Salerno moved to modify the 38 Hope Street first floor façade back to the original design of all windows.

Mr. Gada seconded the motion.

Vote: 5 – 0 – 0. Motion passed.

Attorney Harris noted that 38 Hope Street has 33 units that are under contract and that they will be closing on some of them in the next week or so and will continue to do so.

2. Zoning Official

Mr. Mulholland reported that the long-awaited Irish Pub should be opening late next week; the McDonald's is moving along as will be the CVS, and as Mr. Harris stated they will be issuing CO's on some six to seven units at 38 Hope Street in the coming week.

3. Comments from Ex-Officio

Ms. Hardy reported that the Planning Commission would be holding a public hearing on the Stormwater Regulations next week Tuesday.

4. Comments from Zoning Commission liaison to Planning Commission

There was no report.

5. Comments from Chairman

Mr. Nickerson said that Mr. Mulholland has been wearing a dual hat for five months now and that he wanted to express their appreciation and note that he has not missed a beat on the zoning side during that time – thank you.

Mr. Nickerson explained his comments about the solar panels which they may have read in the newspaper stating that they had spent a lot of money on a beautiful design for the high school atrium and that with the installation of the solar panels that all they would see now is solar panels and this would greatly change the aesthetics of the building and make it not as attractive. He said that he spoke at public delegations at the Board of Ed meeting and made such comments. He suggested that they might review solar panels, wind turbines, wood stoves, etc and set up a subcommittee to do this. He asked for volunteers for a subcommittee on Energy Producing Structures.

Ms. Carabelas volunteered.

Mr. Nickerson also reported that he went to the Board of Selectmen meeting and spoke on the Randall Arendt land use workshop and that the money has been allotted for this workshop which is scheduled for Monday, November 24, 2008 with a start time to be determined. He said that they had thought about starting at 4 PM and breaking for dinner but will finalize this soon. The rest of the details are in the process of being worked out and this should not only help them with the northern end of Town, but with the downtown district and other issues that they are faced with. This should also aid them with the POCD update that they are currently involved in.

Mr. Peck said that this workshop is invaluable.

Mr. Nickerson lastly asked that they look over their regulations for items of discussion such as saw mills, horses and kennels.

6. Adjournment

Mr. Nickerson called for a motion to adjourn.

****MOTION (5)**

Mr. Gada moved to adjourn this Regular Meeting of the East Lyme Zoning Commission at 9:45 PM.

Mr. Salerno seconded the motion.

Vote: 5 – 0 – 0. Motion passed.

Respectfully submitted,

Karen Zmitruk,
Recording Secretary