

**EAST LYME ZONING COMMISSION
REGULAR MEETING
Thursday, JUNE 17th, 2004
MINUTES**

PRESENT: Mark Nickerson, Chairman, Ed Gada, Secretary,
Norm Peck, Pamela Byrnes, Rosanna Carabelas,
Shawn McLaughlin

ALSO PRESENT: Attorney Theodore Harris, Representing the Applicant
Jeff Torrance, Niantic Real Estate, LLC, Applicant
Karl Frey, Principal Vespera Investments
Michael Dunning, Architect/Urban Planner w/Shook Kelley
David Sullivan, Sr. Traffic Engineer, Barkan & Mess Assoc.
William Mulholland, Zoning Official
William Dwyer, Alternate
William Henderson, Alternate
Marc Salerno, Alternate
Rose Ann Hardy, Ex-Officio, Board of Selectmen

ABSENT: No one.

1. Call to Order

Chairman Nickerson called the Regular Meeting of the Zoning Commission to order at 10:39 PM immediately following the three previously scheduled Public Hearings.

Public Delegations

Mr. Nickerson called for anyone from the public who wished to address the Commission on subject matters not on the Agenda.

There was no one.

2. Accept Minutes of June 3, 2004 - Public Hearing I & II and Regular Meeting

Mr. Nickerson called for any changes or corrections to the Public Hearing I & II Minutes or the Regular Meeting Minutes of June 3, 2004.

****MOTION (1)**

Ms. Carabelas moved to accept the Zoning Commission Public Hearing I & II Minutes and Regular Meeting Minutes of June 3, 2004 as presented.

Ms. Byrnes seconded the motion.

Vote: 4-0-2. Motion passed.

Abstained: Mr. McLaughlin and Mr. Nickerson (had not received them)

3. Application of Pauline Lord to amend Section 20.1 and 25.5 of the Zoning Regulations to permit leasing of property for private social events or assemblies as an accessory use to an agricultural use.

Mr. Nickerson said that he appreciates what they are trying to do here but feels that this needs to be 'buttoned up' quite a bit. (Draft of Proposed Amendment Attached at end of Minutes)

Ms. Carabelas said that she thought that they should grant a special permit for only two years time to start.

Mr. Peck said that the Coastal Planner from the State had made points that they should address such as paved parking areas and if buildings would be built. They should add to the regulations that they have to keep it gravel or grass parking and not have special buildings for the events.

Mr. Nickerson said that he would throw this out there. He would not want to be living next to this and would not want his neighbors throwing parties each weekend with some 350 people. He is not sure that this is farming however most of the areas in Town that would be able to meet the two-acre requirement are in rural areas of the Town. He asked if it is fair that suddenly people find themselves living near a wedding factory? And, quite possibly not just not one time but every weekend? It is one thing regarding buyer beware but the people who reside next to these 'farm' areas now, know what they have next to them and do not expect that there will be parties or weddings every weekend.

Ms. Byrnes said that on the side of the farm, if they cannot afford to keep it then they could sell it to a developer and they need to try to support it.

Mr. Nickerson said that he does not think that it is their job to decide what other business a farm/agricultural property can enter into to conduct a viable business.

Ms. Byrnes asked what if it was a bed and breakfast?

Mr. Mulholland said that the bed and breakfasts couldn't do this.

Mr. Nickerson said that he is not sure that it is this Commission's job to try to create some type of outlet for farm/agricultural use to gain further business because what they have chosen to do does not seem to be viable. This does not seem to be within their scope.

Mr. Peck said he wanted to take a quick poll on how many of the members would like to try to make this possibly work.

Mr. Nickerson cautioned them that what they would be doing is not just for this application but for the whole Town where this might apply.

Approximately two thirds of the members thought that they might want to try to see if this could be worked out.

Mr. Nickerson asked if they felt that they could do it with just one or two tweaks of the draft presented.

The consensus of the Commission was no because they are not just talking about this one property. It was decided that due to the business that they had to cover and the time constraint this evening that they would table this until their next meeting. In the meantime, they would all think about how they would want to adjust this and what changes or additions they would want to make to see if it is possible to do.

4. Application of Theodore A. Harris for a change of zone from SU (Special Use) to SU-E (Special Use-Elderly) for the property identified in the application as 16 Mostoway Road, East Lyme, CT. Property is further identified as Lot 5 on East Lyme Tax Assessor's Map 40.0. and –

5. Application of Theodore A. Harris for a Special Permit to construct 80 units of elderly housing on a portion of the property identified in the application as 16 Mostoway Road, East Lyme, CT. Property is further identified as Lot 5 on East Lyme Tax Assessor's Map 40.0.

Mr. Nickerson called for any discussion.

****MOTION (2)**

Mr. Peck moved to approve the Application of Theodore A. Harris for a change of zone from SU (Special Use) to SU-E (Special Use-Elderly) for the property identified in the application as 16 Mostoway Road, East Lyme, CT. Property is further identified as Lot 5 on East Lyme Tax Assessor's Map 40.0.

Ms. Carabelas seconded the motion.

Vote: 6 – 0 – 0. Motion passed.

Mr. Peck stated that the reason is that this complies with all of the regulations and the Town Plan of Conservation & Development.

Mr. Mulholland noted that this decision would be published on Friday, June 25, 2004 and would become effective the next day.

****MOTION (3)**

Mr. Peck moved to approve the Application of Theodore A. Harris for a Special Permit to construct 80 units of elderly housing on a portion of the property identified in the application as 16 Mostoway Road, East Lyme, CT. Property is further identified as Lot 5 on East Lyme Tax Assessor's Map 40.0 with the condition that this is subject to endorsement of the Town Engineer prior to issuance of any

permit and this includes the granting of all waivers as requested on Section 24.6C, 24.6E(3) and 12A.2.3.

Ms. Carabelas seconded the motion.

Ms. Byrnes said that she wanted to discuss the approval of the waivers. She said that she does not see a compelling reason to have the setback reduction, as this is not a huge hardship to them to cut some houses out and have less. While she is not real concerned with the waiver of the evergreens, she is concerned with this regarding the buffer.

Ms. Carabelas said that she did not understand that the waiver included the buffer in this motion and that she wanted to withdraw her second of this motion.

Mr. Nickerson seconded the motion on the floor that was originally made by Mr. Peck.

Mr. McLaughlin said that he was concerned about that setback line and it seems the phase line could be moved up.

Mr. Nickerson asked Mr. Mulholland about the section that covers this and the waiver.

Mr. Mulholland said that Section 12A.2.3 states that a building must be 150' from the street line and 100' from the property line. The Zoning Commission may waive the 100' from the property line and/or the 150' from the street line.

Mr. Nickerson said that they could waive this and still have the natural topography buffer. There is no building at the bottom of the ledge and there is forest area. Also the property owners have been notified and have not come forward with any concerns.

Mr. Peck said that if the land to the east were flat that he would totally object to this. There is about a 45' slope there and that is not something that we want to build on. Here, they are utilizing the natural terrain to their benefit. It is reasonable in this case for us to waive this. They have a 50' landscape buffer and 300' of hill that cannot be seen through.

Mr. Nickerson said that Mr. Pfanner explained where this naturally fits in.

Ms. Byrnes said that she is not compelled and does not see where they can't go with 76 units. There is tons of opportunity for them to build more units here in other phases.

Mr. Nickerson asked Ms. Byrnes if this was the only phase if she would think differently.

Ms. Byrnes said that this is not a hardship. A hardship is a hardship if it is the only place that someone can build their house then they deserve a variance and this is not the case here.

Mr. Peck asked for a moment that they look at this as making a deal here and negotiating. We are giving them three houses in the 100' buffer and there is a hill so no one can see these houses. They are giving us four times the open space that we require and 6% coverage of the area when they are allowed 10% coverage. This does not create any hardship to any of the neighboring properties and there is no harm in doing this.

Ms. Byrnes said that she is not compelled to grant this variance.

Ms. Carabelas reminded them that the neighbors have been notified and have not shown up or sent a letter voicing any opposition to this application.

Mr. Nickerson called for a vote.

Vote: 2 – 3 – 1. Motion failed.

For: Mr. Nickerson and Mr. Peck

Against: Mr. McLaughlin, Ms. Byrnes and Ms. Carabelas

Abstained: Mr. Gada

****MOTION (4)**

Ms. Byrnes moved to approve the Application of Theodore A. Harris for a Special Permit to construct 80 units of elderly housing on a portion of the property identified in the application as 16 Mostow Road, East Lyme, CT. Property is further identified as Lot 5 on East Lyme Tax Assessor's Map 40.0 with the condition that this is subject to endorsement of the Town Engineer prior to issuance of any permit and the granting of all waivers as requested EXCEPT for the waiver of Section 12A.2.3 along the easterly boundary.

Ms. Carabelas seconded the motion.

Mr. Peck asked if they would consider making the 100' buffer a 90' buffer so that they could keep one house. Mr. McLaughlin said that they should just move the whole area up. Ms. Byrnes asked who would approve this if they allowed the 90' and keeping Unit 63. Mr. Mulholland said that they would have to redesign and they could come back to staff or the Commission on this. They could put this as part of their motion.

Ms. Byrnes amended her motion to add after boundary:

, which will be at 90' to allow Unit 63 to remain. Any redesign changes will be approved by staff who will report back to this Commission how they were handled.

Ms. Carabelas amended her second to accept these additions.

Ms. Carabelas asked if Spinnaker had been allowed the type of setback reduction that was being requested here.

Mr. Mulholland said yes, Spinnaker was allowed the same type of setback reduction requested here and added that each request is at the discretion of the Commission.

Mr. Nickerson called for a vote.

Vote: 5 – 1 – 0. Motion passed.

Against: Mr. Nickerson

Ms. Byrnes said that the reasons for approval of the Special Permit are that this meets the standards of the regulations and the Elderly Housing regulations.

Mr. Mulholland noted that this decision would be published on Friday, June 25, 2004 and would become effective the next day.

OLD BUSINESS

1. Stormwater

Mr. Mulholland reported that this is still being worked on.

2. Aquifer Protection

Mr. Mulholland reported that this is still being worked on.

NEW BUSINESS

1. Application of Theodore A. Harris for a change of Zone from RU-40 residential to Special Use Elderly (SU-E) for property off Indian Woods Road, Niantic, CT. Assessor's Map 10.3, Lot 10.

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

2. Application of Theodore A. Harris for a Special Permit for elderly housing, request to modify current permit and site plan for the Spinnaker Elderly Housing project to allow the addition of 21 units.

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

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

There was none.

4. Zoning Official

Mr. Mulholland reported that the Stop & Shop opened with a temporary CO subject to a couple of conditions. They have some front landscaping to do and some things to put up that have not arrived yet. Also, while the riprap was a DOT event, he is hoping that the applicant will help the Town with getting something done about it. He added that he thinks that area will be developed anyway and all of that will be removed in the future.

Mr. Mulholland further reported that the Clark's Hollow project is getting underway and that there are many other applications that will be coming along as there is a lot of interest and discussion going on now.

5. Comments from Ex-Officio.

Ms. Hardy said that due to the lateness of the hour that she would defer her report.

6. Comments from Zoning Board Liaison to Planning Commission

There was no report.

7. Comments from Chairman

Mr. Nickerson thanked the Commission for their hard work this evening and said that he is concerned that they tighten themselves up with respect to their public hearing procedure as that is not the time to voice opinions. It is the time to receive testimony and gather as much information as necessary to later deliberate and make a decision. During deliberations they can voice their opinions as they did this evening. His concern is to keep the process objective and not taint it so that they can avoid legal issues.

8. Adjournment

****MOTION (5)**

Ms. Carabelas moved to adjourn this Regular Meeting of the East Lyme Zoning Commission at 11:33 PM.

Mr. Gada seconded the motion.

Vote: 6 – 0 – 0. Motion passed.

Respectfully submitted,

Karen Zmitruk,
Recording Secretary

Draft 04/16/04
PROPOSED AMENDMENT TO THE ZONING REGULATIONS

20.1.2 (F) Private social event or assembly conducted as an accessory to an agricultural use.

25.5 TABLE OF MINIMUM CONTROLS FOR SPECIFIC SPECIAL PERMIT

<u>USE</u>	<u>DISTRICT</u>	<u>CONTROLS</u>
Agricultural Or Farm	All Rural & Residence Districts	<p>3. The maximum number of persons allowed at a single event as permitted under Section 21.1.2 (F) shall not exceed 350.</p> <p>4. Notwithstanding the requirements of Section 22, sufficient area shall be available and suitably improved to provide one parking space for every 3 guests.</p> <p>5. For events attended by more than 200 persons, a traffic guard shall be posted wherever traffic enters/exits onto a Town road.</p> <p>6. Potable water and toilet facilities sufficient to accommodate the maximum number of people assembled, shall be provided in accord with Section 4.3.9 & 4.3.10 of the Mass Gathering Ordinance of the Town of East Lyme and the CT Public Health Code.</p> <p>7. Music and entertainment shall be limited to the hours of 10:00 a.m. – 9:00 p.m. The maximum noise level shall not exceed 55 dB at the property line.</p> <p>8. Adequate external illuminations shall be provided for events extending past daylight. Lighting shall be directed so as not to spill over onto adjoining properties.</p>

#2
PHI

Attachment - Zoning Commission Reg. Mtg. 6/17/04