

**EAST LYME ZONING COMMISSION  
REGULAR MEETING  
Thursday, JUNE 3rd, 2004  
MINUTES**

PRESENT: Mark Nickerson, Chairman, Ed Gada, Secretary,  
Norm Peck, Pamela Byrnes, Rosanna Carabelas,  
Marc Salerno, Alternate

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

ABSENT: Shawn McLaughlin

FILED IN EAST LYME TOWN  
CLERK'S OFFICE

June 7 20 04 at 3:35 AM  
PM

*Esther B. Williams*  
EAST LYME TOWN CLERK

**1. Call to Order**

Chairman Nickerson called the Regular Meeting of the Zoning Commission to order at 8:49 PM immediately following the two 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.

Bob Gadbois, 358 Boston Post Road, East Lyme said that he has been going by the new Stop & Shop and he keeps looking at the other side of the road where they put all those stones. He said that he would rather have seen low-growing shrubs or grass there. To him, this looks like a mess. The wall in front of the two homes is beautiful but the rocks look like they were thrown there. He asked whose idea this was. He then said that he wanted to read a note that his wife Mary received regarding the recent NY Times article. A woman wrote and said that she does not have good feelings about this article as she moved away from a congested city and it now seems she is living in a small Town that will lose what she came here for.

Mr. Mulholland asked if he could comment on this. Mr. Nickerson asked him to please do.

Mr. Mulholland said that he and staff certainly share the sentiment that Mr. Gadbois has expressed regarding the riprap located in the DOT right of way. He said that it is the State ROW and we have no say on it. He has spoken with them regarding this and why they did not look for input from anyone within the Town. Apparently a new person is handling this with the DOT and because it is under their jurisdiction they can do what they want. While the riprap may be appropriate on I-91 in Vermont, it does not work here. Also, the DOT does not allow retaining walls in their ROW so they could not be extended to that area. He will continue to try to address this situation.

Mr. Nickerson said that he would like to comment on the note that was sent to Mr. Gadbois wife regarding the NY Times article. This Town is currently zoned with 3% of the land designated as commercial. Knowing this means that it won't be a Waterford or Hamburger Hill as they are limited to that 3%.

**2. Accept Minutes of May 6, 2004 – Public Hearing & Regular Meeting**

Mr. Nickerson called for any changes or corrections to the Public Hearing I Minutes or the Regular Meeting Minutes of May 6, 2004.

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

**Mr. Peck moved to accept the Zoning Commission Public Hearing I Minutes and Regular Meeting Minutes of May 6, 2004 as presented.**

**Ms. Byrnes seconded the motion.**

**Vote: 4– 0 – 2. Motion passed.**  
**Abstained: Ms. Carabelas and Mr. Salerno**

**3. Application of APT2, LLC, for a Special Permit for indoor recreation (Personal Fitness Training Center) use at 5 Freedom Way, Niantic, CT.**

Mr. Peck recused himself for this discussion and decision and Mr. Dwyer was seated in his place for this application.

Mr. Nickerson called for comments from the Commission.

Mr. Dwyer said that in his opinion there can't be enough fitness places and that he has been going to them for some 30 years.

Ms. Carabelas said that it is nice to see a business expand and that this is something that started downtown and has to move for more space. She added that although she is sorry to see it leave downtown, it is nice to have the business stay in Town.

Mr. Nickerson said that it is sad that downtown could not find a way to accommodate this and that due to the lack of sewers in the area a business is forced out of downtown.

Mr. Mulholland explained that the septic could not handle the showers and that it is essentially a Public Health issue.

Mr. Nickerson said that he supports having a business that actually started and grew here. As a customer he wished them to know that this is a very professionally run business.

Ms. Byrnes said that she agrees with her fellow members and added that the sewer issue is ridiculous in this Town and that they should just sewer everywhere so we can get on with our business.

Mr. Nickerson called for a motion.

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

**Ms. Byrnes moved to approve the Application of APT2, LLC for a Special Permit to operate a 'Personal Fitness Training Center' at 5 Freedom Way, Niantic, CT.**

**Mr. Dwyer seconded the motion.**

**Vote: 6 – 0 – 0. Motion passed.**

Mr. Mulholland noted to the applicant that this decision would be published on Friday, June 11, 2004 and that they would need to come in and get a signed Special Permit from him and file it with the Town Clerk.

Note: Mr. Dwyer left the table and Mr. Peck was seated back at the table for the remainder of the meeting.

**4. Application of Theodore A. Harris to amend Section 21, Non-conforming Uses, Building and Lots.**

Mr. Nickerson called for any discussion.

Mr. Salerno said that he thinks that this is reasonable and that the regulations at present make it too difficult for the homeowners and that it is not right to have to piece together a home that is trying to be improved. It has to be built correctly.

Mr. Nickerson said that he had trouble with the footprints and non-conformities however, to our knowledge they have not had a rush of people coming in to stop the rebuilds in the beach communities and in fact, everyone is doing it. With this in mind, he thinks that they need to have good and proper construction practices and this cleans that up nicely.

Ms. Carabelas commented that they would get a better and safer building out of this as this brings the regulations in line.

Ms. Byrnes said that she agrees with Mr. Nickerson and feels that the non-conformities have been taken into consideration.

Mr. Gada commented that if the non-conforming work is being done anyway, then this would hopefully insure that it will be done correctly.

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

**Mr. Peck moved to approve the Application of Theodore A. Harris to amend Section 21 of the Zoning Regulations by adding a new Section 21.1.9 "Reconstruction of Existing Residential Structures" and to modify Section 21.1.5.**

**Mr. Salerno seconded the motion.**

**Vote: 6 – 0 – 0. Motion passed.**

Mr. Mulholland noted that this decision would also be published on Friday, June 11, 2004.

**5. Application of Theodore A. Harris to waive rear buffer requirements to permit traffic flow between adjacent properties at 252 Flanders Road.**

Mr. Nickerson asked Attorney Harris to present this application to them.

Attorney Harris passed out a site plan for the Commission members to better visualize this request.

(Attached at end of Minutes) He explained that this is the gas station that is being remodeled in front of the Stop & Shop. It is the National Tire place, the gas station portion of it, which is surrounded by the Stop & Shop. Currently, a one for one replacement is going on there with the pumps, island and canopy. What they are trying to do is facilitate the ease of traffic flow behind this station so that patrons can get to the Stop & Shop behind it without having to go back out onto Flanders Road and come back in again. In the Site Plan Section of the Regulations Section 24.6E No. 3 states that this Commission can eliminate the rear buffer requirement to facilitate traffic flow between sites. This would allow the traffic to flow between these two sites. Also, Mr. Mulholland has suggested that many upgrades that would be aesthetically pleasing be done to the area in terms of a concrete sidewalk and a colonial canopy.

Ms. Carabelas commented that it would be nice to see continuity there.

Ms. Byrnes asked if people would use it as a cut through.

Attorney Harris said no, as they would have to drive through the pump islands and they are not really conducive to that.

Mr. Salerno asked about the parking spaces and if there were only three to four and one handicapped.

Attorney Harris said that there are 12 approved parking spaces.

Mr. Salerno asked if that was enough.

Mr. Mulholland said that they would have an office kiosk and that they would probably need eight spaces but will have 12, which should be enough. Also, Stop & Shop would be policing the site, as they would be the people holding the lease on this gas station operation.

Mr. Salerno asked if the Tire business could use the Stop & Shop parking for their business.

Attorney Harris replied no.

Mr. Mulholland said that it is not an issue for this Commission. It would be up to Stop & Shop to do the policing of this. He added that it would also be up to Stop & Shop to see that the area is kept up.

Mr. Salerno asked about the curb cuts.

Mr. Mulholland said that neither he nor this Commission has the authority on curb cuts, not that he has not asked about this. He added that Attorney Harris is only here because the design regulations say that he has to be.

Mr. Nickerson asked if this is opening up a left-hand exit.

Mr. Mulholland said he thought not as it is a very tight sight.

Ms. Carabelas asked, as part of a learning process, what a rear buffer is.

Mr. Mulholland said that in the zoning regulations under Section 24.6 it states that there is to be a six-foot buffer between commercial properties.

Mr. Nickerson asked about the signs and the canopy having a sign and the building having a sign and if this is allowed.

Mr. Mulholland said yes.

Mr. Nickerson asked if Stop & Shop takes ownership of this property if it would be two separate properties or combined into one.

Mr. Mulholland said that is up to Stop & Shop to do what they want.

Mr. Salerno asked if they were losing Stop & Shop parking spots due to this.

Attorney Harris and Mr. Mulholland said that they lose three and pick up one so the net loss is two however Stop & Shop has an excess of parking spots to begin with.

Ms. Carabelas said that she thinks that a 'No Thru Traffic' sign would be appropriate because people would understand that this means that they cannot just cut through the gas station.

Mr. Mulholland commented that not everyone would see it that way and that it is not fair to assume that everyone would understand the sign in that way. He asked Attorney Harris if he thought that his client would be adverse to putting such a sign there.

Attorney Harris said that he did not think that it would be a problem.

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

**Ms. Carabelas moved to approve the Application of Theodore A. Harris to waive rear buffer requirements to permit traffic flow between adjacent properties at 252 Flanders Road with an amendment to add a 'No Thru Traffic' sign to the property.**

**Mr. Salerno seconded the motion.**

**Vote: 6 – 0 – 0. Motion passed.**

#### **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 Landmark Development Group, LLC and Jarvis of Cheshire, LLC to develop a residential "Affordable Housing Development" on property identified in the application as Tax Map 27, Lot 14; Map 31, Lot 4; Map 31.2, Lots 3 & 8; Map 32.1, Lots 2 & 36; and Map 32, Lot 1.**

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

Mr. Mulholland said that he is in discussion with the Town Attorney regarding this and how to set the Public Hearing as he expects that it could possibly continue over some three to four evenings.

Mr. Nickerson asked what the legal time frame was that they had.

Mr. Mulholland said that they had 35 days that could go to 65 days however, they are under discussion with the Attorney on this application on how to proceed because there is litigation in process. He said that he believes that they are requesting to build 232 units.

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

Mr. Mulholland said that he needed them to add the request of Attorney McNamara by motion.

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

**Mr. Salerno moved to add to the Agenda under New Business – Item 2A. Application of Attorney Jeffrey McNamara – Section 8 – Add Section 8.2.12 Multi-Family, Multi-Story Dwelling.**

**Ms. Byrnes seconded the motion.**

**Vote: 6 – 0 – 0. Motion passed.**

##### **2A. Application of Attorney Jeffrey McNamara to add to Section 8 of the Zoning Regulations Section 8.2.12 Multi-Family, Multi-Story Dwelling.**

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

##### **3. Zoning Official**

Mr. Mulholland reported that the Stop & Shop would be opening June 17, 2004. They will be doing a walk through and punch list soon. He also reported that regarding the riprap issue - where the stone wall is being built, that was where the Walgreen's was going to go. He has spoken with the DOT on this and there is a new guy on the job. He has asked for grass improvement to that area rather than having to wait for it to grow through the stones. He noted that no walls are allowed in the DOT ROW and that they all share the same sentiment that something has to be done about the way that it is at present.

Mr. Mulholland further reported that there is a Clark's Hollow meeting tomorrow and that they should be moving on the 25 unit SU-E project as they have DOT approval now. The Financial Center is coming along nicely in Flanders and he has seen the plans for the Brooks building that is intended to replace the Ford Dealership area and it is a beautiful building.

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

Ms. Hardy said that at the Board of Selectmen meeting that they had also heard comments regarding the riprap and that she was dismayed to hear that it is a DOT issue.

Mr. Mulholland suggested that a letter be sent to the DOT.

Ms. Byrnes said that it would be nice if the Board of Selectmen sent a formal statement to DOT.

Ms. Hardy also said that they might recall that a Quonset hut was going to be erected at the Town Garage site and it appears that there are some second thoughts on that as it is on hold for now.

Ms. Hardy reported that the Board of Selectmen had a discussion on the Charter Revision Draft and they did not recommend combining Planning & Zoning so that is a dead issue. They also did not want to change the Planning Commission to appointed members so that is a dead issue. They will remain elected. It was also recommended to leave the number of people on the Commission at six – an even number rather than an odd number as they went back five years in the minutes and could not find instances of a problem with a tie. The four year term for the First Selectman and four year staggered terms could not be agreed upon so they will hold another meeting on them with the Charter Revision people and go from there.

Ms. Hardy lastly reported that the 40 Industrial Park property would be sold to F & F Industries for \$350,000. The Board of Selectmen agreed upon this, four bid packages were taken out and one was returned. The price was in the range of the appraisal price. This will also go to Town Meeting for approval.

Ms. Carabelas asked Ms. Hardy when the Zoning meetings would be taped for television as she thought that they were going to do this.

Ms. Hardy said that they are working on the sequence on how to operate the equipment so that it will be easy for them to do and/or someone would be here to do it for them.

#### **5. Comments from Zoning Board Liaison to Planning Commission**

There was no report.

#### **6. Comments from Chairman**

Mr. Nickerson said that he had nothing further to report.

#### **7. Adjournment**

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

**Ms. Carabelas moved to adjourn this Regular Meeting of the East Lyme Zoning Commission at 9:53 PM.**

**Ms. Byrnes seconded the motion.**

**Vote: 6 – 0 – 0. Motion passed.**

Respectfully submitted,

Karen Zmitruk,  
Recording Secretary



# TOWN OF EAST LYME

## ZONING COMMISSION

P. O. BOX 519  
NIANTIC, CONNECTICUT 06357  
1-860-691-4114

April 19, 2004

Hand-delivered

East Lyme Town Clerk  
Town of East Lyme  
108 Pennsylvania Avenue  
Niantic, Connecticut 06357

FILED IN EAST LYME TOWN  
CLERK'S OFFICE

April 22 20 04 at 10:20 AM  
PM  
*Esther B Williams*  
EAST LYME TOWN CLERK

RE: Referral / Zone change application

Dear Mrs. Williams:

I am writing to refer the following application for your review and comment;

Application of Theodore A. Harris for a change of zone from SU(Special Use) to SUE (Special Use Elderly) for property identified in the application as 16 Mostoway Road, East Lyme, Lot No. 5 on East Lyme Assessor's Map No. 40.0. The application is accompanied by a Special Permit application to construct an 80 unit elderly housing development.

A copy of the zone change request and map are enclosed for your convenience. The Zoning Commission has scheduled a public Hearing on this item for June 3<sup>rd</sup>, 2004.

Please forward your comments for inclusion in the hearing record.

If you have any questions, please do not hesitate to contact the our Zoning Official.

Very truly yours,

*Ed Gada*  
Ed Gada  
Secretary