

**EAST LYME ZONING COMMISSION
REGULAR MEETING
MAY 1, 2003
MINUTES**

The East Lyme Zoning Commission held a REGULAR MEETING on Thursday MAY 1, 2003 at the East Lyme Town Hall, 108 Pennsylvania Ave., Niantic, CT.

Mr. Mark Nickerson, Chairman, opened the Regular meeting, at 7:35 PM

PRESENT: Mark Nickerson, Norman Peck, Shawn McLaughlin, Ed Gada, David Chamberlain and Robert Bulmer, Alternates Marc Salerno and William Dwyer.

Also present: William Mulholland, Zoning Official; Rose Ann Hardy, Ex-Officio

PANEL: Mr. Nickerson, Mr. Peck, Mr. Chamberlain, Mr. McLaughlin, Mr. Gada, and Mr. Bulmer.

PLEDGE OF ALLEGIANCE

PUBLIC DELEGATION – none

PUBLIC HEARING: Application of Frances L. Mattison for a Special Permit to keep farm animals at 208 Old Black Point Road, Niantic, CT. - WITHDRAWN

Mr. Nickerson requested that Mr. Mulholland reschedule the Public Hearing at the soonest possible date.

REGULAR MEETING

1. Election of Commission Secretary

Mr. Peck nominated Mr. Bulmer. Mr. Gada seconded the nomination. Mr. Bulmer accepted the nomination. He indicated that he resigned the Alternate position on April 26, 2003 and that he was sworn in as a Regular Member on April 28, 2003.

Mr. Nickerson indicated that the Commission needs to appoint an Alternate to the Commission. Mr. Mulholland stated that he would place this item on the next agenda.

MOTION (1): Mr. Peck nominated Mr. Bulmer for the position of Commission Secretary.
Mr. Gada seconded the nomination.
Vote in favor: Unanimous.

Mr. Bulmer was unanimously elected Commission Secretary.

2. Acceptance of the Minutes

a. November 25, 2002

MOTION (2): Mr. Peck moved to approve the Minutes of November 25, 2002 amended to include the following as noted in the Minutes of the Regular Meeting of January 9, 2003:

Mr. Peck inquired what the water use of 100 homes in a RU80 would be compared to the golf course water use. Bruce Morton, Aqua Solutions, responded that estimates for domestic water use are typically calculated upon the number of bedrooms in the dwelling unit. For purposes of this example, he assumed 450 GPD/3-bedroom unit (2 people/bedroom) or 45,000 GPD excluding external use. Mr. Morton noted that based on an actual golf course where 10 years of metered water use was available, the average daily use for irrigation purposes was 80,000 GPD for a maximum daily use (August) of 120,000 GPD. He added that on one or two days, usage may be as much as 240,000 GPD. Mr. Peck noted that most of the water would be put back into the ground. Mr. Morton estimated that 20% of consumption would be for non-irrigation purposes.

Mr. Gada seconded the motion.

Vote in favor: (6-0-2) In favor: Mr. Nickerson, Mr. Bulmer, Mr. Gada, Mr. Peck, Mr. Chamberlain, Mr. Dwyer. Abstained: Mr. McLaughlin, Mr. Bulmer.

b January 15, 2003

MOTION (3): Mr. Bulmer moved to approve the Minutes of the Special Meeting of January 15, 2003. Mr. Nickerson seconded the motion.

Vote in favor: (4-0-3). In favor: Mr. Nickerson, Mr. Peck, Mr. Bulmer and Mr. Salerno. Abstained: Mr. Gada, Mr. McLaughlin and Mr. Chamberlain.

c. January 23, 2003

MOTION (4): Mr. Gada moved to approve the Minutes of the Regular Meeting and Public Hearing of January 23, 2003.

Mr. Bulmer seconded the motion.

Vote in favor: (5-0-1). In favor: Mr. McLaughlin, Mr. Gada, Mr. Peck, Mr. Chamberlain and Mr. Bulmer. Abstained: Mr. Nickerson.

d. March 20, 2003 Regular Meeting

MOTION (5): Mr. Bulmer moved to approve the Minutes of March 20, 2003 Regular Meeting amended as follows: Correct spelling of the applicant is D'Amato.

Mr. Dwyer seconded the motion.

Vote in favor: (5-0-3). In favor: Mr. Bulmer, Mr. Chamberlain, Mr. Dwyer, Mr. Peck, and Mr. Salerno. Abstained: Mr. Nickerson, Mr. Gada and Mr. McLaughlin.

e. March 20, 2003 Public Hearing

MOTION (6): Mr. Bulmer moved to approve the Minutes of the Public Hearing of March 20, 2003.

Mr. Dwyer seconded the motion.

Vote in favor: (4-0-4). In favor: Mr. Bulmer, Mr. Chamberlain, Mr. Dwyer, and Mr. Salerno. Abstained: Mr. Peck, Mr. McLaughlin, Mr. Nickerson and Mr. Gada.

f. April 3, 2003

MOTION (7): Mr. Salerno moved to approve the Minutes of the Regular Meeting of April 3, 2003.

Mr. Dwyer seconded the motion.

Vote in favor: (4-0-4). In favor: Mr. Nickerson, Mr. Peck, Mr. Salerno and Mr. Dwyer. Abstained: Mr. Bulmer, Mr. Gada, Mr. Chamberlain, and Mr. McLaughlin.

g. April 8, 2003

MOTION (8): Mr. Bulmer moved to approve the Minutes of the Special Meeting of April 8, 2003.

Mr. Salerno seconded the motion.

Vote in favor: (6-0-1). In favor: Mr. Nickerson, Mr. Peck, Mr. Chamberlain, Mr. McLaughlin, Mr. Bulmer and Mr. Salerno. Abstained: Mr. Gada.

3 Application of Frances L. Mattison for a Special Permit to keep farm animals at 208 Old Black Point Road, Niantic, CT. - WITHDRAWN

OLD BUSINESS

1. Affordable Housing Regulations

Mr. Mulholland indicated that the document before the Commission, reflects the changes requested by the Commission at its last meeting. He noted that under SPECIAL PERMIT USES, Item #1, the Commission had inserted the word "consist" and that the word has been changed to "consisting".

Mr. Mulholland also noted that there is no minimum frontage requirement as would be found in all other zoning regulation and suggested that the Commission include that requirement at a minimum 50 feet.

Mr. Chamberlain indicated his support for 50-foot frontage requirement as did the other Commission members.

Mr. Mulholland noted the front yard setback-25 feet; side yard setback-25 feet; rear yard setback-50 feet. Discussion at the previous meeting considered larger setback which include buffers in keeping with the SU Zone. He suggested the Commission pursue that concept and reach a consensus.

Mr. Peck indicated that Mr. Salerno had raised the issue that Mr. Peck's suggested a 100-foot buffer on a minimum lot size of 3 acres would make the lot unbuildable. Mr. Peck inquired of the Town Planner's thinking behind the 3 acre minimum. Mrs. Parulis, Town Planner, stated the purpose was to encourage Affordable Housing throughout the town. He pointed out the Multi-Family Regulations require 100-foot buffer and Affordable Housing Regulations should be consistent with Multi-Family Regulations. Mrs. Parulis concurred. Mr. Peck then recommended a 10 acre minimum lot size with a 100-foot buffer.

Mr. Peck also suggested that the Commission add to the proposal "Zoning Commission may chose to include a portion of the buffer as Open Space. He added that the Commission should encourage recreational areas/facilities and this would allow the developer to use part of the buffer as Open Space.

Mr. Mulholland inquired if Mr. Peck would also propose the same setback requirements in SU, which are 150-feet from the road and 100-feet all others and within that require a 50-foot buffer. Mr. Peck stated he is suggesting a 100-foot treed, evergreen, buffer.

Mr. Mulholland inquired if Mr. Peck wanted to allow passive recreation, i.e., hiking, in the buffer zone. Mr. Peck stated that would be his intent, but the area, 100-foot, should be a treed buffer.

Mr. Chamberlain stated that the Commission should make it practically feasible for a developer of Affordable Housing. He indicated that in his opinion, a minimum lot size of 10 acres is too restrictive. He added that there are few sites available at this time which consist of 10 acres with municipal water and sewer that would be practical for a developer to construct Affordable Housing. He also noted that the CB Regulations are more restrictive than Affordable Housing.

Mr. Mulholland stated that the CB District is the central business district and one would find greater density in this zone to encourage people to live in the downtown, i.e., Niantic Village. He also noted that this Commission is on the record many times indicating its support for Affordable Housing.

Mr. Peck noted that there is a significant amount of land accessible to water and sewer in the West Main St; and Flanders Rd. areas.

Mr. Nickerson stated that he is comfortable with the 10 acre minimum lot size, however, the Commission must be concerned about protection of the abutting neighbors as the Affordable Housing District is a floating district and could be located throughout the town.

Mr. Bulmer stated that the regulation should be constructed in such a manner as to be in the best interests of the town, including the people who are living here. He stated that he is concerned that the buildings and development are “in harmony with the surrounding area” and what the zoning is in that area. He cited Connecticut General Statutes 8-39a and Connecticut General Statutes 8-30g and noted that there are two types of Affordable Housing: (1) it could be 30% of the dwellings constructed or (2) it could be rent subsidized apartments.

Mr. Mulholland stated that consistently, the zoning regulations indicate 150-foot from road and 100-foot buffers in multifamily developments.

Mr. Peck noted that CB Districts always have higher density as a rule. He noted that the Affordable Housing development can be placed anywhere in town.

Mr. Mulholland indicated that once the Commission has a final draft, he will forward it to Town Attorney for comment before the Public Hearing.

Mr. Bulmer stated his concern for building heights of 40-feet, again because the Affordable Housing development could be placed in any District, including residential, in town. Most house heights are limited to 30-feet. Additionally, density is one building up to 8 units per acre (1-bedroom) would be allowed and is an extremely high density. He recommended the Commission look at each Zoning District and analyze how this Affordable Housing Regulations blend in with each of the other Zoning Districts.

Mr. Bulmer also noted under Affordable Housing Restrictions of the Proposed Amendment, item #3 and recommended new language as follows:

“These restrictions shall be enforced by the East Lyme Zoning Enforcement Officer.”

Thus deleting: “by the applicant or...” and “...or any other suitable town agency selected by the Board of Selectmen.”

Additionally, under quotation marks should be placed at the end of item #1 of Affordable Housing Restrictions of the Proposed Amendment after “United States Department of Housing and Urban Development.”

MOTION (9): Mr. Peck moved make the following changes to the Affordable Housing District Proposed Amendment: (1) from “containing at least **3 acres** to which Town water and sewer are available.” to “containing at least **10 acres** to which Town water and sewer are available.” (2) “No building or structure shall be placed less than **150-feet from the street line** or **100-feet from any other property line.**” (3) “A suitable **landscaped buffer strip not less than 100-feet wide** shall be provided along the property line where any Affordable Housing District abuts any other property line.”

Mr. Gada seconded the motion

Vote in favor: (5-1-0). In favor: Mr. Nickerson, Mr. Peck, Mr. McLaughlin, Mr. Gada, and Mr. Bulmer. Mr. Chamberlain opposed the motion.

MOTION (10): Mr. Peck moved to add to the Affordable Housing District Proposed Amendment “The Zoning Commission may chose to include a portion of the Buffer Strip as Open Space.”

Mr. Nickerson seconded the motion.

Vote in favor: (6-0), Unanimous.

MOTION (11): Mr. Bulmer moved make the following change to the Affordable Housing District Proposed Amendment the following: “The maximum height if multi-family structures shall not exceed 30 feet.” and delete “Any building over 30-feet shall be limited to 20% of the lot area. Maximum height will not exceed 40-feet.”

Mr. Peck seconded the motion.

Vote in favor: (5-1-0). In favor: Mr. Nickerson, Mr. Peck, Mr. McLaughlin, Mr. Gada, and Mr. Bulmer. Mr. Chamberlain opposed.

Mr. Peck noted that in the SU-Multi Family Regulations, the height requirement is 30-feet maximum.

Mr. Bulmer suggested the Commission place a limit on the size of development, i.e., the number of dwelling units in any one contiguous area. For example, limit a development to 200 dwelling units with a 100-foot buffer. Thus, two abutting 200 unit developments would have 200-foot buffers between the parcels.

Mr. Mulholland stated that he would have to do some research zoning law to determine if such a restriction can be included in the Regulation. He indicated it was his opinion that the Commission cannot limit the number of units.

Mr. Nickerson suggested including a requirement for recreational space, i.e. for every 100 units a specifically required grassed recreational area.

Mr. Peck stated that there are not very many sites in town of 10 acres or more with water and sewer service available.

Mr. Chamberlain indicated that if the regulations are too restrictive, it is less likely that a developer would adhere to them and would rather disregard the Town’s Regulations.

Mrs. Hardy pointed out that a developer could conceivably purchase older houses with water and sewer available, tear them down, and construct multi family structures. Additionally, she noted that new technology in sewerage treatment are coming out and are being approved in many communities. She noted natural gas use, community water systems on-site, etc. These new and future technologies will make the land more reasonably and affordably developable.

Mr. Mulholland stated that he will consult with the Town Attorney, research the maximum number of units/development and write appropriate language into the Regulation for the public hearing concerning the issue with respect to maximum units/development discussed. He will then send a copy to each member of the Commission and the Town Attorney’s comments.

MOTION (12): Mr. Peck moved add to the Affordable Housing District Proposed Amendment paragraph #7, Section 25.5, Multi-Family SU, Buffer Area (page 135 of the East Lyme Zoning Regulations).

Mr. Gada seconded the motion.

Vote in favor: (6-0), Unanimous

Mr. Bulmer stated that this issue of density had yet to be concluded. He noted that a 12 unit building in a Residential area could be obtrusive. He suggested 6 units/building maximum.

Mr. Peck stated he had no problem with 12 units per building. The Commission is requiring open space which will conceal the buildings to some degree. He added that a 12 unit building is not very big. He also noted that the Commission has to consider the affordability of the unit.

Mr. Bulmer argued that the Commission must also make the structures and development in harmony with the surrounding area.

Mr. Chamberlain and Mr. Peck stated they supported leaving the Proposal at 12 units per building.

Mr. Mulholland summarized:

1. 30-foot building height
2. 12 units per building
3. No limit on the number of buildings within the minimum lot size of 10 acres
4. 150-feet from street line and 100-feet setback, plus buffer requirements
5. Appropriate parking
6. Open space of 10%
7. Coverage 30%

Following further discussion concerning the footprint of a 12 unit building, the consensus was to leave the density as proposed.

Mr. Peck suggested a building separation distance requirement be included in the proposal.

MOTION (13): Mr. Peck moved to add to the Affordable Housing District Proposed Amendment, the first and last line from paragraph #3, Section 25.5, Multi-Family SU, Grouping (page 135 of the East Lyme Zoning Regulations).

Vote in favor: (6-0), Unanimous

Mr. Nickerson requested that Mr. Mulholland schedule a public hearing on the Proposed Amendment to the Zoning Regulations: Section: Affordable Housing.

NEW BUSINESS

1. **Application of Jonathan Katz, Walnut Hill Properties, LLC, for a change of zone for a portion of property from Special Use (SU) to Special Use-Elderly (SU-E) off Holmes Road and Upper Walnut Hill Road, East Lyme, CT (Tax Map 57, Lot 30).**

Mr. Nickerson requested that Mr. Mulholland schedule a Public Hearing.

2. **Application of Jonathan Katz, Walnut Hill Properties, LLC, for a Special Permit to construct 70 units of elderly housing on property located off Holmes Rd. and Upper Walnut Hill Rd., East Lyme, CT (Tax Map 57, Lot 30).**

Mr. Nickerson requested that Mr. Mulholland schedule a Public Hearing.

3. **Application of Bentley T. Welch to amend Section 9.2.3 of the East Lyme Zoning Regulations.**

Mr. Nickerson requested that Mr. Mulholland schedule a Public Hearing.

4. **Planning Commission Schedule of Meetings**

Mr. Nickerson requested the schedule of the next Planning Meeting be included on the all agendas.

5. **Zoning Official**

Mr. Mulholland suggested that the Commission consider a subcommittee to discuss entertainment licenses or a vehicle to address this issue. In the past the Zoning Official has handled these requests as accessory uses, however, he stated it is time the Zoning Commission explore this issue.

Mr. Nickerson stated that he would serve on the subcommittee.

MOTION (14): Mr. Bulmer moved to adjourn the meeting at 9:20 PM.

Mr. Gada seconded the motion.

Vote in favor: (6-0), Unanimous

Respectfully submitted,



Anita M. Bennett
Recording Secretary
5 May 2003