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Esther B. Williams

EAST LYME TOWN CLERK

**EAST LYME ZONING COMMISSION
PUBLIC HEARING
MAY 15, 2003
MINUTES**

The East Lyme Zoning Commission held a PUBLIC HEARING on Thursday MAY 15, 2003 at the East Lyme Town Hall, 108 Pennsylvania Ave., Niantic, CT.

Mr. Mark Nickerson, Chairman, opened the Public Hearing, at 7:34 PM following the Public Hearing.

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

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

PUBLIC HEARING

1. Application of Frances L. Mattison for a Special Permit to keep farm animals at 208 Old Black Point Rd., Niantic, CT. (Assessor's Map 5.18, Lot 25).

Mr. Nickerson opened the Public Hearing at 7:36PM.

Mr. Bulmer read into the record:

- Exhibits (1) Memorandum from William Mulholland to the East Lyme Zoning Commission dated May 14, 2003.
- (2) Letter dated May 1, 2003 to the East Lyme Zoning Commission from Frances Mattison.
- (3) Letter dated May 13, 2003 to Frances Mattison from George . Calkins, Registered Sanitarian.
- (4) Letter dated May 13, 2003 to George P. Calkins from Frances L. Mattison.
- (5) Letter dated April 29, 2003 to Mr. Mulholland from Richard and Emilie Powers.
- (6) Letter dated May 12, 2003 to East Lyme Zoning Commission from Burdette Pomeroy.

Mr. Nickerson invited the applicant to make her presentation.

Mrs. Mattison stated that the animals are for her children's (ages 10 and 7 years) 4-H project and in order to keep them in condition for show, the animals are groomed and their living area must be kept clean for the health of the animals. She reviewed the site plan showing the 12x16 foot Carefree Building and surrounding pen, which is 100' and 108' from the property lines and she indicated the septic system location. The pen consists of a 6-ft. chain link fence and will be covered.

Mrs. Mattison presented information concerning the animals. The goats are de-horned. She indicated that there will be no bucks. The Nigerian dwarf goats eat 0.5-1.0 cups of food per day and are very docile. She stated that the droppings are pellets similar to rabbits. She indicated that although this is a 4-H, she will be supervising the care and maintenance of the animals and their surrounds including the composting.

Mrs. Mattison indicated the silky bantams are show birds, vulnerable and flightless and are kept inside from before dusk until the children tend them in the morning. She indicated that the birds were smaller than chickens and that the birds only make noise when they are in danger. She added that the birds are bathed and blown dry for show purposes. She added that only one rooster would be kept for show purposes.

Exhibit 8 – Five photographs of the silky bantams and Nigerian dwarf goats.

Mr. Bulmer inquired if the number of bantams would be increasing. Mrs. Mattison stated that she uses the eggs for eating and will not be breeding the birds.

Mr. Nickerson asked Mrs. Mattison to confirm the proposal included two Nigerian dwarf doe goats and 13 silky bantam chickens that may increase up to 7 goats and 15 bantams and only one rooster. Mrs. Mattison confirmed these numbers.

Matthew Staebner, Franklin, CT indicated that he has been in 4-H since the age of seven and has raised and shown cows and goats for nine years. He stated that through his projects he has learned responsibility for the care and feeding of animals, recordkeeping, finance and animal health. He stated that the age limit for 4-H is 7-19 years of age.

Diane Lis, Lebanon, Extension Educator, New London County discussed the 4-H Club program and project opportunities, as well as the group community projects performed by the club which generally consist of 5-20 members.

Exhibit #9 Packet of 4-H information

Mr. Chamberlain stated a concern for the level of noise that might be produced. Mr. Mulholland inquired if the rooster could be removed and if that would effect the project. Mrs. Mattison stated that

the one rooster would be locked up prior to dusk and let out around 8:00 am. She indicated that if necessary the rooster could be eliminated. She stated she would assume the rooster would be about as loud as a dog.

Mr. Bulmer inquired as to the distance from the closest neighbor. Mrs. Mattison stated that the shed is 108-feet to the property line with a wooded area consisting of 40-50 foot trees and brush. She pointed out on the drawing the approximate location of the nearest house.

Mr. Mulholland stated that he looked at the GIS maps previously and estimated another 30-40 feet from the property line to the nearest house. Mr. Mulholland briefly discussed how the State regulates impulse noise and background noise. He stated it may be difficult to assess what level of noise a rooster would create.

Mr. Mulholland indicated that if the Commission approves the application, any other animals or any increase in animals would require the applicant to come back to the Commission to seek a new permit.

Ann Begin, 14 South Trail stated she abuts the Mattison's property line and supports the application. She indicated that she has less than a two acre lot. Mrs. Mattison pointed out on the drawing Mrs. Begin's property.

Mr. Bulmer noted the cattle well on the drawing. Mrs. Mattison stated that she has pointed that out to Mrs. Begin. She added that the cattle well has been there a long time as cattle used to be on the property.

Mrs. Mattison stated that if the Commission would consider the rooster and perhaps place a limit of 6 months and if there are a lot of documented complaints with respect to noise, she could eliminate the rooster.

Mr. Nickerson invited comment from the public in favor of the application.

Nancy Foster, 6 Hemingway Rd., Niantic stated she supported the application. She stated the experience will be beneficial for the children's involvement in the entire process, including the Public Hearing. She indicated that she believes there was a misunderstanding as to the term "farm animal". She added that in this case "farm animals" are really "pets".

Jonathan Lincoln, 37 Hillwood Dr., Niantic stated he has known the family for many years and they are very responsible members of the community and active in 4-H. He stated that they will make every effort to contain the animals and not infringe on their neighbors.

William Power, 21 Haigh Ave., Niantic stated that he is speaking for his son and daughter-in-law who recently purchased 210 Old Black Point right next to the Mattison's property. He indicated they are not

opposed to this application, per se. The do, however, have a couple of concerns he would like to mention.

1. The right-of-way to the property is one lane and precludes two cars passing.
2. If the general public is permitted to visit the animal pens, the road issue must be addressed.

Nancy Foster, 6 Hemingway Rd., Niantic stated that the right-of-way used to be called the Old Barn Pass and was used to move cattle to the barn at Old Black Point. She suggested Mrs. Mattison communicate with the Powers with respect to these concerns.

Joe Kwasniewski, 67 Walnut Hill Rd., East Lyme, stated his support for the application. He noted that these animals are domesticated "farm animals". He noted that he has turkeys that go through his yard as well as other wildlife, not to mention dogs and cats. He stated that these domesticated animals are not a big deal as the wild animals do just as much "harm".

Rev. Alan Scott, 138 Boston Post Rd., East Lyme stated that any animal can be a problem, but knowing the Mattison, they would make sure that the animals do not create a problem for the neighbors as he has complete confidence in them as neighbors who would address any problems that may arise.

Chris Barrett, 301 Old Black Point Rd., Niantic supports the application and the educational benefit to the children and their friends.

Ann Begin, 14 South Trail, Niantic stated at a previous residence she had sheep, chickens and a pig on one acre and had no problems with the odor or noise. She added that it's not bothering her being a very close neighbor. She stated that two of her neighbors have pools and the kids yelling and screaming and a rooster isn't going to bother her. The noise is part of the atmosphere.

Mr. Nickerson opened the meeting to those wishing to speak in opposition to the application.

Mary Cahill, 37 Indianola, Niantic, Association Manager, Black Point not this application was a Special Permit and noted the Zoning Regulations. She noted that the property in question is effecting Sea Spray, South Trail and Sunset in Black Point and the Association is directly involved. She stated that the Zoning Regulations indicate that agriculture or farm uses may be permitted by Special Permit, but clearly the Commission has the discretion to decide when it is appropriate to issue such a Permit and when it is not appropriate. This is an instance when it is certainly not appropriate. The Zoning Regulations specify the standard for Special Permit Uses, Section 25.4.1, which provides in part that "the nature and intensity of the operation involved shall be such that it will be in harmony with the orderly development of the district and the location and will not discourage the appropriate development and use of adjacent land and buildings or impair the value thereof." Section 25.4.2 provides that "operations in connection with any Special Use shall not be more objectionable to nearby properties by

reason of noise, fumes that would be the operations of any permitted use”, i.e. roosters crowing and chicken manure.

She added that Black Point community immediately adjacent to where these animals will be housed is a highly developed residential community originally developed as a summer community. Many building lots are small and dwellings are frequently located close together. This is not an appropriate location to insert farm animals. To grant a Special Permit to allow the housing of farm animals in the midst of a densely populated neighborhood would be irresponsible because it would violate the standards of the Zoning Regulations and would significantly diminish the neighborhood for more than one thousand people who reside there.

Peg Jusyk, Sea Spray Avenue, Niantic stated that there is no dispute with respect to the value of the 4-H project. She stated however that “heart” of the 4-H stands for consideration and fairness and since the Mattison’s won almost five acres of land, she does not think it is fair or considerate to place the planned shed and pen 108-feet from the neighbor’s property who has only 0.2 acres. She recommended placing the shed on the other end of the applicant’s property. She also indicated that the placement of the sign was such that it was placed one half mile from the Woodland Rd. access to Black Point such that it was not visible to Black Point residents. She recommended the Commission provide some uniformity in signs and more beneficial placement of the signs. Mrs. Jusyk presented a petition of 50 names.

Exhibit 10 – Petition of fifty names of Black Point residents and cover letter.

Mr. Nickerson requested Mr. Mulholland discuss the sign requirement.

Mr. Mulholland stated that State Statute requires one advertise the call of the hearing in the newspaper at least twice, which was done. Some years ago, the Zoning Commission added a procedure to place a public sign for additional public notice and assure that the public was aware of the hearing. In this case, the initial public hearing was cancelled and the applicant re-posted a new sign. The Regulations require it be placed in some location where it is near that property and can be readable from the road. Some properties will be back lots and don’t have frontage, so the applicant must do the best he can in this situation.

Mr. Mulholland read from the Regulations in part – “clearly visible and legible from the most heavily adjacent town road or two lane state highway”.

Mr. Jusyk, Sea Spray Ave., stated that he supports the previous comment that the shed be relocated as to not “encroach” on neighbors in Black Point and suggested placement more central on the parcel in question.

Mr. Nickerson noted that no rezoning is being considered with respect to this application.

Patty DeAngeles, 58 Sea Spray Ave., indicated that her property is very close to the subject property and is a summer resident. She stated that consideration must be given to those people whose property is in close proximity to the shed and animals. She supported relocating the shed. She also stated concern with respect to the noise the rooster would produce.

There being no other persons speaking in opposition to the application, Mr. Nickerson invited comment from other members of the public.

Robert Mattison, 208 Old Black Point Rd. stated that the subject property is on the border of Old Black Point and Black Point. There are no houses to the east and a couple to the west. If the wind did blow to the west, it will effect the next door neighbors. The 100-foot buffer is treed and once it grows in, summer residents will not be able to see the property and it will also act as a windbreak. He stated he removed an area of trees only to house the shed that the animals will be in. He stated that the reason the proposed shed is located where it is is because it could not be located anywhere else because of wetlands. He stated he would not like to place a large fence to screen from the neighbors, but it is an option.

Mr. Chamberlain inquired if Mr. Mattison would be opposed to locating the animals on a different portion of the site, i.e., moving the shed.

Mr. Mattison stated he would be opposed to it because he and his wife are following all the Regulations. The reason, he stated, why the first sign was located where it was, was because they were told to place it closest to the nearest road, which was 150-feet off the road. He noted that one could see from viewing the plans that there is no other way to place the sign closer to the property and road, but he tried to follow the Regulation. He added that they did relocate the sign. He added that someone moved the sign and dropped it on the ground.

He stated he has invested a lot of money to put the shed in the proposed location. It has been thought out carefully and they did consider the neighbors in that decision. He stated the property would not be visible to the neighbors once the foliage is in full.

Mr. Gada inquired as to the age of the treed buffer. Mr. Mattison indicated that the buffer consists of mature trees.

Mr. McLaughlin noted that the setback requirement of the Regulations for the shed has been met and he would not support requiring the applicant to lengthen the setback. Mr. Bulmer stated he considers this request to be a "good neighbor" gesture, not a Zoning requirement.

Mr. Jusyk argued that from his property, he could fully see the Mattison's property.

Christine Dominijanni, 18 South Trail stated that the proposed shed is closest to her house. She stated with the trees cleared for the shed, the property is more visible. She added her concern that grain for the

animals will attract rodents and the animals would create an odor in the area. She stated she was not concerned about any noise created by the rooster or other animals.

Exhibit #11 Photographs showing her house and the subject property.

Mr. Bulmer inquired as the opinion of the Ms. Dominijanni, with respect to erecting a fence. She stated she prefers evergreen plants to a fence.

Stewart Mattison, 57 Hillcrest Rd. suggested a trial period.

Lorraine Mattison, 57 Hillcrest Rd. stated that the 108-foot buffer is ample in her opinion. She indicated she lives in beach community and can hear the bird in the house next door to her and any noise from the animals on the subject property is not a problem.

Mary Weidl, Indianola Rd., requested explanation of the location of the shed and then viewed the plans at Mr. Nickerson's invitation.

Ruth Mattison, 208 Old Black Point Rd., daughter of the applicant, indicated her involvement in 4-H with her brother and commented on her proposed project and the animals involved that she will be caring for and showing.

Mrs. Mattison stated that the grain will be kept in galvanized cans; there will be no need for public access, as the proposed project is not open to the public or other 4-H'ers as a petting zoo and will not increase traffic. She noted that the animals will be transported in a car or pickup truck.

Mr. Peck suggested planting of white pines for additional screening. Mrs. Mattison noted that the deer in the area may eat the evergreens before they mature, however, she would put in evergreens at the Commission and Mrs. Dominijanni's request.

There being no other speakers, Mr. Nickerson closed the Public Hearing at 9:34 PM.

Respectfully submitted,



Anita M. Bennett
Recording Secretary
27 May 2003