

EAST LYME ZONING COMMISSION
PUBLIC HEARING I
Thursday, October 2nd, 2003
MINUTES

A. Blain
EAST LYME TOWN CLERK

The East Lyme Zoning Commission held the continued Theodore A. Harris Public Hearing to amend Section 25.5 (Multi-family SU-11) on October 2, 2003 at Town Hall, 108 Pennsylvania Avenue, Niantic, CT.

Acting Chairman Bulmer opened the continued Public Hearing and called it to order at 7:35 PM.

PRESENT: Bob Bulmer, Acting Chairman Shawn McLaughlin,
Ed Gada, Norman Peck, Marc Salerno, Alternate
and Acting Secretary, Andrew Manter, Alternate

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

ABSENT: Mark Nickerson, Chairman, William Dwyer, Alternate,
David Chamberlain

PANEL: Bob Bulmer, Acting Chairman Shawn McLaughlin,
Ed Gada, Norman Peck, Marc Salerno, Alternate
and Acting Secretary, Andrew Manter, Alternate

Pledge of Allegiance

The Pledge was observed.

Public Hearing I

1. **Application of Theodore A. Harris to amend the East Lyme Zoning Regulations by adding new text to Section 25.5 (Multi-family SU-11). Section 25.5 #11 presently reads "Utilities: No Multi-family development shall be approved unless there is provided public sanitary sewers and clear evidence of safe and satisfactory means of providing water supply." Add after sewers, "or evidence from the applicant that the premises is capable of supporting a septic system in compliance with Department of Environmental Protection and/or The Department of Health Regulations."**

Mr. Bulmer stated for the record that he had seated Mr. Salerno, Alternate and Acting Secretary and Mr. Manter, Alternate. He asked both if they were familiar with this application. Both replied to the affirmative. He then asked Attorney Harris, the applicant if he wished to synopsize the information on his application. (Note: the tape was barely audible)

Attorney Theodore Harris, 351 Main Street, Niantic, the applicant, recapped that this was to allow the use of on-site septic systems for multi-family SU projects in compliance with DEP and/or Department of Health Regulations. He noted that there were language issues and that he had put together better language for clarification. He presented this (Attached at end of Minutes) and asked that it be the revised proposal. He went over these changes noting that a new Item 12 would address the issues that had been brought up in the previous public hearings. He then explained how it fits in with Section 25.5 (Multi Family SU). He noted that in looking at this there is a lot of restriction here if you look at the overlaid area. This would be far less dense than the underlying area. It is meant to better develop a potential area. The purpose is to allow for flexibility to take parcels that would be restricted by the subdivision regulations. There is a lot more protection here than in the regular subdivision. For instance: a RU-40 subdivision has a 30' setback – here in the SU zone there is a 100' minimum setback. A subdivision requires 10% of land as open space and you would get more open space in the SU zone. You would be able to get more houses in under the regular subdivision however this SU

promotes good use of land that is more in harmony with its character rather than trying to force something onto it. This would also be like a condo type of association so the people would be paying a fee for road maintenance and other services whereas in a traditional subdivision the Town pays. Likewise, this is not appropriate for all areas – only for some. In short, the genesis of this proposal is to give more creative development. This is not something that would result in denser development but rather, in better development.

Mr. Bulmer asked if any of the Commission members had any questions – hearing none he asked Mr. Salerno to read a submission into the record.

Mr. Salerno read into the record:

1. Letter to Bill Mulholland, Zoning Official from Attorney Theodore Harris dated September 26, 2003 Re: extension of time within which to close the public hearing on Regulation Change Section 25.5 SU Multi-Family

Mr. Bulmer opened the public hearing for comments from the public. He asked people to please keep to the issue of the application. He called twice for anyone wishing to speak in favor of the application – hearing no one he called for anyone wishing to speak against the application –

Jennifer Stone, 33 Laurel Street, Niantic said that she was concerned about the sewer situation. They have been waiting for sewers in Pine Grove for a long time and still do not have them. If they are going to allow this then there is going to be more of a burden on the local roads, schools and public services. They have to think of the overall picture and not over develop. They have a water situation and have been restricted with water usage. They have to look at the larger picture. Why should developers be given things that long time taxpayers cannot get?

Ray Murallo, 11 Damon Heights Road, Niantic cited the traffic situation at Damon Heights and asked why they would allow this.

Mr. Bulmer explained that this is not referencing a specific location, as the SU zone is a floating zone that could be anywhere that there is 20 acres or more. He suggested that there might be some confusion with the next public hearing they have scheduled after this one.

Susan Kraynak, 1 River Road, Niantic said that she agrees with Mrs. Stone and feels that if the change is allowed that they could have a runaway situation. She is concerned with the area near the river and how they would be impacted by septic. She asked for the definition of the Coastal Zone.

Attorney Harris said it is defined as 1000'-1500' from any coastal boundary. He referenced the DEP letter, which said that this could not be done in a Coastal area. He also noted that part of the proposal is that it requires 20 acres.

Izzy Schwartz, 107 Columbus Avenue, Niantic said that he is a member of the Board of Finance. While he is not sure that he understood all of the technical information here he does understand that we are going helter skelter with development in this Town and that we have a water problem. He feels that we should have a moratorium on construction and building in this Town until every one gets together on this and agrees on a direction to go in. The recent New York Times articles about East Lyme – all they are doing is bringing developers into this Town like crazy to develop every available piece of land that we have. We are giving the Town away.

Bob Gadbois, 358 Boston Post Road, East Lyme said that Mr. Schwartz is correct. He added that if it is not broken then don't fix it.

Beth Hogan, 10 Wildwood Drive, Niantic said that she agrees with Mr. Schwartz. She added that she thinks that by the presence of all of the people in attendance here that there is a concern for this. They need to take a slower approach to development in this Town.

Philip Mountain, 42 Laurel Hill Drive, Niantic said that he agrees with the others and thinks that this proposal is helpful to the developers only.

Andy Radynski, 15 Upper Walnut Hill Road, East Lyme brought up the coastal zone and asked how wetlands are taken into consideration.

Attorney Harris said that in general and to the extent that there is wetlands on any site – they have to go to the Conservation Commission and they have to stay 100' away from them. Also, the DEP or Department of Health would give this a very rigorous review.

Joe Raia, 97 West Main Street, Niantic said that as they could see from the number of people in attendance here – Zoning gets the people out. These people do not want this floating zone or these things to happen in this Town. Just as with the Gateway Plan of Development – it is not fair that developers get the public sewers and water before the people who have been here such as in Pine Grove.

Robert Brooks, 101 Dean Road said that it was strange to see people come to change the regulations for builders. However, a floating zone is a wildcard and has to be looked at as such.

Mr. Bulmer clarified that anyone can come before this Commission and recommend a change to the regulations. This is American democracy in its finest form. This is a recommendation and the applicant is not writing anything – the Commission does the writing.

Marie Cassidy, 40 Laurelwood Drive, Niantic said that she moved here from a city for a different way of life. She came for her children to have a better quality of life and she thinks that you have to watch this or you will end up like a congested city.

James Elliott, 45 Heritage Road, East Lyme said that he is not in favor of increasing the ability of the developers to do what they want here. He has a retail store in Old Lyme and while he lives here and has done so for many years, Old Lyme knows how to go about keeping their Town quaint and not congested or over developed.

Jennifer Stone, 33 Laurel Street, Niantic asked if this meeting was published in the paper.

Mr. Mulholland said that this is the third public hearing for this application. It was duly advertised in the New London Day on September 2, 2003. Once the public hearing is opened and continued they do not have to continuously advertise it.

Tom Spranklin, 76 Lovers Lane, East Lyme said that he is in a similar situation as the woman who was coming from the city to here. He is curious and would like the applicant to identify one or two good reasons why we would want this change.

Attorney Harris said that the design of this regulation is not to increase development or the density of development. The density in a traditional subdivision would be greater than in this change. The purpose is to fit in with the land better. It is a floating zone and it cannot land just anywhere as there needs to be 20 acres or more. This can't cause a rampage of development as it has more restrictions associated with it than a regular subdivision.

Mr. Bulmer called two more times for anyone who wished to speak against this application – hearing no one he called for anyone who wished to speak neutrally or in general on this application –

Ben Orvedal, 65 Holmes Road, East Lyme said that he wanted to clarify some things for himself – is the proposal only intended to allow for more flexibility in an SU zone?

Attorney Harris replied yes.

Mr. Orvedal said that there are a hand full of SU zones in Town today such as the campground, the JC Penney property, so for this modification to be used – they would first have to find an existing parcel zoned SU? Or – come to Zoning and ask for a parcel to be rezoned to SU?

Mr. Bulmer replied that is correct.

Mr. Orvedal said that the way he sees it, the applicant has to come in for SU for a specific reason.

Mr. Mulholland said that essentially anyone can apply to the Commission for a zone change. They need 20 acres and they typically submit an application and if it is in keeping – the Commission has over the years turned down some as well as approved some.

Mr. Peck said that the Zoning Commission could arbitrarily decide it is not appropriate for an area.

Mr. Mulholland said yes but essentially it is a two-part test and they do have to take a lot into consideration before making any decision.

Attorney Harris noted Section 12 that says 'in appropriate locations as deemed by the Commission'. He added that there is quite a large package needed to approve this. It is a whole concept package and much more rigorous.

Mr. Orvedal said that another thing was that they talk about sewage and he knows that East Lyme with city sewers has a limit of what can be sent on to New London. He believes that what is being proposed here is on-site septic?

Attorney Harris said that the regulation as it stands allows sewers. What he is proposing allows in certain approved instances the use of septic.

Mr. Orvedal said that in an SU zone now – if someone wants to, can they take part of it and build a single family home with septic?

Attorney Harris said no, the regulations allow for sewers, as they stand now and not for septic. At present they would have to re-zone from SU to use septic.

Rose Ann Hardy, Board of Selectmen Ex-Officio said that she has had the advantage of being here for all three nights of this public hearing. She offered hypothetically that they need 20 acres to do this. With a standard subdivision they could get 18 homes on the property. Under the Harris proposal say they have five acres of ledge – could they preserve that as open space and still put 18 homes on the rest of the space? Attorney Harris said not necessarily. He noted that he had one area with 22 acres that only had eight usable acres after you took out the buffers, open space etc. So, your density is below that of a basic subdivision. It is meant to produce a better product.

Ms. Hardy asked if this would allow him to cluster the houses closer together.

Attorney Harris replied yes. He added that you are looking at a better use of the land and while it may not be as marketable to some people it does reduce services on the part of the Town as it is a homeowner's association.

Ms. Hardy said that this then would allow property to be developed in a non-sewer area as it would have its own water and septic. She asked if duplexes would be allowed.

Attorney Harris said no – single family homes only in a non-sewered area.

Andy Radynski, 15 Upper Walnut Hill Road asked what if you have 20 acres with a lot of ledge and wetlands – this would give you the ability to build anyway. This would be a denser development with 50% wetlands. Attorney Harris explained that the buffer comes off of the top. In a traditional subdivision you can include wetlands and ledge as part of your open space area.

Ben Orvedal, 65 Holmes Road, East Lyme said that it sounds like what is being presented is the opportunity to develop a piece of land – a concept for another type of housing option. The key is condo – single-family homes – private homes. If density is truly no greater than the underlying zone in a conventional subdivision then it sounds like this is giving a developer more flexibility to design around land features for site lines etc. He has seen projects like this and believes it is a good option in some instances but not in all. He thinks it would be a good thing and the Zoning Commission could control it before re-zoning to SU to keep it within the Plan of Conservation and Development.

Lillian Mountain, 42 Laurel Hill Drive, Niantic said that the type of units as Mr. Harris is proposing have already been built in this Town and are successful. But – we don't need more in that area that he is proposing to be built, as there is too much traffic there already.

Mr. McLaughlin cautioned that we are not discussing any specific location here or any project.

Joe Rizzo, 45 Bayview Road, Niantic asked if we are allowing building in this Town with septic systems?

Mr. Bulmer said that in general, yes.

Izzy Schwartz, 107 Columbus Avenue, Niantic said that the proposal presented is one view but he looks at it as they want to take a piece of land that is tough to build say 20 homes on and this change will allow them to do this. This is not what the people in this Town want. Things are already over-burdened in this Town and more development is not the way to go.

Ms. Hardy said that they have heard that this would not change the density but by definition density is really the number of people per square mile.

Mr. Bulmer asked Attorney Harris if he had any closing comments.

Attorney Harris thanked the Commission for their time over these three meetings. He asked that they please keep in mind that with these changes there would not be denser development and that there is no parcel or specific location before this Commission tonight. This is looking at very strict on-site septic that has to be approved by the DEP or the Department of Health after rigorous review. He then asked if they had any questions.

Mr. Gada asked for clarification – the three nights that they have gone over this – multi-family/duplexes were originally part of this and now it is single family homes only?

Attorney Harris said yes – and this can be in the condo style of ownership but single family.

Mr. Bulmer officially closed this Public Hearing at 9:48 PM.

Respectfully submitted,

Karen Zmitruk,
Recording Secretary

PROPOSED REGULATION CHANGE

Section 25.5 (Multi Family SU) is hereby modified as follows:

Add bold face language:

11. UTILITIES: **Except as otherwise provided in sub-paragraph (12)**, no multi family development shall be approved unless there is provided public sanitary sewers, and clear evidence of safe and satisfactory means of providing water supply.

ADD NEW ITEM 12:

12. ON SITE SEPTIC: Individual dwelling units under single common land ownership, only, may be constructed upon evidence from the applicant that the premises is capable of supporting septic system(s) in compliance with DEP and/or the Department of Health regulations, and subject to the following restrictions:

*Showing that
Property is capable
of supporting*

(a.) No such development may be constructed if any portion of the premises subject to the application lies within the coastal boundary as defined by § 22a-94 of the Connecticut General Statutes and as delineated in the coastal boundary map for the Town of East Lyme.

(b.) The average number of units per acre, as calculated in sub-paragraph (2) herein, shall not exceed that which would be allowable based upon the minimum lot size of the underlying zone which shall be the subject of the SU development.

*restricts
density*

(c.) In addition to the buffer area required under sub-paragraph (7), the applicant shall provide a 100' buffer along the street line which buffer shall be subject to alteration by the Commission in accordance with the procedure outlined in sub-paragraph (7). Said front buffer may contain landscape architectural features such as fences, stone walls and ornamental garden/park areas, if approved by the Commission

Attachment PHI - Zoning 10/2/03