

**EAST LYME ZONING COMMISSION
REGULAR MEETING
Thursday, OCTOBER 7th, 2004
MINUTES**

FILED IN EAST LYME TOWN
CLERK'S OFFICE

Oct 13 2004 at 3:40 AM
PM
EAST LYME TOWN CLERK

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

ALSO PRESENT: Attorney Theodore Harris, Representing the Applicant
Ray Jefferson, Landscape Architect for the Applicant
Bennet & Smilas, Engineering, Architects for the Applicant
Frank Hesketh, Traffic Engineer for the Applicant
Robert Pfanner, Jr. PE Representing the Applicant
William Mulholland, Zoning Official
Rose Ann Hardy, Board of Selectmen, Ex-Officio
Marc Salerno, Alternate
William Dwyer, Alternate

ABSENT: William Henderson, Alternate

1. Call to Order

Chairman Nickerson called the Regular Meeting of the Zoning Commission to order at 8:52 PM immediately following the 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 were no delegations.

2. Acceptance of Minutes of Continuation of Public Hearing, September 29, 2004 (and Public Hearing and Regular Meeting Minutes of September 16, 2004).

Mr. Nickerson suggested that they table these until their next meeting.

3. Application of Theodore A. Harris to amend the East Lyme Zoning Regulations by adding a new Section 12.4 to Section 12 (Su-E) Special Use Districts, and to amend Section 25.5 Table of Minimum Controls for Specific Special Permit.

Mr. Nickerson said that they had continued this Public Hearing until their next meeting.

4. 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 and Map 10.4 Lot 15 - and -

5. 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 26 units.

Mr. Nickerson said that he would open this for discussion as they had just closed the Public Hearing. He commented that it was refreshing to hear from a neighbor who had nothing but wilderness near him and who now has a good relationship with the new neighbors. It would also appear by the awards that the development just received that it is not only the neighbors but that the people in the trade consider this an outstanding development. This Town has focused on SU-E and will continue to focus on SU-E and for all of these reasons he is in favor of this application. Regarding the waiver on the setbacks, they have already approved some of these with the original project and they have heard from the neighbors that this is also working and that they have done what they have said that they will do.

Mr. Gada said that he is basically in agreement with everything that Mr. Nickerson has said and added that what holds the most water with him is the comments from the neighbor who has said that the developer has done what he has said that he would do. He said that he would hope that things would continue this way.

Ms. Byrnes said that she supports this as well and also supports the setback waiver request, as there is enough room there. She said that she appreciates the comment from the neighbor and finds that since this is going to be developed, it may as well be a nice development. She added that she would like not just this developer but all the developers to be mindful of the fact that they struggle with the issue of Affordable Housing in this Town and that this might be a nice spot for it as well as others throughout the Town.

****MOTION (1)**

Mr. Peck moved to approve the 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 and Map 10.4 Lot 15.

Mr. McLaughlin seconded the motion.

Vote: 6 – 0 – 0. Motion passed.

****MOTION (2)**

Mr. Peck moved to approve the 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 26 units with the setback waivers as requested on the site plan.

Ms. Byrnes seconded the motion.

Vote: 6 – 0 – 0. Motion passed.

Mr. Mulholland noted that the effective date would be October 15, 2004.

6. Application of Paul W. Lussier for a Coastal Site Plan Review to remodel and expand a single family dwelling at 35 North Edgewood Road.

Mr. Nickerson noted that he had a conflict of interest with this application, recused himself from the table and asked Mr. Gada to Chair this portion of the meeting.

Mr. Gada seated Alternate, Marc Salerno at the table and asked Ms. Carabelas to cover the Secretary position for this application.

Mr. Gada read the following correspondence into the record:

- ◆ Letter dated 10/7/04 from Wm. Mulholland, Zoning Official to EL Zoning Commission – Re: Remodel and Expansion of a Single Family Dwelling – 35 North Edgewood Road, Niantic, CT – noting that the site plan reveals that the new addition will be approximately 30' from all the coastal resources and impact will be minimized with a silt fence being installed. In his opinion the applicant has demonstrated compliance with the goals of the CAM Act.

Mr. Gada asked the applicant or their representative to present this application.

Robert D. Pfanner, Jr. PE explained the CAM review. He said that the present house and addition portion is the size of a two-car garage. The far end will be used for a shop area to store a lawnmower and tools. It is a very old house and they know that there is a septic and drywell. They will build a code compliant septic system. The existing house is a four-bedroom and with the addition it will still be a four-bedroom home so the same type septic system would be used. There is a proposed pool area on the plan for a future pool and they are not proposing to construct it now and would be back in front of them if they do decide to build it. Mr. Lussier is a builder in Town and is up in the air now regarding the pool. They are adding public water from Oswegatchie Road to this house. They are not crossing over any flood plain areas and the whole lot was cleared previously. They are not proposing any changes in the drainage patterns. He noted that Mr. Lussier owns the neighboring lot so there would not be any disturbance to anyone there. They also would not be obstructing any views of the cove. The total addition is 2000-sq. ft. – they are adding about 1000-sq. ft. that is not permeable. He asked if they had any questions.

Mr. Peck asked about the water from the roof.

Mr. Pfanner said that the gutter system would take care of that.

Mr. Mulholland asked if it would be sheet flow through the grassed areas.
Mr. Pfanner said yes and added that they have good absorption there.

Ms. Carabelas asked if there would be a basement.

Mr. Pfanner said that there would be a walkout basement.

Ms. Carabelas asked about ledge in the area.

Mr. Pfanner said that there is none, they did all of that testing previously.

Ms. Carabelas asked if the septic would go in the same place as the other.

Mr. Pfanner said yes.

Mr. Mulholland explained that this is just general information here and if this were approved, they would still have to make an application to him as well as to the Health Department, Engineering and the like. This is just the first step in a much longer process. If there are any issues then the project would have to be scaled back.

Mr. Salerno asked if there is going to be a silt fence.

Mr. Pfanner said yes.

Mr. Mulholland noted that the silt fence is shown on the plan and that they are installed to capture particles/soils and not water. Water passes through them. He added that this Commission is to look at the Coastal impacts and the mitigation plan, which is being accomplished with the silt fence.

****MOTION (3)**

Ms. Carabelas moved to approve the Application of Paul Lussier for a Coastal Site Plan Review to remodel and expand a single family dwelling at 35 North Edgewood Road, Niantic, CT finding that it meets all reasonable methods to mitigate any adverse impacts.

Mr. Salerno seconded the motion.

Vote: 6 – 0 – 0. Motion passed.

Mr. Nickerson returned to the table as Chairman and Mr. Salerno, Alternate returned to the audience.

Old Business

1. Stormwater

This work is in progress.

2. Aquifer Protection

This work is in progress.

New Business

1. Application of "Mike's Famous of Niantic" for a Special Permit for a regional shopping center, restaurant, and motor vehicle repairs at property commonly known as "Metal Pro" at 15 Industrial Park Road.

Mr. Nickerson asked that Mr. Mulholland schedule this for a public hearing.

Mr. Mulholland commented that he has seen the plan and that he has asked that it be re-worked.

Mr. Peck asked where Metal Pro is going.

Mr. Mulholland said that he has not heard.

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

There was none.

3. Zoning Official/Proposed Amendment to Regulate "Shared Access Points" between adjoining properties

Mr. Mulholland said that this arose as a result of meetings with staff and developers regarding access points between properties. This is particularly relevant on Rte. 161 where people would have to go out into traffic to get to a neighboring place of business because there is no access from one to the other. This is to try to have access points from property to property within the properties. He has spoken with staff and Ms. Parulis has drafted this first draft. He said that he thinks that it is important to try to get something into their regulations to try to achieve this where possible or practical. He would like to send this off to the Attorney to see if it is technically okay as it is difficult to try to regulate this and may not be legally correct.

Ms. Carabelas said that if the developer does not agree to do it, then they do not get approved. Mr. Mulholland said that is not correct, as they legally cannot deny people the right to develop their property if they do not want to allow a neighboring business access to it. It is something that we may want to encourage in certain instances, however not something that can be required. There is also the question of who would be responsible for the connection and other details that he would like the Attorney to give them an opinion on. In some instances it could be good for business and in others perhaps not.

Mr. Peck asked if they could comment on this now, as he would like to tear it apart a bit before it goes to the public.

Mr. Mulholland said that he would like an opinion from the Attorney first and then they could discuss it prior to anything going to the public. (Draft attached at end of Minutes)

4. Comments from Ex-Officio

Ms. Hardy said that prior to the Board of Selectmen meeting the previous evening there was a Public Safety Committee meeting. This Committee is comprised of 16 people from various sectors and while Zoning is not directly represented, they will be involved once sites are chosen. The current charge of this Committee is to look at all potential and existing sites with a minimum of two to three acres. She noted that some people with this size property have offered to sell to the Town. She said that she would keep Zoning apprised of the progress.

Ms. Hardy next said that they have looked into the potential for a noise ordinance as over the years, they have found it exceedingly difficult to enforce this. She said that the First Selectman would be sending them a request to ask if Zoning in its' permits would put in a clause on the hours of operation.

Mr. Nickerson asked if this came up because of parties, or is it construction?

Ms. Hardy said that it arose from a number of issues, some construction, some over-sized speakers that vibrate people off the beach with the decibel level and from people who have heavy duty power tools that they go out and use at 6 AM on Sundays. With construction, some is from rock crushers.

Mr. Mulholland said that they give permits for rock crushers that can be used for three months of the year and that he typically tells them when they can use them. He noted that this is part of the construction process of building roads. He offered his opinion that an ordinance regarding the hours during which building may take place might be appropriate.

Ms. Hardy also reported that the Board of Selectmen has been tossing around a tax relief program for the last six months for seniors who fall below a certain level. It has been difficult to get a handle on. This also requires a committee of five people who have no political connection. Once appointed they will have 60 days to come up with a program recommendation.

Lastly, Ms. Hardy reported that she was interested in Chairman Nickerson's comments this evening as she has spent the past week attending all of the land use commission meetings. This has highlighted to her, the tremendous amount of work that they are all trying to do to have the community be one that they want to live in. So, last night she requested that Mr. Fraser research for their Board what the legal requirements are for a moratorium. The sole reason for this is to give the commissions whom she feels are on the verge of exhaustion from the amount of work, as well as the Town Officials time to find out if they can have a six-month moratorium. She does not feel that this is a major hardship for developers and it would not effect currently approved applications. This is to give everyone some 'think' time, some 'work' time, some time to review the regulations to see if things are going in the direction that they want them to go. They also have the waterfront development committee, which is more work for the land use commissions – such as tunnels under the tracks, etc. She said that they do not have 'think' time so Mr. Fraser will report his findings from the Town Attorney at their first meeting in November. She said that she appreciated Mr. Nickerson's comments this evening as they are timely and they seem to be in agreement. She noted that they also talked about a joint meeting of the land use commissions.

Mr. Nickerson commented that he thought that things might be different once the Landmark application reached completion as it has gone on for months and has involved everyone.

Mr. Mulholland noted that legally a moratorium might not be the way to go however, they would see what the Attorney has to say.

Ms. Carabelas said that she thought that there was a blue law that said that nothing could be done before 8 AM and that there could no loud noise after 10 PM or something like that.

Mr. Mulholland said that there is not such law even though everyone has thought that there is.

5. Comments from Zoning Board liaison to Planning Commission

There were none.

6. Comments from Chairman

Mr. Nickerson said that he had some things that he would like Mr. Mulholland to look into also and read a statement into the record. (Attached at end of Minutes) He said that he would like to know if they could increase open space requirements in SU and SU-E developments. He would also like to know if in their regulations they could require that capital funds be obtained from new developers to pay for the expansion of the Water & Sewer system. Lastly, he will ask the First Selectman to see about having the Town's land use commissions get together for a joint meeting to explain and inform each of their respective duties, responsibilities, methods and functions. He asked Mr. Mulholland to get back to him at their next meeting with an opinion from the Town Attorney on these issues. He additionally noted that Zoning typically only sees commercial development and that only three to four percent (3-4%) of the land in Town is zoned for Commercial development. What they hear from people is about all the development in Town and that typically relates to residential.

7. Adjournment

****MOTION (4)**

Ms. Byrnes moved to adjourn this Regular Meeting of the East Lyme Zoning Commission at 9:46 PM.

Mr. Peck seconded the motion.

Vote: 6 – 0 – 0. Motion passed.

Respectfully submitted,

Karen Zmitruk,
Recording Secretary

INTEROFFICE MEMORANDUM - PLANNING DEPT.

DATE: 9/21/04
TO: W. MULHOLLAND, ZONING OFFICIAL
CC: M. GIANNATTASIO, PUBLIC WORKS DIRECTOR
FROM: M. PARULIS, PLANNING DIRECTOR *M. P.*
RE: INTER-LOT ACCESS BETWEEN COMMERCIAL PROPERTIES

Please find below a proposed amendment to address the need for requiring inter-lot access as properties are developed and re-developed, particularly along Rte. 161. The implementation of traffic access management techniques, such as those proposed, is specifically recommended in the Plan of Conservation and Development (Section 7 – p. 40).

Add to Sect. 24.6 B. DRIVEWAYS -

Driveways for commercial properties shall be designed to encourage opportunities for shared access points between adjoining properties. Entrances from the street shall be aligned where possible with terminating streets or with other parking lot entrances to reduce the number of cross-turning areas. Curb cuts shall be provided between adjoining lots to provide inter-lot access. Where the curb cut is intended to serve future development or re-development of the adjoining property, an easement ensuring the ability to make a future connection shall be required.

Sample only

Attachment - Zoning
Commission
Reg. Mtg. 10/7/04

Sample

P R E S S R E L E A S E

Contact: Mark C. Nickerson
Zoning Chairperson
Town of East Lyme
860-445-8200
Geicomman@aol.com

I am very concerned with the rapid growth in the Town of East Lyme. I am now renewing my focus on this Zoning Commission's responsibility to allow reasonable development that does not overly impact our infrastructures...ie: water, sewer, roads, etc.

I am recommending as Chairman to the Zoning Commission that we immediately review increasing open space requirements in SU and SU-E developments and the potential to increase lot sizes in RU-40, RU-80, and RU-120 zones.

I am directing town staff to return at our next regular meeting with recommendations to amend our regulations to accomplish these goals.

In a related matter, I would like to suggest that we work closely with the Water and Sewer Commission to require in our regulations the need for capital funds from new developers to pay for continued expansion to our valuable Water and Sewer capacity.

Lastly, I would like to move forward with the plan for the town's land use commissions and committees to come together for an informational meeting on goals, future plans, and the individual commissions' responsibilities, operational methods, and functions. This will serve to better educate all of us and better serve those that we are elected to serve. I will instruct the First Selectman to attempt to bring the Land Use groups together by year's end.

Attachment - Zoning Commission
Regular Meeting 10/7/04