

**EAST LYME ZONING COMMISSION  
REGULAR MEETING  
Thursday, SEPTEMBER 16th, 2004  
MINUTES**

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

ALSO PRESENT: William Dwyer, Alternate  
Reverend Randall Hyde, applicant  
Peter Springsteel, representing the applicant  
Jonathan Katz, applicant  
Attorney Theodore Harris, representing the applicant

FILED IN EAST LYME TOWN  
CLERK'S OFFICE

Sept 21 20 04 at 3:20 AM (PM)  
*Esther B Williams*  
EAST LYME TOWN CLERK

ABSENT: Pamela Byrnes, William Henderson, Alternate

**1. Call to Order**

Chairman Nickerson called the Regular Meeting of the Zoning Commission to order at 7:50 PM immediately following the previously scheduled Public Hearing.

**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 July 8, 2004 Public Hearing 1 & 2 and Regular Meeting; Minutes of August 5, 2004 Public Hearing I and Regular Meeting; Minutes of August 19, 2004 Public Hearing I and Special Meeting and Minutes of September 2, 2004 Public Hearing I and Regular Meeting.**

Mr. Nickerson suggested that they approve the Public Hearing and Regular Minutes in one motion for each meeting date if possible.

Mr. Nickerson called for any changes or corrections to the Public Hearing I & II or Regular Meeting Minutes of July 8, 2004.

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

Mr. Peck moved to accept the Zoning Commission Public Hearing I & II and Regular Meeting Minutes of July 8, 2004 as presented.

Mr. Salerno seconded the motion.

Vote: 4 - 0 - 2. Motion passed.

Abstained: Mr. Gada and Ms. Carabelas

Mr. Nickerson called for any changes or corrections to the Public Hearing I or Regular Meeting Minutes of August 5, 2004.

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

Mr. Peck moved to accept the Zoning Commission Public Hearing I and Regular Meeting Minutes of August 5, 2004 as presented.

Mr. Gada seconded the motion.

Vote: 6 - 0 - 0. Motion passed.

Mr. Nickerson called for any changes or corrections to the Public Hearing I or Special Meeting Minutes of August 19, 2004.

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

**Ms. Carabelas moved to accept the Zoning Commission Public Hearing I and Special Meeting Minutes of August 19, 2004 as presented.**

**Mr. Gada seconded the motion.**

**Vote: 4 – 0 – 2. Motion passed.**

**Abstained: Mr. Peck and Mr. Salerno**

Mr. Nickerson called for any changes or corrections to the Public Hearing I or Regular Meeting Minutes of September 2, 2004.

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

**Mr. Peck moved to accept the Zoning Commission Public Hearing I and Regular Meeting Minutes of September 2, 2004 as presented.**

**Ms. Carabelas seconded the motion.**

**Vote: 5 – 0 – 1. Motion passed.**

**Abstained: Mr. Salerno**

**3. Application of Reverend Randall Hyde and Harvest Christian Fellowship Church to operate a Church at 5 Freedom Way, Niantic, Connecticut.**

Mr. Peck recused himself from this discussion.

Mr. Nickerson seated Mr. Dwyer, Alternate for this discussion.

Mr. Nickerson said that it was nice to see businesses grow and be able to move and stay in this Town. The only negative here is the parking and he thinks that the applicant who has said that he would add other hours of service has resolved this. He also said that he thinks that if the membership grew that much that they would run out of space inside before they ran out of parking outside.

Mr. Dwyer said that he is not against religion, but – this is an industrial area and this is a Church and they do not pay taxes.

Mr. Nickerson said that no matter where a Church is, they do not pay taxes.

Ms. Carabelas said that they are only renting space for the Church and that the owner of the building still has to pay taxes on the building.

Mr. Dwyer said that they are using industrial space for non-industrial purposes.

Mr. Nickerson said that there are a number of businesses up there that are non-industrial and cited a fitness center, an insurance agency, daycare and another church as examples.

Ms. Carabelas said that she feels that this is an appropriate place and would like to make a motion.

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

**Ms. Carabelas moved to approve the application of Reverend Randall Hyde and Harvest Christian Fellowship Church to operate a Church at 5 Freedom Way, Niantic, Connecticut.**

**Mr. Salerno seconded the motion.**

**Vote: 6 - 0 – 0. Motion passed.**

Note: Mr. Peck returned to the table and Mr. Dwyer, Alternate returned to the audience.

**4. Application of Peter J. Springsteel for a Coastal Site Plan review to partially demolish and reconstruct and enlarge an existing single family dwelling.**

Mr. Nickerson called for the applicant or their representative to present this to them.

Peter Springsteel of 105 Starr Street, Mystic, CT said that he is the Architect for Peter & Rosalind Shoemaker who are the owners of the property located at 307 Giants Neck Road in Niantic, CT. He explained that Giants Neck Beach has their own private Zoning and that they have gone through them and been approved. They have come to the Town Zoning as it is necessary for them to do a CAM review even though they are in an independent zoning area. He walked them through the CAM review that he had prepared and submitted for this application. He noted that the property is .214095 acres or 9,326-sq. ft. and

is waterfront property. The Giants Neck Beach Association borders them on one side. This provides the members with access to the beach. He noted that a portion of the existing non-conforming structure will remain at the north end of the site and the existing two-story portion of the structure will remain at the south end of the site. A new two-story addition will be constructed to attach the north and south ends of the existing structure. A new full height foundation will replace the existing crawl space foundations under the main two-story structure. The total lot coverage of the proposed and existing structures is 30% or 2,797-sq. ft. including the garage and miscellaneous porches. Municipal water and sewer serves the area. A new stone and paver driveway will replace the existing blacktop driveway to minimize run-off. Gutter and downspout systems will direct rainwater to the lawn areas. As they are not in a flood zone, the flood regulations do not apply for this project. All excavated materials will be taken off site immediately as the site area is tight. He said that he would answer any questions they might have.

Ms. Carabelas asked who approves this.

Mr. Springsteel said that Giants Neck Zoning approved the application while they approve the CAM. The Zoning Officer, Mr. Mulholland would come out during the job and make sure that everything is in order. He also would have sent copies of this CAM report to the DEP. Had there been issues of concern to them, they would have heard from the DEP on this.

Mr. Nickerson asked if the building is going to be any closer to the water.

Mr. Springsteel said no.

Mr. Nickerson asked how high the seawall is.

Mr. Springsteel said that it is about 5' tall and that it separates the flood A zone from the B zone.

Mr. Nickerson said that a concern would be the excavation as it is going to be a significant amount at 250 cubic yards. Would they be storing any of it on the property as this could create a run-off problem.

Mr. Springsteel said no as there is no room. It has to be put in a truck and moved off-site immediately.

Mr. Salerno asked if there is enough room for trucks on the property.

Mr. Springsteel said yes, for one at a time.

Mr. Salerno asked if there would be a silt fence around the area.

Mr. Springsteel said yes.

Mr. Nickerson noted that he has a memo from Mr. Mulholland indicating that he has reviewed this CAM report and concludes that it meets all reasonable methods to mitigate any mishaps.

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

**Mr. Salerno moved to approve the CAM report of Peter J. Springsteel to partially demolish, reconstruct and enlarge an existing single family dwelling on the property owned by Peter & Rosalind Shoemaker located at 307 Giants Neck Road, Niantic, CT, finding that it meets all reasonable methods to mitigate any potential mishaps.**

**Ms. Carabelas seconded the motion.**

**Vote: 6 – 0 – 0. Motion passed.**

#### **5. Application of Theodore Harris to amend Section 12 of the Zoning Regulations to permit accessory residential use for golf courses.**

Mr. Nickerson took a few minutes for the Commission to review the minutes of the Public Hearing to refresh them regarding this application prior to discussion. He also noted that they would need four for a vote.

Ms. Carabelas said that she would abstain from voting, as she was not present for the public hearing. She added that she would also abstain from the discussion.

Mr. McLaughlin asked what the definition of a regulation golf course was as he said that they were going to get that information.

Mr. Nickerson said that a Regulation 18-hole golf course is one of not less than 5000 yards in length. This would take out small executive or putt-putt courses.

Mr. Peck commented that he had a note that the 200 acres could be changed to 250 acres if they wanted this. He said that he thought it was a good change.

Mr. Nickerson said that he also thought that 250 acres would be the right way to go.

Mr. Peck said that he had a question about accessory use and how it would be built and what comes first. He suggested that they might want to require construction of both at the same time.

Mr. Nickerson noted that there is a statement on Page three of the minutes where it states: 'Mr. Mulholland said that it should be viewed that the primary use would have to be built first, outside of the 70 units (SU-E), before any other can be built. They would have to have the golf course, as there can be no 'accessory' without it.'

Mr. Peck said that in light of that, he did not think that the wording had to be changed as it states residential as the accessory use to the golf course. He added that he thinks that this is something good for the Town.

Mr. Nickerson concurred that nothing could be built without the golf course and added that there is probably no way that they would see this remaining as woods forever and this would be great for the Town to have a regulation 18-hole golf course.

Mr. Salerno said that the density calculation is based on 85% and asked for feedback on having it be 85% or removing the wetlands and steep slopes, which in this case would bring it to 78%.

Mr. Peck said that they have to keep in mind too that this 85% is a 15% gift – it has never been done in our regulations before – and it is a gift. He noted that this is also by special permit.

Mr. Nickerson said that he understands the concern however he thinks that there is enough protection with the golf course as it requires a lot of acres and could incorporate some pond or lake areas as part of the golf course. A golf course needs a lot of water and he said that he thinks that overall it would create a burden to do it that way. He asked for other opinions.

Mr. Peck said that they are dealing with a non-site specific regulation here and he questions how they can use this specific piece of property here. The Town does not have a regulation golf course and he would like to see one built in this Town. He said that he would like to encourage this project so they can have one as it has been worked on for years now. The 85% is a 15% gift as it is.

#### **\*\*MOTION (7)**

Mr. Peck moved to approve the application of Theodore A. Harris to amend Section 12 of the Zoning Regulations to permit accessory residential use for golf courses with the following changes: 1. Add new Section 12.1.4A: With respect to a golf course change to read: regulation 18-hole golf course of not less than 5000 yards in length, only, approved under Section 12.1.1A of the Zoning Regulations, a residential accessory use, by Special Permit, subject to the standards as outlined in Section 25.5. and change under III. Section 25.5 Add a new item to Section 25.5 as follows: Residential accessory use (golf course SU) - 1. Such use shall only be available on a parcel of not less than two hundred and fifty (250) acres. (changed from 200 acres).

Mr. McLaughlin seconded the motion.

Mr. Salerno said that they have seen three applications like this before them and he thinks that this is pretty site specific and is the most reasonable. The Town needs a golf course and they have given quite a bit here.

Mr. Nickerson said that this is a regulation change and not site specific however, he feels that the market will be protected as it has its own set of limitations on how many could be built. He is also glad that they are not seeing another subdivision going in there.

**Vote: 5 – 0 – 1. Motion passed.**

**Abstained: Ms. Carabelas**

Mr. Peck noted that this should be effective for Friday, September 24, 2004.

#### **Old Business**

##### **1. Stormwater**

This work is in progress.

##### **2. Aquifer Protection**

This work is in progress.

#### **New Business**

- 1. Application of Ralph and Rosemarie Whiting for a Special Permit and a change of zone to construct an elderly housing development on property identified as 40 Roxbury Road, Niantic, Connecticut.**

Mr. Nickerson asked that the record show that he is requesting that Mr. Mulholland schedule this for public hearing in October or as soon as possible.

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

There was none.

**3. Zoning Official**

Mr. Mulholland was not present to comment.

**4. Comments from Ex-Officio**

Ms. Hardy was not present to report.

**5. Comments from Zoning Board liaison to Planning Commission**

Mr. Nickerson said that he would see if he could attend the September 21, 2004 meeting of the Planning Commission.

**6. Comments from Chairman**

Mr. Nickerson thanked everyone regarding Oswegatchie Hills and the recent news and noted that their bylaws state that the Chairman is the only person who should be talking to the press.

Mr. Peck noted that he and Ms. Byrnes were on a subcommittee to look into a neighborhood business zone. He reported that they have met three times and looked over all of the streets in the Town and are working on a draft of recommendations that this Commission would be looking at.

Mr. Nickerson said that was great and added that he also knows that Mr. Mulholland has been speaking with the Main Street folks regarding a separate district for the Main Street area.

Mr. Nickerson also reported that Mr. Mulholland has been trying to get out to the businesses to have them clean up the signboards. If all of the businesses do this, they all would look so much better. He asked that if they have any suggestions regarding this to let Mr. Mulholland know.

**7. Adjournment**

**\*\*MOTION (8)**

**Mr. Gada moved to adjourn this Regular Meeting of the East Lyme Zoning Commission at 8:55 PM.**

**Mr. McLaughlin seconded the motion.**

**Vote: 6 – 0 – 0. Motion passed.**

Respectfully submitted,

Karen Zmitruk,  
Recording Secretary

**PROPOSED ADDITION TO SECTION 12 OF THE ZONING REGULATIONS**

I. Add new Section 12.1.4A: With respect to a golf course, only, approved under Section 12.1.1A of the Zoning Regulations, a residential accessory use, by Special Permit, subject to the standards as outlined in Section 25.5. *regulate hole of not less than 5000 yds. in length*

II. Modify Section 12.3.2 as follows, (add bold face item)

For multi-family and **golf course residential accessory** use development, the following plans and information shall be included in addition to the information required to be submitted under Section 25..."

III. Section 25.5. Add a new item to Section 25.5 as follows:

Residential accessory use (golf course SU)

1. Such use shall only be available on a parcel of not less than two hundred (200) acres. *and fifty 250 ✓*
2. Not less than forty (40) percent of the overall area thereof, shall be devoted to such open space or golf course use.
3. Single family, duplex and/or triplex units, only, shall be allowed under a common interest form of ownership.
4. Density: The average number of dwelling units per acre within the Community shall not exceed that which would be allowable based upon the minimum lot size of the underlying residential zone. This density calculation shall be based on eighty-five (85%) percent of the gross land area of the parcel.
5. Grouping: The shortest distance between any two structures shall be not less than the height of the taller structure, with a minimum of 24 feet. Courts shall be completely open on one side. Maximum heights of any building in the development shall be two stories, but such height shall not in any event exceed 30 feet. The Commission may waive the separation requirement if design of the proposed development is benefitted by closer spacing.
6. Buffer area: There shall be provided a landscaped side or rear yard buffer area of at least 100 feet in width adjacent to each property line of the parcel to be developed. All buffer areas shall be planted or preserved in a natural state in a mixture of evergreen and deciduous trees and shrubs and shall be maintained in proper order so as to protect adjacent properties and present a reasonably opaque, natural barrier to a height of ten feet. If, in the opinion of the Zoning Commission, the individual topographical and natural qualities of the site should suggest that this buffer region is not appropriate, the Commission reserves the right to alter the buffer requirements by vote of three-fourths of all the members of the Commission. This buffer may not be increased to more than double nor decreased to less than half of the requirements herein.

7. Use Restrictions: Not less than fifty (50%) percent of the residential units (each portion of a duplex or triplex being a residential unit) shall be occupied by senior citizens, age fifty-five (55) or older as follows:

- a. At least one person who is at least fifty-five (55) years of age or older.
- b. Occupant pursuant to (a) who survives; and
- c. Occupant pursuant to (a) above who is co-occupant has ended into a long term continuing care facility.
- d. In (b) and (c) above remaining occupants remarries or co-habitates must meet all occupant requirements.
- e. For the purpose of such calculation, age restricted units contained on the same parcel as part of an SUE Zone shall be included.

8. Access Streets and Sidewalks: The placement, size, arrangement and use of access routes to public or private streets shall be adequate to serve residents and provide no hindrance to the safety of existing or proposed streets. The Commission may require the sidewalks and/or walking trails to be constructed in portions of the Community where the nature of contemplated activities indicates that there will be significant amounts of pedestrian traffic. Where it is anticipated that children will be waiting for a school bus in or near a public highway, sufficient area shall be reserved and/or shelter provided. In developments in excess of fifty (50) units, at least two points of access shall be provided to a public highway, provided however that in the event the topography or location of frontage of the property makes such impracticable or impossible, the Commission may waive the requirement of two entrances upon the showing that one entrance is sufficient to maintain the public health and safety of the residents, including consideration of emergency access.

9. Internal Roadways: The main access road shall be no less than twenty-four (24) feet in width and interior roadways shall be no less than twenty (20) feet in width. Provided however, the Commission may require roadways in portions of the community to be in excess of the required width where higher traffic levels, or visits from the general public in conjunction with recreational activities may be expected. The Commission may also require that such roads be constructed to one or more of the standards contained in the East Lyme Subdivision Regulations for geometry, surfacing, lighting and drainage. In areas of twenty (20) foot roadways, parking on the street shall be prohibited by adequate signage.

10. Utilities: No such development shall be approved unless the Commission is given clear satisfactory evidence of the means of providing water supply, has public sewer, or is suitable for approval by the Department of Health and/or Department of Environmental Protection for on-site septic systems. This provision shall not require a permit from such agencies prior to such approval; but only sufficient evidence that the site is capable of supporting such approval.

11. No such development may be constructed on a parcel if any portion of it lies within 2000

feet of a the coastal boundary as defined by Section 22a-94 of the Connecticut General Statutes and as delineated in the coastal boundary map for the Town of East Lyme.