

EAST LYME ZONING COMMISSION  
REGULAR MEETING  
Thursday, September 4th, 2003  
MINUTES

FILED IN EAST LYME TOWN  
CLERK'S OFFICE

Sept 8 20 03 at 3 00 AM  
PM

PRESENT: Robert Bulmer, Acting Chairman, Shawn McLaughlin,  
Ed Gada, Norman Peck, William Dwyer, Alternate,  
Marc Salerno, Alternate and Acting Secretary

Esther B. Williams  
EAST LYME TOWN CLERK

ALSO PRESENT: William Mulholland, Zoning Official  
Andrew Manter, Alternate  
Rose Ann Hardy, Ex-Officio, Board of Selectmen  
Attorney Theodore Harris, representing L & L Real Estate Holdings  
Tim Mahoney, representing Stop & Shop  
Bob Landino, President BL Companies  
Joanne Schonfeld, BL Companies  
Alan Rice, BL Companies  
Attorney Tom Cody, representing Stop & Shop

ABSENT: Mark Nickerson, Chairman, David Chamberlain

**1. Call to Order**

Acting Chairman Bulmer called the Regular Meeting of the Zoning Commission to order at 8:03 PM immediately following the previously scheduled public hearing.

**Public Delegations**

Mr. Bulmer called for anyone from the public who wished to address the Commission on subject matters not on the Agenda.

Joe Kwasniewski, 67 Walnut Hill Road, East Lyme asked the Zoning Commission to slow the progress down in East Lyme. He said that there is some land left and asked that they do not use it on buildings as he thinks that our Town is big enough now and the taxes are high enough. It would be different if our taxes went down when the land was developed but they don't – they just keep going up rather than down. He asked them to give this a lot of thought.

**2. Accept Minutes of July 10<sup>th</sup>, 2003 and August 7<sup>th</sup>, 2003 – Public Hearings and Regular Meetings.**

Mr. Peck asked that they move the public hearings separately, as he needs to abstain from some of them.

Mr. Bulmer called for any corrections or discussion on the Zoning Commission Public Hearing I Minutes of July 10, 2003.

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

**Mr. Salerno moved to accept the Zoning Commission Public Hearing I Minutes of July 10, 2003 as presented.**

**Mr. Dwyer seconded the motion.**

**Vote: 3 – 0 – 3. Motion passed.**

**For: Mr. Salerno, Mr. Dwyer, Mr. McLaughlin**

**Abstained: Mr. Peck, Mr. Gada, Mr. Bulmer**

Mr. Bulmer called for any corrections or discussion on the Zoning Commission Public Hearing II Minutes of July 10, 2003.

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

**Mr. Dwyer moved to accept the Zoning Commission Public Hearing II Minutes of July 10, 2003 as presented.**

**Mr. Salerno seconded the motion.**

**Vote: 3 – 0 – 3. Motion passed.**

**For: Mr. Salerno, Mr. Dwyer, Mr. McLaughlin**

**Abstained: Mr. Peck, Mr. Gada, Mr. Bulmer**

Mr. Bulmer called for any corrections or discussion on the Zoning Commission Public Hearing III Minutes of July 10, 2003.

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

**Mr. Dwyer moved to accept the Zoning Commission Public Hearing III Minutes of July 10, 2003 as presented.**

**Mr. Salerno seconded the motion.**

**Vote: 4 – 0 – 2. Motion passed.**

**For: Mr. Salerno, Mr. Dwyer, Mr. McLaughlin, Mr. Peck**

**Abstained: Mr. Gada, Mr. Bulmer**

Mr. Bulmer called for any corrections or discussion on the Zoning Commission Regular Meeting Minutes of July 10, 2003.

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

**Mr. Salerno moved to accept the Zoning Commission Regular Meeting Minutes of July 10, 2003 as presented.**

**Mr. Dwyer seconded the motion.**

**Vote: 4 – 0 – 2. Motion passed.**

**For: Mr. Salerno, Mr. Dwyer, Mr. McLaughlin, Mr. Peck**

**Abstained: Mr. Gada, Mr. Bulmer**

Mr. Bulmer called for any corrections or discussion on the Zoning Commission Public Hearing I Minutes of August 7, 2003.

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

**Mr. Gada moved to accept the Zoning Commission Public Hearing I Minutes of August 7, 2003 as presented.**

**Mr. Dwyer seconded the motion.**

**Vote: 4 – 0 – 2. Motion passed.**

**For: Mr. Bulmer, Mr. Gada, Mr. Dwyer, Mr. McLaughlin**

**Abstained: Mr. Salerno, Mr. Peck**

Mr. Bulmer called for any corrections or discussion on the Zoning Commission Public Hearing II Minutes of August 7, 2003.

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

**Mr. Dwyer moved to accept the Zoning Commission Public Hearing II Minutes of August 7, 2003 as presented.**

**Mr. Gada seconded the motion.**

**Vote: 4 – 0 – 2. Motion passed.**

**For: Mr. Bulmer, Mr. Gada, Mr. Dwyer, Mr. McLaughlin**

**Abstained: Mr. Salerno, Mr. Peck**

Mr. Bulmer called for any corrections or discussion on the Zoning Commission Regular Meeting Minutes of August 7, 2003.

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

**Mr. Gada moved to accept the Zoning Commission Regular Meeting Minutes of August 7, 2003 as presented.**

**Mr. Dwyer seconded the motion.**

**Vote: 4 – 0 – 2. Motion passed.**

**For: Mr. Bulmer, Mr. Gada, Mr. Dwyer, Mr. McLaughlin**

**Abstained: Mr. Salerno, Mr. Peck**

**3. Application of Theodore A. Harris to amend Section 25.5 (Multi-family SU-11) of the East Lyme Zoning Regulations**

Mr. Bulmer noted that they had just continued this public hearing until September 18, 2003 at 7:30 PM.

**4. Request of L & L Real Estate Holdings, LLC to modify the approved site plan for a Retail Shopping Center at 236, 244 and 248 Flanders Road, East Lyme, Connecticut**

Mr. Bulmer asked Mr. Salerno to read the correspondence into the record.

Mr. Salerno read into the record:

1. Letter from Attorney Harris to William Mulholland dated August 6, 2003 requesting Commission review of a revised L & L Real Estate Holdings, LLC site plan.
2. Letter from William Mulholland, Zoning Official to the Zoning Commission dated August 7, 2003 – Re: L&L Real Estate Holdings LLC Property at 236, 244 & 248 Flanders Road noting that the site modifications technically adhere to the applicable zoning regulations.
3. Letter from Mike Giannattasio, P.E. Town of East Lyme to William Mulholland dated September 4, 2003 regarding review of Proposed Retail Development, Flanders Road (U.S. Route 161) and Industrial Park Road, Town of East Lyme, Connecticut, prepared for L & L Real Estate Holding, LLC, Dated May 6, 2003, Revised through 9/02/02 – noting comments and issues that have been addressed on the plans or verbally agreed to by the project engineer.

Mr. Bulmer noted that it would be expeditious to have the team cover the changes as they did have site plan approval a month or so ago with the provision that any major changes be re-approved by this Commission. It would help to know the previous and the new site plans and the difference between them so that it would be easy to understand.

Attorney Harris said that the existing original site plan approval was a year ago. It was then modified on June 3, 2003 and this Commission approved those modifications. Tonight they are here to modify the front of the building, which necessitates outside changes. A year ago there were lengthy Conservation hearings. In June of this year they appeared before this Commission with drainage issues as it was important to get approval quickly while the changes agreed upon were fresh. Conservation and this Commission approved this. He is happy to note that the settlement was approved by the Court and is now a thing of the past. With these current modifications, Stop & Shop tries to be responsive to its' market and public and has made updates accordingly. Tim Mahoney of Stop & Shop will explain the evolutionary process and architectural changes and Bob Landino of BL Companies will explain the technical aspects.

Tim Mahoney of Stop & Shop Company said that he would review the architectural changes. The reason for these changes to the elevations and the plans and why they were not ready a year ago is because when they started they felt that they had a state of the art building for this area. In the meantime through surveys of customers they have come up with what they consider the supermarket of the future and this is what they want to build in East Lyme. Stop & Shop with over 350 stores is a little over 80 years old as a company. They are the largest supermarket chain in the Northeast and probably the finest supermarket operator in the United States. They pioneered the first 'Superstore' concept in 1977. Their success is due to their attention to detail and they constantly change their stores to meet the needs of the customers. This store is designed for today and the future. It took five years and a very expensive process to design this store. East Lyme has a mixed population and is a growing community of active elderly, summer residents, visitors and regulars.

The changes are: (Mr. Mahoney held up color shots of the interior design of the store areas mentioned)

- ◆ the bathrooms will be in the front of the store rather than in the back in a storage area
- ◆ there will be a small lounge, sitting area for people waiting for pharmacy items
- ◆ the carts will be inside the store
- ◆ the bank, pharmacy and bakery will move closer to the front of the store
- ◆ the aisles will be wider
- ◆ there will be 40 skylights for natural light and track lighting for gray days and evenings
- ◆ there will be a vaulted ceiling with skylights over the Produce area (inside the main entrance)
- ◆ there will be flooring differences for different areas such as Pergo and ceramic tile

These changes are the result of many surveys of customers over a long time. The front doors were an issue with customers who said that they found them hard to locate when coming from the front. They took the doors for the two entrances here and oriented them towards the parking lot rather than to the side. The primary door will take you into the Produce area. The floral area is also an atrium with an outside area. There is also an outside canopy for people to walk under. These changes give the front of the building recesses and protrusions that make it more interesting than the original straight-line approach. They have used classical design with columns and cornices and brick, copper and a canopy across the front. They also felt that it was important to change the sign at the street. Instead of a tall sign they will make a stone monument sign that is 3' – 4' high and have plantings of 1' – 6' high around it. These plantings will be natural grasses and perennials suited for this area. The stone fence sign connects to a wooden fence until it turns the corner. There is also a sidewalk and more plantings – they hope it will be similar to the beauty that you see at Clauson's Nursery. The fencing and landscaping also serve other purposes. They will hide the parking lot and cars and act as a buffer. There will also be trees along the front that will mature in 15-20 years. He summed up that this is the state of the art Stop & Shop for the future. He then turned the presentation over to Bob Landino of BL Companies.

Bob Landino, President, BL Companies, Meriden, CT said that Mr. Mahoney did a beautiful job describing the store operations and also incorporated the design details. He will talk about the specifics of the changes mentioned.

On June 3, 2003, this plan was approved, the current plan has the following differences:

- ◆ The new building front has increased by 13' to 20'. There is both vertical and horizontal articulation. This was done for a softer appearance and it appears to have less mass than the previous straight-line design.
- ◆ The drive on Industrial Park Road has been shifted 20' to accommodate the first change. This makes for safe passage of traffic by aligning with the main aisle to the shopping center.
- ◆ The total parking has decreased by seven (7) spaces however this still meets the Zoning Regulations.
- ◆ The impervious surface area has decreased by 1870 sq. ft.
- ◆ The restaurant component to the rest of retail has decreased by 500 sq. ft. The rest has basically stayed the same.
- ◆ During the review by the engineers, the suggestions and modifications that they made have been made a part of this revised set of plans.
- ◆ As a Gateway to the Town they felt it important to add plantings and trees to the street frontage to soften the appearance from the street and by pedestrians. The initial tree canopy will soften the appearance.
- ◆ The architecture itself – Stop & Shop has a constant commitment to change and improvement. Their goal is to always improve their customer service and the ease of shopping at their stores for all their customers.

Mr. Landino then passed out an 11" x 17" color rendition of the proposed Stop & Shop to the Commission and said that he would answer any questions that they might have.

Mr. Peck asked about what the type of trees were that were indicated on a plan that showed them as dark green.

Joanne Schonfeld, Landscape Architect with BL Companies said that the trees identified on the design are evergreen trees. They would be black pine and white pine and would be originally installed at a planting height of 6' to 8'.

Mr. Landino added that they are the same trees as what was originally approved and they have not been changed.

Mr. Mulholland noted for the record that they are what was approved originally and have not changed.

Mr. Bulmer asked about the type of trees along the street.

Ms. Schonfeld said that they would be red oaks. They would also be planted along Industrial Park Road.

Mr. Bulmer asked if there was any thought to evergreens as the oaks would lose their leaves.

Ms. Schonfeld said that red oaks are normally street trees. They will be initially planted at about a 4" diameter or a height of 12'.

Mr. Bulmer asked about the parking lot trees.

Ms. Schonfeld said that they are lindens as they are adaptable to the harsh environment and pavement areas.

Mr. Bulmer asked if they give off sap.

Ms. Schonfeld said no.

Mr. Gada asked if they bump out the front of the market several feet, what does this add up to.

Mr. Landino said that it is 13' – 20' from the original building.

Mr. Mulholland added that the rear of the building has not changed at all and the parking has been modified.

Mr. Gada asked about the bumping out (the red line area on the plan) and how many sq. ft. has been reduced from the restaurant and retail areas.

Mr. Landino said that the total building is 5-sq. ft. less than previously approved. If you add the restaurant, retail and the Stop & Shop Supermarket it is 5-sq. ft. less than originally approved. The mezzanine is for the employees and not for the customers but they are required to include it as part of the total square footage calculations.

Mr. Salerno asked to see a picture of the trees when planted versus their size at maturity.

Mr. Landino showed the Commission a picture of the original versus a 12-15 year old mature tree. He noted that they do not want to over-plant so that they would not be over crowding when they matured.

Mr. Bulmer asked what a typical height would be at the road area.

Ms. Schonfeld said that at maturity they would be around 30'.

Mr. Landino noted that the benefit may be better at the lower level when they are newly planted as the canopy will rise as the trees mature.

Mr. Bulmer asked what the maintenance procedure was in case some of them died.

Mario DiLoreto, principal of L & L Real Estate Holdings LLC said that they have a program in place. Typically the first year is the worst and if any of the trees die they will be replaced.

Mr. Mulholland noted that typically for any developer/development within this community – they are required to replace them if they fail in the first year.

Mr. Salerno asked if the trees in the back were staggered as they had requested them to be so that they would not look like a wall.

Mr. Landino said yes, they were staggered.

Mr. Salerno asked if they were getting the turning lanes on the road.

Mr. Landino replied yes, as required by the DOT. Flanders Road is a State Road and it is their decision. They go through a whole review process.

Mr. Mulholland asked where they stood on this at present.

Mr. Landino said that they have previous application approval and will get other approval for these modifications but the DOT won't look at this until it is approved here first.

Mr. Salerno asked if this would generate more Industrial Park Road traffic to the Middle School.

Mr. Mulholland said that, that is not a road and regardless of the people treating it as such, the Town does not recognize it as a Town road and it is not to be anticipated as such by them or anyone.

Mr. Peck asked if they would have a third lane for turning.

Mr. Landino replied yes.

Mr. Bulmer asked if they would be lighting up certain portions of the building itself at night.

Mr. Landino said no, any lighting would only be pointing downward. Site lighting in the parking area would also be pointing downward.

Mr. Mulholland said that they would have a light in the back of the building for the loading zone area.

Mr. Landino said yes, for security for the loading zone area and that it is also only pointing downward.

Mr. Bulmer commented that in the old façade versus the new façade that he likes the old better, as he doesn't care for the flat roof.

Mr. Landino said that both facades have a flat roof. Stop & Shop feels that this design is important to their future. He feels that both are attractive however the new design breaks up the front better and adds interest.

Mr. Bulmer said that the original had an overhang to walk under out of the rain. He asked how wide it was.

Mr. Mulholland said that he believed that there was one for the length of the building.

Mr. Mahoney and Mr. Landino said that the old building design has no overhang in front of the Stop & Shop but only in the shopping area. The new design has canopies over both doors and to the retail stores.

Alan Rice, BL Companies said that the projected canopy extends from 10' – 12' and is from 8' – 10' over the entrances. The original design was for canopies of approximately 10' – 12'.

Mr. Bulmer noted that they would need a note on the new drawings that states that they had to submit a new site plan for approval and that this represents it.

Mr. Mahoney said that he would prepare the note and run it by Mr. Mulholland.

Mr. Mulholland noted that there is a revision date at the bottom of the set of plans but that a note could be added as well.

Mr. Bulmer thanked all of them for their presentation and asked that the Commission now proceed with their discussion and a vote on this. He reminded them that they are approving the site plan only because it is over 20,000-sq. ft. as they have always had the right to build a store here.

Mr. Dwyer said that he likes the new building design.

Mr. Gada said that he also likes the new building design and the re-allocation of space.

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

**Mr. Salemo moved to approve the request of L & L Real Estate Holdings, LLC to modify the approved site plan for a Retail Shopping Center at 236, 244 and 248 Flanders Road, East Lyme, Connecticut with the condition that any future changes to the site plan shall be brought back to the Zoning Commission for approval.**

**Mr. Gada seconded the motion.**

Mr. Peck said that as far as changes go that he would trust Mr. Mulholland to handle the small changes.

Mr. Bulmer said that he thinks that this has been done right along and only the larger changes come to them.

Mr. Mulholland said that the minor changes would continue to be handled as in the past – small changes (minor details) are handled outside the scope of a meeting.

Mr. Bulmer asked Mr. Salerno and Mr. Gada if they would rescind their motion and second and re-state it for major changes at the discretion of the Zoning Official.

**Mr. Salemo rescinded his motion and Mr. Gada rescinded his second.**

**\*\*MOTION (9)**

**Mr. Salemo moved to approve the request of L & L Real Estate Holdings, LLC to modify the approved site plan for a Retail Shopping Center at 236, 244 and 248 Flanders Road, East Lyme, Connecticut with a note that any major changes to the site plan as determined by the Zoning Official, be brought back in front of the Zoning Commission for approval.**

**Mr. Gada seconded the motion.**

**Vote: 6 – 0 – 0. Motion passed.**

**5. East Lyme Zoning Commission proposal to Amend Section 11A Gateway Planned Development District Regulations.**

Mr. Bulmer said that they have quite a history of discussion on this matter. Through all of this discussion and 'tweaking' he thinks that they have moved farther and farther away from the point of this good document. He also senses that this group of people would like to leave it as it is as it is a case of 'if it is not broke – then don't fix it'. If this is so, then the way out of this is that they can make a motion to withdraw the proposal, as they were the 'Applicant' or the originator who put it in motion.

Mr. McLaughlin asked if they would need to vote on a withdrawal.

Mr. Bulmer said yes as they collectively are the applicants.

Mr. Salerno said that he thinks that this is a good idea.

**\*\*MOTION (10)**

**Mr. Salemo moved to withdraw the East Lyme Zoning Commission proposal to amend Section 11A Gateway Planned Development District Regulations.**

**Mr. Dwyer seconded the motion.**

Mr. Peck said that the public needs to hear that they have spoken on this subject – they have spoken in opposition to the proposal at the public hearings. They have spoken against big box retail especially in the last couple of months on the street, in editorials and at hearings. It is for this reason that this proposal has been withdrawn.

Mr. Dwyer said that the proposal was in favor of big box and the whole Yale Charrette concept was against it. Many people were involved with the Yale Charrette and then the Gateway Planned Development regulations.

Mr. Bulmer said that the Plan of Development is a fine document that can be revisited at any time. Should things change in the future, they have the right to revisit any of their regulations.

Mr. Salerno said that they did not seem to have a solid base of where they wanted to go so he agrees with this at this time.

Mr. Gada commented that not only are they here to listen to people but they are also to serve and protect them. He feels that they have spoken.

Mr. McLaughlin said that the Gateway proposal as it was written has only been out a short time so they should wait and see what happens in the future and they can revisit it if they need to.

**Vote: 6 – 0 – 0. Motion passed.**

## **OLD BUSINESS**

Mr. Bulmer noted that there was none and that the Herb Chambers Application belongs under New Business.

## **NEW BUSINESS**

### **1. Application of the Herb Chambers Companies for a Special Permit for a second free standing sign at property known as 51 Boston Post Road, assessor Map 36.0, Lot 61.**

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

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

There was none.

### **3. Zoning Official**

Mr. Mulholland had nothing further to report.

### **4. Comments from Ex-Officio.**

Ms. Hardy reported that the Board of Selectmen acted the previous evening to create a Charter Revision Commission comprised of 11 members. Tuesday, September 23, 2003 is their first meeting. They will be discussing 10 items. One item of discussion will be the combining of the Planning and Zoning Commissions. They will be notified of when this will be discussed, as they will be able to give their input to the people on the Commission regarding this.

Mr. Bulmer asked if the people on this Commission have to be people who are not already on Boards and Commissions.

Ms. Hardy said that there is a Statutory rule that 3.3 people can be on Boards/Commissions. They have exercised this by having three (3) people from Boards – she is on this Commission as well as Dan Price from the Board of Selectmen and Paul Formica from the Board of Finance. They cannot vote. The remaining eight (8) are non-elected citizens and they can vote.

### **5. Comments from Zoning Board Liaison to Planning Commission**

There were no comments. Mr. Bulmer asked that they list on the agenda, the Commission member who is supposed to attend.

### **6. Liaison to Planning Commission**

There was no one present to comment.

Mr. Gada noted that he had a sidewalk conversation with a Planning Commission member who told him that they are unhappy that they are invited to the Zoning meetings but they are not allowed to speak at them.

Mr. Bulmer said that this is true and that it was not meant to upset anyone. It is a ruling that came directly from Town Counsel stating that it is clearly mandated by State Statute that they cannot speak at another land use Commission meeting.

Mr. Mulholland said that this holds true for Zoning, Planning and the Zoning Board of Appeals. The purpose of attending is to be able to hear what is presented regarding a referral they replied to. They can report back to their Commission what happened at the meeting.

Ms. Hardy said that there is a memo on file regarding this ruling by Town Counsel. She suggested that perhaps it should be resurrected and sent to the land use Chairpersons.

Mr. Bulmer said that was a good point and that it should be done. He added that it is one thing to read the minutes – being there you are able to see the body language and expressions.

**7. Comments from Chairman**

Mr. Bulmer thanked everyone and said that he had no further comments.

**8. Adjournment**

**\*\*MOTION (11)**

**Mr. McLaughlin moved to adjourn this Regular Meeting of the East Lyme Zoning Commission at 9:42 PM.**

**Mr. Gada seconded the motion.**

**Vote: 6 – 0 – 0. Motion passed.**

Respectfully submitted,

Karen Zmitruk,  
Recording Secretary