

**EAST LYME ZONING COMMISSION**

FILED IN EAST LYME TOWN  
CLERK'S OFFICE

**PUBLIC HEARING I**

**August 2, 2001**

**MINUTES**

August 9 20 01 at 12:05 AM  
PM

*Esther B. Williams*

**EAST LYME TOWN CLERK**

The East Lyme Zoning Commission held Public Hearing I on Thursday, August 2, 2001 at the Town Hall, 108 Pennsylvania Ave., Niantic, CT. Mr. Bulmer called the meeting to order at 7:30 PM.

**PRESENT:** Chairman Robert Bulmer, Shawn McLaughlin, Secretary Athena Cone, Ed Gada, Norman Peck, and William Dwyer.

**Absent:** David Chamberlain, and Alternate Mark Nickerson. Alternates Donna Orefice, Rose Ann Hardy, ex-officio.

**Also present:** William Mulholland, Zoning Officer

**PUBLIC HEARING II**

East Lyme Zoning Commission proposal to amend the East Lyme Zoning Regulations by adding new Section 31, Telecommunications Facilities.

Mr. Bulmer opened the Public Hearing at 7:30 PM.

Mrs. Cone noted the legal ad had been published July 20 and July 30, 2001. She read into the record:

1. Letter dated July 25, 2001 from the Southeastern CT Council of Government, Gene Lohrs, Chariman.
2. Letter dated July 18, 2001 from the Planning Commission, Kathleen Jones, Chairwoman.

Mr. Bulmer opened the floor to Granville R. Morris, 27 Oakhill Dr., Niantic, CT.

Mr. Morris represents John and Catherine Fosgrau of the Oak Grove Beach Section of East Lyme. Mr. Morris stated that the proposal is an amendment for an addition to Section 21.1.3 of the East Lyme Zoning Regulations. The proposal basically allows for the demolition and repositioning of a nonconforming single-family dwelling on a lot.

The proposal has a number of controls so that the Zoning Enforcement Officer will have data with regard to the property that is involved in the demolition and reconstruction. As part of the preparation for the demolition of the property, the owner would submit to the ZEO an "as built" survey (A-2) showing the current property. There would be a review of the plan and, prior to demolition, the ZEO would establish a list of the zoning nonconformities of the property. A demolition permit would be obtained prior to demolition. The new construction will also have an "as built" A-2 survey submitted to the ZEO. Thus, the ZEO would know what was being demolished and what would be built in its place.

The proposal, under 21.1.3 (d), provides that the Building Area and Lot Coverage as defined in the Zoning Regulations shall not exceed the Building Area and Lot Coverage of the demolished nonconforming dwelling.

Mr. Morris stated that a nonconforming use is a use that is established prior to the adoption of a Regulation or and amendment to the Regulation. The nonconforming use is protected by Section 8.2 Connecticut General Statutes and case law. Mr. Morris noted that there is a general policy in zoning to try to eliminate nonconforming uses as time and fairness permit.

Mr. Morris cited Section 21.1.3 of the East Lyme Zoning Regulations and added that this provision causes: (1) charade and (2) enforcement problems for the ZEO. He stated that the proposed amendment adds additional dimension to Section 21.1.3. Mr. Morris enumerated the goals and benefits of this proposal:

1. Protects the nonconforming use provided by Statute.
2. Reduces the nonconformities.
3. Eliminates charade in remodeling.
4. Provides greater flexibility for the property owners.
5. Provides greater control for the Zoning Enforcement Officer.
6. Makes enforcement of the Regulations easier for the ZEO.
7. Does not change the activities, character or nature of the property
8. Provides for better construction.
9. New building adds value to the property.

Mr. Morris then addressed the letter from the Planning Commission. He stated that, in his opinion, the proposal was consistent with the Plan of Conservation and Development because construction is less nonconforming, it maintains the residential character of the Town of East Lyme and if one cannot show hardship in the property or Regulations, one cannot obtain a variance from the Zoning Board of Appeals.

Mr. Bulmer and Mr. Dwyer noted that 20-30% of the dwellings in Town are currently nonconforming in his estimation and this proposal would be effective townwide. Mr. Bulmer stated that the property owner could first appeal to the ZBA for a variance. He questioned whether it was in the best interest of the Town to allow nonconforming new construction.

Mr. Bulmer also noted that per Section 21.1.3 if a property is destroyed by more than 75%, reconstruction must conform to the Zoning Regulations, however, if it is totally demolished (100%) this proposal would allow that it be reconstructed as a nonconforming dwelling. He questioned the fairness.

Mr. McLaughlin indicated that Section 21.1.3 currently allows for reconstruction of a dwelling. He added that the term "new nonconforming" is not defined in the current Regulations.

Mr. Bulmer opened the hearing to those wishing to speak in favor of the proposed amendment.

Catherine Fosgrau, 44 Shore Rd. stated that new construction would provide greater safety in the event of storms. She also stated that it she was told by her contractor that it would be less expensive to demolish the house and rebuild it rather than remodel it.

Dave Coonrod, surveyor, 17 Brainerd Rd., stated that many of the beach lots are 40-ft x 60 -ft and are nonconforming and this change would effect them. This proposal would allow for repositioning on the lot and provide some flexibility to the home owners and bring it more consistent with building codes.

Joann Sampson, abutting neighbor of Catherine Fosgrau, stated that she supports the Fosgrau's attempts to improve their house. She also stated that the proposal would allow for a better house on the property, but she also stated that she would want it on the same footprint. She stated she was concerned the house would be 5-feet closer to her dwelling.

Joe Kwasniewski, 67 Walnut Hill Rd. stated he would not want to see this proposal effective for the entire town.

Mr. Bulmer opened the hearing to those wishing to speak in opposition. There being none, Mr. Bulmer closed the hearing at 8:32 PM.

Respectfully submitted,



Anita M. Bennett  
Recording Secretary  
7 August 2001