

7/12, 02 at 12:50 AM (PM)  
*K. Blais arc*  
EAST LYME TOWN CLERK

**EAST LYME ZONING COMMISSION**  
**PUBLIC HEARING I & II**  
**JULY 11, 2002**  
**MOTIONS (minutes?)**

The East Lyme Zoning Commission held a PUBLIC HEARING I & II on Thursday JULY 11, 2002 at the East Lyme Town Hall, 108 Pennsylvania Ave., Niantic, CT. Mr. Mark Nickerson, Chairman, opened the Meeting at 7:30 PM.

PRESENT: Mark Nickerson, Shawn McLaughlin, Norman Peck, and Alternates Marc Salerno and William Dwyer.

Also present: William Mulholland, Zoning Official; Ex-officio Rose Ann Hardy

Absent: Mrs. Cone, Mr. Chamberlain, Mr. Gada and Mr. Bulmer

Panel: Mr. Nickerson, Mr. McLaughlin, Mr. Dwyer, Mr. Peck and Mr. Salerno.

**PUBLIC HEARING I -**

**Application of Theodore A. Harris to amend the East Lyme Zoning Regulations to allow grocery beer permits by large grocery-supermarkets.**

Mr. Nickerson opened the public hearing. Mr. Mulholland noted that the legal ad had been duly published.

Mr. Salerno, Acting Secretary, read into the record:

1. Letter dated July 2, 2002, Southeastern Connecticut Council of Government to the Zoning Commission.
2. Letter dated June 5, 2002, East Lyme Planning Commission to the Zoning Commission.

Mr. Nickerson read into the record a letter dated July 11, 2002 from Zoning Official William Mulholland to the Zoning Commission.

Mr. Nickerson invited Mr. Harris to present his application.

Mr. Theodore A. Harris, 351 Main St., Niantic, CT stated that the amended regulation proposed to exclude large grocery store beer permits from the separation distances with other liquor outlets without excluding the separation distance from churches. The regulation would pertain to grocery stores of 20,000 sf or more and would not be available to convenience stores. He stated that because the definition of grocery store is contained in the liquor control regulations, he has not included one in this proposed amendment. He added that liquor control defines grocery store as a store which carries produce and meat, but does not specify quantity or type.

Mr. Salerno inquired if the 20,000 sf limitation would exclude any of the existing grocery stores/supermarkets in town.

Mr. Harris indicated that of Colonial, Adams and Tri-Town, the only one that would be effected would be Adams if it didn't currently have a permit. He stated that, as he recalled from investigating Assessor's records, Adams is approximately 155 ft. x 130 ft. (including the service areas) but he could not recall the exact square footage and he had not previously made that determination. He stated that with regard to Colonial, he understood there to be a restriction in the lease that they cannot sell beer because of the package store next door.

Mr. Salerno also inquired how and why Mr. Harris had elected to utilize 20,000 sf as the limitation. Mr. Harris stated the reason 20,000 sf was selected because it is a typical size for a full service supermarket. He added that if the Commission wished another number, either higher or lower, he was willing to consider changing it. He indicated that 20,000 sf would not make these permits available throughout the town, but would limit the number.

Mr. Mulholland stated that in the past when the regulations were changed, the pastors were invited to contest and/or state any of their concerns regarding the expansion of alcoholic beverages. He noted that no one representing any of the churches was present for this Public Hearing.

Mr. Peck stated that he was concerned as to devaluation of existing property and the economic effect on existing package stores. He stated he would like information on these concerns and what, if any, protections there are for existing businesses in East Lyme.

Mr. Harris stated that there is a large store in town with a beer permit and a successful package store close by. He added this the grocery store is limited to selling beer and, in his opinion, would not have a major impact economically on existing package stores.

Mr. Dwyer stated that in his opinion the East Lyme Regulations should include a definition of "grocery store", regardless of the State's definition.

Mr. Nickerson opened the Public Hearing to those wishing to speak in favor of the application. There being none, he opened the Hearing to those opposed. Hearing none, he opened the hearing to general comments and questions from the public.

Mrs. Rose Ann Hardy, ex-officio inquired if investigation had be done into the Waterford and Old Lyme regulations.

Mr. Harris stated that Waterford has enacted special regulations for large areas such as the Malls.

Joe Kwasniewski, 67 Walnut Hill Rd., East Lyme, CT inquired as to options a grocery store of 19,500 sf would have with regards to this proposed regulation. Mr. Mulholland stated that the store owner could appeal to the Zoning Board of Appeals or propose a change in the regulations.

Mr. Mulholland stated that he recognized that the Commission is stating some of its concerns, however, the Commission's responsibility is not to establish protectionist policies. Mr. Peck stated that his concern was

the devaluation of property. He added that an empty package store is devalued property and that is a zoning issue.

Mr. Dwyer question how one could determine if beer permits exclusive of the separation limitation impact and to what degree they impact existing package stores. Mr. Peck stated that he would recommend that the Hearing be continued and that whoever comes to the next meeting might provide the Commission with some insights and experience in this regard.

Mr. Peck moved to continue the Public Hearing until the next meeting. There was no second.

**MOTION (1):** Mr. Salerno moved to close Public Hearing I, application of Theodore A. Harris to amend the East Lyme Zoning Regulations to allow grocery beer permits by large grocery-supermarkets.

Mr. McLaughlin seconded the motion.

Vote in favor: (4-1), In favor: Mr. Nickerson, Mr. McLaughlin, Mr. Dwyer and Mr. Salerno. Opposed: Mr. Peck.

**PUBLIC HEARING II - application of Theodore A. Harris to amend the East Lyme Zoning Regulations to permit "landscaping" facilities in RU40 and RU80 Zoning Districts, to the next scheduled meeting.**

Mr. Nickerson opened the Public hearing II at 8:09 PM following Public Hearing I. Mr. Salerno read into the record:

1. Letter from Southeastern Connecticut Council of Government, Regional Planning Commission, 7/2/02.
2. Letter from the East Lyme Planning Commission to the East Lyme Zoning Commission, 6/5/02.
3. Letter from East Lyme Zoning Official William Mulholland to the Zoning Commission, 7/11/02.

Mr. Mulholland stated that the legal ad was duly published.

Mr. Nickerson invited Mr. Harris to present the application.

Mr. Harris stated that people who do landscaping typically would also grow plants, and have earth materials such as mulch. The difference between the landscaper and a nursery is that the landscaper takes these items off site and does the work. The landscaper also would use the site for storage of equipment. A landscaper's site, Mr. Harris stated, does not invite the public to the site as a nursery would.

Mr. Harris distributed some amendments to the proposal making it more restrictive and which address some of the issues raised by the Planning Commission. The amendments include: increase from 2 to 5 acres the minimum lot size, increase buffers for all activities to 100 feet from property lines and roads, provision which allows the Commission to extend the setback areas where necessary to protect neighboring property. He stated that this type of activity is most appropriate for a rural zone because that is where these type of agricultural activities are typically undertaken.

Mr. Harris added that, quite different from a nursery, this amendment provides that if there is any equipment storage, it must be in a building. He added that a nursery could have a more intensive commercial activity observable from the neighborhood. He stated that Light Industrial District space is limited and in his opinion

is not appropriate for agricultural activity such as landscaping where one needs space for growing, space for earth products and equipment. Additionally by increasing the minimum lot size provides an automatic buffer from adjoining areas and provide expansion for the buffer is necessary in a particular situation.

Following Mr. Harris's comments, Mr. Nickerson invited comments and questions from the Commission member.

Mr. Dwyer noted that the letter from Mr. Mulholland did not take into account the new amendments offered by Mr. Harris and requested Mr. Mulholland's opinion on these new amendments.

Mr. Mulholland stated that his focus is essentially the same, i.e. is this an appropriate use in a residential zone? Can the landscaper build a very large building on 5 acres and store 18-wheeler trucks in that facility? Can he operate a bulldozer for loading of earth products and pavers/bricks? Is it appropriate?

Mr. Nickerson inquired if there was any limitation on the size of the storage building. Mr. Harris stated that the proposal does not place a limit on the size of the structure, however, if the Commission wished, he could provide such a limitation. He stated the equipment to be stored would include lawn mowers, etc. and perhaps one larger truck for moving earth materials.

Mr. Dwyer stated that in the current Regulations one of the Special Permit Uses is a sawmill and in his opinion is worse in RU40 and RU80 than landscaping site. He stated he was hesitant about allowing landscaping in an RU40 particularly. Mr. Harris stated that the landscape site would require 5 acres in the RU 40 District.

Mr. Peck inquired if Mr. Harris could propose a limit on the amount of earth materials, pavers, etc. to be stored on site. Mr. Harris stated he would estimate 150-200 yds. of combined material.

Mr. Harris stated that if the Commission continues the hearing, he would propose some specific restrictions and provide additional information to respond to these concerns.

Mr. Mulholland suggested including a buffer in the regulation as well.

Mr. Peck stated his concerns: 1. Item 3a "one truck in excess of 15000 lbs. gross weight". Mr. Peck suggested "vehicle, including trailer". 2. No rock crushing. 3. Maximum yardage of earth materials (sand, gravel, stone) 200 yards.

**MOTION (2):** Mr. Dwyer moved continue Public Hearing II, application of Theodore A. Harris to amend the East Lyme Zoning Regulations to permit "landscaping" facilities in RU40 and RU80 Zoning Districts, to the next scheduled meeting.

Mr. Salerno seconded the motion.

Vote in favor: (5-0), Unanimous.

Respectfully submitted,

Anita M. Bennett