

EAST LYME ZONING COMMISSION
REGULAR MEETING
JULY 9, 1998

July 16, 19 98 at 2:35 (AM PM)
Esther B. Ullaw

EAST LYME TOWN CLERK

The East Lyme Zoning Commission held its Regular Meeting on July 9, 1998 at Town Hall, 108 Pennsylvania Ave., Niantic, CT. Paul Formica chaired the meeting.

PRESENT: Paul Formica, Christopher Mullaney, Norman Peck, Shawn McLaughlin, Daniel Price, Alternates William Weber and William Dwyer.

ABSENT: Athena Cone, Secretary, Robert Bulmer, Rose Ann Hardy, ex-officio.

Paul Formica called the meeting to order at 8:02PM.

I. Acceptance of the Minutes of June 18th and June 25, 1998 meetings.

Motion (1) Mr. Price made a motion to accept the Minutes of the Special Meeting, June 25, 1998 and the Regular Meeting, June 18, 1998.

Mr. Mullaney seconded the motion

Discussion: Mr. McLaughlin noted that he was absent for the June 25th meeting.

Motion (2) Mr. Price amended the motion to accept the Minutes of the Special Meeting, June 25, 1998 as presented.

Mr. Mullaney seconded the motion.

Vote in favor of Motion (2): (6-0)

Vote to accept the Minutes of June 25, 1998 as presented: (4-0)

Mr. McLaughlin and Mr. Formica abstained.

Motion (3) Mr. Mullaney made a motion to accept the Minutes of the Regular Meeting, June 18, 1998 as presented.

Mr. Weber seconded the motion.

Vote to accept the motion: (4-0)

Mr. Price and Mr. Formica abstained.

II. Application of Orvedal Builders for a Special Permit to "stockpile products" at property off Flanders Road, East Lyme, CT, property further identified as Lot 3 on East Lyme Assessor Map 26.

Mr. Price read the July 9, 1998 Memo to the East Lyme Zoning Commission from William Mulholland, Zoning Officer, RE: Special Permit Application/Orvedal/fill stockpiling. Mr. Mulholland noted that the application is submitted under Section 25 and 17 of the zoning code. Section 17 provides specific regulatory controls that the applicant must comply with. A review of the site plan and application reveals that full compliance with all the applicable code requirements has been achieved. The zoning board is required under Section 17.5 to set a bond amount. The bond would be used to restore the site if the applicant failed to do so.

Mr. Formica noted that the Commission received the memo after the public hearing.

Mr. Weber noted that the applicant was in full compliance with all applicable code requirements. He noted the issue of heavy equipment on-site. Mr. Orvedal stated that one or two bulldozers would be the only heavy equipment on-site.

Mr. Mullaney stated that he saw no problem with granting the permit. The property owner had signed off on the application and the applicant was in full compliance with code requirements. He did express concern regarding the dumping of hazardous materials on the site.

Mr. McLaughlin indicated that the bond amount to restore the site seemed somewhat small for the size of the two parcels involved.

Discussion followed regarding the amount of topsoil and gravel that would be stockpiled, as well as the sufficiency of the bond amount should it become necessary to restore the two parcels of land.

Mr. Dwyer noted that his concern was with the traffic on Rte. 161. He emphasized that there would be construction on the road to build a bypass lane in front of Dunkin Donuts for the Kentucky Fried Chicken. He indicated that there would be 40-50 trips per day from Chapman Farms to the site over a month or so.

Mr. Weber noted that the loads would not begin until approximately September. At that time much of the summer traffic would have abated.

Mr. Price stated that his only concern was with the traffic volume on Rte. 161.

Mr. Formica noted that he had some concern about the refueling of the bulldozer on-site and his concern for the proximity of residential wells. He noted that the dump trucks would be running approximately 4/hour and if that would be a significant impact on the traffic volume considering the amount of auto traffic.

Mr. Price stated that although he was concerned about fueling on-site, he understood that it would be taking place on the road itself.

Additional discussion concerning the amount of the bond ensued. The Commission unanimously agreed to require a bond of \$4,000.

Mr. Formica inquired as to the Commission's opinion regarding the re-fueling pad. Mr. Dwyer noted that for one vehicle he did not think a pad was needed. The other Commissioners concurred; Mr. Formica deferred to the majority.

Mr. Mulholland informed the Commission that the permit was "not to exceed 2 years" at which time application for renewal would have to be made by the applicant. Mr. Formica noted that if the Commission did not set a time limit, it is

implied that the permit is for 2 years. At the end of the 2 years it is expected that the applicant will restore the site or the Town restores it using the bond.

Mr. Formica noted that the conditions then would be, should the application be approved, the hours of operation will be Monday through Friday, 8:00AM to 4:30PM, a bond in the amount of \$4,000 and the storage of one bulldozer on-site.

Motion (4) Mr. Price made a motion to approve the application of Orvedal Builders for a Special Permit to "stockpile" 10,000 cubic yards of earth product at property off Flanders Road, East Lyme, CT. Property further identified as Lot 3 on East Lyme Tax Assessor Map 26.0. Subject to the following conditions:

1. Hours of operation from 8:00AM to 4:30PM, Monday through Friday.
2. A \$4,000 bond posted by the applicant.
3. Allowing the storage of one bulldozer on the property and no other heavy equipment.

Mr. Dwyer seconded the motion'

Mr. Mullaney expressed a concern regarding the source of the products to be stockpiled. His concern was that the materials not come from any other area that may be contaminated with hazardous materials.

Motion (5) Mr. Mullaney moved to amend Motion (4) to include condition #4: The material transferred for stockpiling be only "earth products" whose source is Chapman Farms.

Mr. Dwyer seconded the motion.

Vote on the amendment: Motion (5): (1-5)

Vote in favor of Motion (4): (5-1)

Effective upon publication. The application complies with Section 17 and 25 of the zoning code.

III. Old Business

A. Subcommittees

Mr. Peck is sitting, Mr. Dwyer is sitting out.

Mr. Peck noted that the Commission had defined a new use for Fast Food Category 2. A fast food restaurant as defined in Section 1.49 that exceeds 25% of the total building area. And added a regulation to Section 20.25 Fast Food Category 2. No category 2 Fast Food Restaurant shall be installed within a building or erected or established upon a lot or premises within a radius of 1,000 feet of any part of any other building, lot or premises used for such purposes. Existing premises used for such purpose prior to adoption of this regulation shall not be deemed nonconforming. All other regulations applying to Fast Food Restaurants shall apply to Fast Food Category 2.

Mr. Peck noted an example, which demonstrated the possible need for further clarification. The example was of a fast food restaurant that goes out of business for several years. Another fast food restaurant, category 2, wants to come in within 1,000 feet of the first restaurant's site. He stated that a regulation might be needed to address an instance like this.

Mr. Mulholland noted that Section 21 deals with nonconforming. He stated that the Commission might wish to modify the language to include "intent". He suggested that the Commission take a closer look at the language.

Discussion ensued as to what establishments were currently classified as Fast Food Restaurants. Mr. Peck noted that, with regard to traffic volume, Fast Food Restaurants have several curb cuts within a smaller area as compared to a grocery store or mall which would have two to three cuts in a much larger area, as well as a higher volume of clientele, and contribute to traffic concentration.

Mr. Formica noted that this regulation placed appeared to place restrictions on mall owners and other small businesses and questioned the "targeting of this industry" in an effort to control traffic volume and concentration.

Mr. Mulholland noted that if the goal is to reduce "chain store type" fast food concentration, than the Commission should address that through language. He suggested that the Commission may wish to examine the definition of restaurants and create more specific categories.

Mr. Formica noted that most places that have a lot of retail establishments also have a number of fast food facilities in them and often occupy more than 25% of the mall or retail strip. Mr. Peck indicated that perhaps the language could be changed to allow a number of fast food restaurants in a mall or retail strip.

Mr. Price noted that perhaps the Commission should work on the definition of Fast Food at this point. Mr. Weber noted that it is the nature of retail to draw the traffic and the fast food restaurant to use it. Replacing the fast food restaurant with retail will not necessarily resolve any traffic problem.

Mr. Mullaney suggested the way to go might be to rewrite the entire regulations and review all restaurant types. Mr. Formica noted that the Charette recommendation was to increase the number of restaurants and have a mix of types of restaurants. The town is aiming toward growth and traffic is a byproduct of growth. Mr. Peck indicated that the Plan of Development 1987 recommended limiting as much as possible, strip development and encouraging one curb cut per mall in a commercial area.

Mr. Formica stated that the more restrictive the Commission makes the regulations, the more likely businesses will not come into town. The cost to bring a business into the Town would become prohibitive. Mr. Mulholland suggested that the Commission inquire of DOT what plans are underway for Rte. 161 and then proceed from there.

Mr. Mullaney recommended that the Commission discuss this issue again at a later meeting.

B. Parking Mr. Dwyer distributed a handout regarding Commercial Parking to be discussed at the next meeting.

C. Zoning Official: Nothing further.

D. Correspondence: Nothing

There being nothing further before the Commission, Mr. Formica entertained a motion to adjourn.

Motion (6); Mr. Price made a motion to adjourn the meeting,
Mr. Mullaney seconded the motion
Vote: (6-0)

Mr. Formica adjourned the meeting at 9:30PM.

Respectfully submitted,

Anita M. Bennett
Commission Clerk