

FILED IN EAST LYME TOWN

CLERK'S OFFICE

East Lyme Zoning Commission

June 28, 19 99 at 12:35 (AM/PM)

PUBLIC HEARING

June 17, 1999

MINUTES

Esther B. Williams

EAST LYME TOWN CLERK

The East Lyme Zoning Commission held a Public Hearing and Regular Meeting on June 17, 1999 at Town Hall, 108 Pennsylvania Avenue, Niantic, Connecticut 06357. Paul Formica, Chairman, called the Public Hearings to order at 7:35 PM and the Regular Meeting to order at 10:10 PM.

PRESENT: Paul Formica, Chairman, Daniel Price, Norman Peck, Shawn McLaughlin, William Weber, and Alternates Robert Bulmer, William Dwyer.

Also Present: William Mulholland, Zoning Officer. George McPherson, Planning Commission Liaison

Absent: Athena Cone, Secretary, Rose Ann Hardy, ex-officio

Opening of the Public Hearings

Mr. Formica opened the Meeting at 7:35 PM immediately followed by the Pledge of Allegiance.

Mr. Formica noted that Item #4 on the Agenda has been rescheduled for July 8th.

Mr. Formica asked Mr. Bulmer to sit on the Commission in the absence of Mrs. Cone.

PUBLIC DELEGATIONS: None

Public Hearings:

I. Public Hearing 1

East Lyme Zoning Commission proposal to amend the East Lyme Zoning Regulations by deleting "Elderly Housing" as a use in Section 12, and by adding a new Section 12A, SU-E Special Use Zone.

Mr. Formica indicated that the Zoning Commission is bringing this proposal forth. He polled the Commission for conflicts and heard none.

The legal ad was posted on 6/14/99 in The Day.

Mr. Formica read into the record:

- a. Memo to the Commission from William Mulholland, Zoning Officer, 6/17/99
- b. Letter the Department of Environmental Protection, Long Island Sound Program to the Zoning Commission.
- c. Letter from Gene Lohrs, Chairman, Senior Coastal Planner, Southeastern Connecticut Council of Governments, Regional Planning Commission dated May 26, 1999 to the Zoning Commission.
- d. Letter from the East Lyme Planning Commission dated June 17, 1999 to the Zoning Commission.

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Mr. Bulmer indicated that he and Mr. Mulholland had met with members of the Planning Office staff to review the draft proposal for consistency and to identify areas needing clarification.

Mr. Formica then read the Proposed Changes to East Lyme Zoning Regulations Regarding Elderly Housing, dated 06/17/99 (pages 2-7).

Mr. Bulmer noted that there were several typos and omissions that should be corrected.

In the Proposed Changes to East Lyme Zoning Regulations Regarding Elderly Housing dated 06/17/99, page 2, item 2,(1)c should read "Occupant pursuant to (a) above whose co-occupant has entered into a long-term continuing care facility". On page 2, item 4 under **Add: 1.17.a**, the second paragraph, item (c) and on page 6, Item 4 under 25.5 Table of Minimum Controls for SU-E Special Permit, paragraph (c) the same language should be inserted.

Mr. Bulmer also noted that on page 6, 25.5 Table of Minimum Controls for SU-E Special Permit Item 4(2) "In no event may a dwelling be occupied by more than three residents" should be deleted per the consensus of the Commission at the last regular meeting.

Two typographical errors were noted: page 5, 12A.3.3 should read "All applications for development in (delete 'the') this zone district shall include a traffic study which provides:" and on page 6 under 25.5 Table of Minimum Controls for SU-E Special Permit, first sentence should read: "Lot shall contain not less than (delete 'Housing') 10,000 square feet per unit where there are not public sewers or water facilities."

The Commission agreed with these changes.

Mr. Peck indicated that he had noted several inaccuracies and inconsistencies regarding frontage requirement, building height, and number of people allowed in each unit and that the Commission should not spend public time discussing and correcting these discrepancies.

Mr. Formica noted that the Public Hearing has been advertised and these inconsistencies should be discussed and corrected.

Mr. Peck identified the following: Page 4, SU-E, 12A.2.2 Frontage "not less than 500' frontage"; Section 25.5.3 (page 6) "not less than 150 feet." It was noted that this (Sect. 25.5.3) is one of the items Planning Commission recommended the Zoning Commission delete, along with 25.5.5 and 25.5.6.

Mr. Peck also noted a difference in building height. 25.5.2 on page 6 "no building may exceed more than 20 feet in height" and 25.5.5 (page 7) reads "No building or structure shall exceed 30 feet in height." Section SU-E, 12A.2.5 stated "No building or structure shall exceed 30 feet in height." It was noted that Planning Commission recommended the Zoning Commission delete 25.5.5.

Mr. Peck stated that he felt that if the Commission changed the height requirement to 20 feet, this is a significant change and therefore would require further discussion and another Public Hearing.

Mr. Formica recognized Meg Parulis, Land Use Coordinator, who stated that, having reviewed the regulations fairly extensively, there are basic flaws in the existing regulations governing the SU Zone. Because the SU is a floating zone, there are conflicts. The dimensions that would govern are the Dimensional Requirements for the Zone. She indicated that the 30 feet height would govern because the Regs cannot be, in the standards, less restrictive than the underlying zone. In the SU Zone there are different standards for different uses. She recommended that the Commission not specify any heights that the Commission wants to have special standards for, but

rather, the language should read “as per the standards”. She added that the Planning Commission recommended 20 feet be considered in the future as a separate proposal and public hearing because it would be a substantial change.

Mr. Mulholland stated that he concurred with the Planning Commission in deleting from 25.5 Table of Minimum Controls for SU-E Special Permit, Items 3, 5, and 6.

The Commission then reviewed and discussed the recommendations of the Planning Commission.

Planning Commission recommended changes as discussed by the Zoning Commission:

Reference June 17, 1999 Letter from the Town of East Lyme Planning Commission to Mr. Paul Formica, Chairman, East Lyme Zoning Commission re: Zoning Amendment Referral - SU-E Zone

- a. Clarify the definition of Elderly Housing found in Sect. 12A1.1, by replacing “constructed and operated by” with “single family detached dwelling units operated by residents under a common interest ownership.”

Mrs. Parulis indicated the intent here is to distinguish it from the CA Zone definition of Elderly Housing if it is the intent of the Zoning Commission to only allow single-family dwellings in the S-E Zone.

Mr. Peck inquired if this change would eliminate AHEPA type housing from this Zone SU-E by specifying ‘single-family’, and if so, it was a significant change requiring a separate public hearing. Mr. Mulholland indicated that in this Zone with the change of definition, it would effect it. Mr. Bulmer stated that he felt this recommendation is appropriate for the SU-E Zone, which pertains to residential districts. Mr. Weber and Mr. Price agreed with Mr. Peck. Mr. McLaughlin indicated he felt the definition should remain as the Zoning Commission originally had put it forth.

- b. Delete 3, 5, and 6 from Sect. 25.5 regarding frontage, height and total area (Section 12A.2 governs)
- c. Insert the following at the beginning of Sect. 12A.3.2 (same as 12.3.2) “An application for rezoning shall be accompanied by an application for a Special Permit in accordance with the requirements of Section 25. These shall be referred to the Planning Commission for consistency with the requirements of Section 25. These shall be referred to the Planning Commission for consistency with the Town Plan of Development. The Planning Commission shall have 35 days to report its recommendations to the Zoning Commission.”

Mr. Mulholland stated that the referral is required by State Statute. Mr. Formica stated that the purpose of SU-E Zone is for Elderly Housing only and that the “referred to the Planning Commission, etc.” is redundant. The Commission members agreed to retain only the first sentence – “An application for rezoning shall be accompanied by an application for a Special Permit in accordance with the requirements of Section 25.”

- d. Add “Floor plan and” to the beginning of Sect. 12A.3.2 (b).

The Commission agreed to add this.

- e. Replace Sect. 25.5.2 with the following: “No building shall be less than 20 feet from all internal roadways. No unit may be located less than 15 feet from any other single family detached residential unit.”

Mrs. Parulis noted that the 40' from the property line was an inconsistency of the setback requirements of 12A.2.3. "Internal roadways" term is used because most of these projects would have internal private driveways. The intent is to have a setback from the actual access road as distinguished from public streets for single-family buildings.

f. Insert reference to "a" in Sects. 25.5.4(1)b & c.
The Commission concurred.

g. Add the word "contiguous" before "open space" in Sect. 25.5.13
The Commission concurred.

Mr. Formica opened the floor to those persons wishing to speak in favor of the proposed changes.

Walt Prochonera, 420 Boston Post Road stated that he supported the proposed change. He supported the single-family dwelling language in Section 12A1.1

Robert Gadbois, 358 Boston Post Road stated that he also supported the proposed change.

Joe Kwasniewski, 67 Walnut Hill Rd. also supported the change.

Donald W. Gerwick, 11 Pleasant Dr. Ext. stated that he agreed with 'single-family dwelling' requirement as it is consistent with residential zone. He added that a second means of access would be poor environmental planning and is inconsistent with the character of the Town.

Ben Orvedal, 65 Holmes Rd. stated that he was in favor of the proposed changes but noted some things that could be done a different way.

a. The homeowners association should deal with the enforcement of the age restrictions and circumstances that arise with changes in family structure due to illness and/or death.

b. He supported the single-family dwelling restriction in the SU-E Zone.

c. Second means of egress poses some limits on security of the neighborhood.

Walt Prochonera, 420 Boston Post Road stated that he supported the inclusion of the age restriction in the regulation as a guideline to homeowner's associations.

There being no further comments or questions from the public, Mr. Formica opened discussion to the Commission.

Mr. Formica stated that he was in agreement with Mr. Bulmer on the fact that the SU-E Zone should be residential in nature. He polled the Commission for further comments.

Following further discussion regarding the proposed change in definition of Elderly Housing in Section 12A1.1, the Commission agreed that it did not constitute a significant change.

Mr. Formica summarized –

1. “co-occupant” be included in Section 25.5 Table of Minimum Controls-Elderly Housing CA subsection 6, (1)c, Section 1.17.a(c), Section 25.5 Table of Minimum Controls for SU-E Special Permit #4(c)

2. Delete Section 25.5.3, 25.5.5, 25.5.6.

3. Add 12A.3.2 –“An application for rezoning shall be accompanied by an application for a Special Permit in accordance with the requirements of Section 25.

4. Add “Floor plan and” to the beginning of Section 12A.3.2

5. Replace Section 25.5.2 with “No building shall be less than 20 feet from all internal roadways. No unit may be located less than 15 feet from any other single family detached residential unit.”

6. Add “contiguous” before “open space” in Section 25.5.13

Any motion to accept would include these changes. The Commission concurred.

Mr. Formica opened the floor again to the public for further comments. There being none, Mr. Formica closed the Public Hearing at 9:30 PM

II. Public Hearing 2

East Lyme Zoning Commission proposal to amend Section 23 “Open Cluster Development Regulations” and Section 25.5 “Table of Minimum Controls”

Mr. Peck stepped down from the Commission for this Public Hearing.

Mr. Dwyer will sit for Mr. Peck.

Mrs. Parulis indicated that since the Public Hearing on the Greenway Conservation District has to be postponed, that this Public Hearing be continued.

Mr. Mulholland recommended that the Commission open the Public Hearing and continue as suggested to the July 8th meeting which is the next regularly scheduled meeting of the Commission.

Mr. Formica noted that the Public Hearing is open and continued until July 8, 1999.

III. Public Hearing 3

East Lyme Zoning Commission proposal to amend the East Lyme Zoning Regulations by modifying the definitions of lot size in Section 1.38.

Mr. Formica opened the Public Hearing at 9:34 PM.

Mr. Peck stepped down from the Commission for this Public Hearing.

Mr. Dwyer will sit for Mr. Peck.

Meg Parulis, Land Use Coordinator is present to review the proposal and answer Commission and public questions.

Mr. Formica read into the record:

- a. Memo to the Zoning Commission from William Mulholland, Zoning Officer.
- b. Letter from Gene Lohrs, Chairman, Senior Coastal Planner, Southeastern Connecticut Council of Governments, Regional Planning Commission dated May 26, 1999 to the Zoning Commission.
- c. Letter to the Zoning Commission from the East Lyme Planning Commission indicating that at its 6/1/99 meeting it voted to approve the proposed amendment regarding lot size definitions.
- d. Letter the Department of Environmental Protection, Long Island Sound Program to the Zoning Commission, dated 6/17/99, paragraph on page 4 related to amendments to lot size definition.

Meg Parulis presented the proposal to the Commission. She indicated that the proposal has been generated as a result of previous Planning and Zoning Commissions expressing a desire to up-zone the existing residential from 1 to 2 acres, 2 to 3 or 4 acres. She noted a map indicating the areas of East Lyme left to be developed and those not suitable for development. The intent is to preserve sensitive environmental resources and protect the water quality. As a result, it was felt that the concept of Minimal Buildable Land Area (MABL) would be appropriate. It would not penalize those areas suitable for development and would be more appropriate in areas that did have encumbrances. She submitted a report prepared by the DEP entitled "Report for the Blue Ribbon Commission on Housing on the Land Required to Support Residential Development in Connecticut", dated 1989. She also submitted a report from the Soil Conservation Service, which recommended ¾ acres as MABL. MABL has also been recommended in the East Lyme Plan of Conservation and Development, Residential Land Use Section, which was also submitted as an exhibit. Submitted also is Environment 2000 prepared by the DEP which states in Item 5 –require adoption of buildable land criteria into local land use regulations.

Mrs. Parulis noted that minimum lot size requirements that are not specified for each zone are RU40 - 40,000 sq.ft.; RU80 – 80,000 sq. ft.; RU120 - 120,000 sq.ft. and these are the only districts to which this would apply. She noted that MABL would not apply to lots that have already been created prior to the approval date. It also would not apply to a cluster design, but only a standard subdivision.

Mr. Bulmer stated that the 150-foot side boundary was unduly restrictive in his opinion.

Mrs. Parulis stated that this length could be adjusted if the Commission so desired. She noted that one would still have to fit a septic system in the area. She noted that previously it was not required the 150-foot square have no wetlands on it.

Mr. Mulholland indicated that in a new subdivision there would have to be the new minimum square in a new lot that is created. He added that this amendment would not effect pre-existing lots. There will be a threshold date.

Mr. Formica read the Legal Ad and noted it was properly advertised in The Day.

Walt Prochonera, 420 Boston Post Road stated that he thought this regulation should have been adopted.

Woodrow Scott, 32 Scott Rd. stated his support for preserving sensitive environmental property.

Donald W. Gerwick, 11 Pleasant Dr. Ext. stated that he thought the concept was a good one, but had some reservations about the language.

1. Item a - "parcel" is open to misinterpretation at some point. He stated he would like to see Items a, b and c clearly referring back to just the 30,000 sq. ft. or the MABL and not applying to the lots on a whole.

2. The 150-foot square is exceptionally restrictive. 30,000 sq. ft. is more than adequate for on-site septic with a house. He added that if the Commission is going to have a square associated with minimum buildable land than it should be less, perhaps 100 feet, but still have the 30,000 sq. ft.

3. Item b is significantly more restrictive than the CT Health Code which does not prohibit septic systems in areas of special flood hazards.

4. Item b (later part) is unworkable. He stated that there is no mapping which identifies an overflow from a 2-year storm. One would have to have a professional engineer do a drainage study and would be a hardship on any applicant.

Robert Gadbois, 358 Boston Post Road stated that he supported the amendment.

Walt Prochonera, 420 Boston Post Road stated that the 150-foot square seems excessive, but he would support 100 foot square.

Mrs. Parulis noted that the 150-foot or 100 foot square does not have to be a square, per se. She added that she would prepare new language for the next meeting.

Mr. Dwyer requested clarification of the difference, if any, between "parcel" and "building lot". Mr. Formica stated that staff could refine the language for the next meeting.

Mr. Formica closed the Public Hearing at 10:10 PM

Respectfully submitted,



Anita M. Bennett
Recording Secretary