

May 27, 1999 AT 2:00 PM

East Lyme Zoning Commission  
PUBLIC HEARINGS

*R. Ablan, etc.*  
East Lyme Town Clerk

May 20, 1999  
Minutes

The East Lyme Zoning Commission held Public Hearings on May 20, 1999 at Town Hall, 108 Pennsylvania Avenue, Niantic, Connecticut 06357. Chairman Paul Formica called the Public Hearing to order at 7:33 PM.

PRESENT: Paul Formica, Chairman, Athena Cone, Secretary, Daniel Price, William Weber, Norman Peck, and Alternates Robert Bulmer, William Dwyer.

Also Present: William Mulholland, Zoning Officer.

Absent: Shawn McLaughlin, Rose Ann Hardy, ex-officio

Mr. Peck requested he be excused from the panel this evening. Mr. Formica appointed Alternates Mr. Bulmer and Mr. Dwyer to sit as full members of the Commission for this Regular Meeting.

**PUBLIC DELEGATIONS**

1. Joe Kwasniewski, 67 Walnut Hill Rd. questioned the use of "earth products" in the Legal Ad. He stated that he is confused since the agenda refers to "gravel stockpile" and questioned the legality of the Legal Ad. Mr. Formica stated that the Public Delegation is a time to speak about items not on the agenda and that the Legal Ad will be read during the Public Hearing.

Mr. Mulholland addressed Mr. Formica and stated that commonly earth products refer to fill materials, gravel, and stone and do not include stumps and wood products. At Mr. Formica's request Mr. Mulholland will compose a letter to Mr. Kwasniewski defining "earth products".

**PUBLIC HEARING I**

**Application of Robert D. Tobin, Agent for West Hill, LLC, for a Special Permit to construct 15 units of Elderly Housing at 237 Flanders Road, East Lyme, CT.**

Mr. Formica polled the panel and found no conflicts of interest.

Mrs. Cone read the Legal Ad, published on May 7 and May 17, 1999.

Mrs. Cone read into the record the following:

1. A letter from Mr. Walter Cullen, Planning Commission regarding the Zoning Commission referral. The Planning Commission at its May 18, 1999 meeting voted to approve the Zoning Commission referral of the application of Robert D. Tobin for the Special Permit application.

2. A letter from the Conservation Commission, March 26, 1999, to Benjamin Orvedal stating that at its March 1, 1999 meeting the Commission approved the application for an inland wetland permit at the subject location with conditions.

3. A letter dated May 11, 1999 from Matthew White, P.E. of Angus McDonald/Gary Sharpe & Associates to Mr. Chester Lickwola, Dept. of Transportation, State of Connecticut.
4. A letter from the Town Engineer Michael Giannattasioto William Mulholland, Zoning Officer.
5. A Memo from William Mulholland to the East Lyme Zoning Commission dated May 20, 1999.

Mr. Formica introduced Attorney Robert Tobin who addressed the Commission.

Attorney Robert Tobin, representing in the applicant West Hill, LLC, addressed the Commission and public. The project is a 15 unit, first phase of the development of this particular site. Mr. Tobin introduced Joanne Carol who presented a slide review of similar developments including Chapman Farms and the status of Elderly Housing. She indicated that 22.5% of the population is over age 55 years and the housing options are limited. The homes designed for elderly produce tax revenues yet have no impact on the schools. The homes are designed for single level living.

Matthew White, P.E., Angus McDonald/Gary Sharpe & Associates then addressed the Commission and public. He presented an aerial photo (exhibit 1) of the 10-acre parcel that has an 80 foot frontage on Rte. 161 and is accessible via the road to the Best Western Motel which is located north of the subject site. He pointed out the 20-acre parcel east of the site for eventual build out.

Mr. White presented the Site Layout Plan (exhibit 2) revised May 6, 1999. The development consists of 2 clusters; 7 units on the north and 8 units on the south side of the proposed road. The homes will be Cape-style, 3-4 units attached with a storage/utility connector unit. Unit separation will be 15' (Regulation requires 24') and the applicant is requesting a waiver. Each unit has garage space some having 2-bays. Parking spaces would be approximately 3 per unit. Public water and public sewer will serve the project. The applicant has a 20-foot easement down to Rte. 161 and will construct a sewer line to the existing sewer line. There will be a constructed wetland biofilter/detention pond on the site. This will serve as a filtration system for storm water run-off.

Mr. White then presented the Site Development Plan (exhibit 3). Sidewalks will be constructed within the 80' frontage on Rte. 161. The proposed sidewalk will be connected to the site by traversing the daycare center property. The sidewalk will cross the motel access road and continue into the development. The clusters, however, will not have sidewalks. Conservation Commission has approved the sidewalk, however, Mr. Orvedal does have an application before the Commission to do some additional landscaping associated with the sidewalk. Also proposed are walking trails through the wooded areas on the site. In response to Mr. Dwyer's questions, Mr. White indicated that the power lines from Millstone runs west to east along the south boundary of the site and demonstrated on the Site Development Plan. He added they were not high power tension lines, but rather wooden poles similar to street poles.

Mr. Tobin introduced David Sullivan of Barkin & Mess Associates who had conducted a traffic survey. Mr. Tobin did point out that the applicant is not required to do a traffic survey as part of the application process. Mr. Sullivan studied the existing conditions at the subject intersection on Rte. 161, updated traffic counts, site lines and other safety related issues of the access. Also studied was the proposed impact of the development on traffic and finally estimated traffic conditions during the summer. On a per unit basis it was estimated that this development could generate on average .2-.4 trips per unit during a peak-hour (one of the hours between 7-9AM and 4-6PM). A single-family development would generate 1.0 trips during a peak hour. This project

is graded as "B" level of service and will continue to operate at this level with the additional 15 units constructed.

Mr. Sullivan stated that the State Traffic Commission would be involved (including the hotel and daycare because they have single access) if the total square footage of the entire parcel was 100k-sq. ft. or has 200 parking spaces. This development does not meet those thresholds.

Mr. Bulmer asked for clarification of level of service "B". Mr. Sullivan read from the report appendix which gives a description of level of services: "Level of service B describes operations with controlled delay greater than 10 seconds and up to 20 seconds per vehicle. This level generally occurs with good progression, short cycle, or both. More vehicles stop than at level of service "A" causing a higher level of average delay."

Mr. Tobin introduced Mr. Benjamin Orvedal who reviewed the housing design and landscaping. Houses will be Cape-style (7 optional designs), some having 2-bay garages, and one-level living. All homes will have full basements and a second floor, which the owners have the option of having finished or leaving as an attic. Dormers will be optional on many of the houses. Mr. Orvedal stated that it is his opinion that the connections between the buildings are in compliance with the Zoning Regulations for CA District-Elderly Housing and will serve as common storage/utility area. He displayed drawings of the various designs of the connectors and homes.

Mr. Orvedal described the proposed landscaping indicating that the majority of vegetation will remain. He presented a drawing of a planting plan in the area of the homes. Street signs will be lighted and streetlights (in front of each house and two on the access road) will be solar post lamps. A small "park" scheme is proposed for the entrance area on Rte. 161 and the applicant has applied for a wetland permit for this plan.

There is a traffic light on Rte. 161 at the intersection with the access road. Mr. Orvedal submitted modifications to the Architectural Plans previously submitted – the patios have been enlarged from 12 x 12 to 14 x 16 feet (exhibit 6).

Mr. Orvedal stated in response to Mr. Formica's inquiry that he has an easement across the north side of the daycare property for the sewer connection.

Mr. Tobin stated that in Section 1.17A of the Zoning Regulations which states - all units shall be occupied by no more than three persons on a permanent basis at least one of which shall be age "62" years of age or older or handicapped. It is the applicant's position that this has been repealed by implication given the change made in Section 25.5 Table of Minimum Controls-Elderly Housing CA Subsection 6 which changed the age to 55 years.

Mr. Orvedal stated that they have applied to the National Arbor Day Foundation program designed to encourage saving trees on the site and a planned planting program. The program provides national recognition to the developer and the Town.

Mr. Formica opened the hearing for questions and comments from the Commission.

Mr. Bulmer addressed the definition of Building. Section 1.17A – "a detached building designed for or occupied by three or more families living independently of each other, etc." He added that the lattice

connection/storage units, in his opinion, do not bring the units into compliance with the regulation. He inquired why the applicant did not wait for the proposed amendment regarding Elderly Housing to be passed.

Mr. Tobin indicated that a tremendous amount of money has been invested, and the applicant is trying to comply with the current Regulations. If there is a change in the Regulations, the applicant may revisit that issue.

Mr. Mulholland stated that in the past, specifically relating to the Deerfield Project, the Commission allowed for a similar configuration. He then inquired if these connecting structures have concrete foundations or pads. Mr. Orvedal stated that the intention currently is to have a crushed stone base.

Mr. Dwyer stated that a comparison of this project to the Deerfield Project cannot be made unless the Regulations are the same.

Mr. Formica then opened the floor to those persons wishing to speak in favor of this application.

Joe Kwasniewski, 67 Walnut Hill Rd. inquired how many people were involved in the LLC. Mr. Tobin responded that it was a Limited Liability Corporation owned by Ben and Libby Orvedal. Mr. Kwasniewski also inquired about the detention/biofilter and the risk of contamination to the water supply. Mr. White responded that there is a series of components working in line with the storm drains to treat various aspects of the storm water.

Robert Gadbois, 358 Boston Post Road stated his concern regarding additional traffic onto Rte. 161. He added that he is not against the development.

There being no further speakers either in favor or opposed, Mr. Formica closed the Public Hearing at 9:07 PM.

## **PUBLIC HEARING II**

### **Application of Benjamin Orvedal to modify the existing gravel stockpile Special Permit for 239 Flanders Road, East Lyme, CT.**

Mr. Formica called the Public Hearing to order at 9:12 PM.

Mrs. Cone read the Legal Ad into the record. It was published 5/7/99 and 5/17/99.

Mrs. Cone read into the record a memorandum from the Zoning Official William Mulholland to the East Lyme Zoning Commission dated May 20, 1999.

Mr. Formica noting that the Legal Ad is inconsistent with the terminology used on the Agenda, stated that the Commission will be going by the terminology used in the Legal Ad.

Mr. Tobin addressed the Commission explaining that the applicant wishes to amend the permit to comply with the existing physical condition.

Mr. Matthew White presented a drawing showing the approved stockpile and the existing stockpile location. The stockpile is slightly angled from the shape of the approved stockpile. The existing stockpile is approximately 40 feet from the eastern property line and 40 feet north of the south property line and is approximately 430 feet from the nearest existing residence. The approved stockpile was 100 feet north of the south property line and 100 feet west of the property line and 405 feet at its closest point from the nearest existing residence. To the east of the stockpile is a rock outcropping, immediately southwest is another rocky ledge outcropping and surrounded by laurel bushes.

Mr. Formica inquired if any buffers or setbacks have been encroached. Mr. Mulholland indicated they had not been encroached.

Mr. Bulmer inquired if there had been any public complaints. Mr. Mulholland stated that he had received a complaint that the stockpile was not located on the approved location.

Mr. Formica opened the floor to those wishing to speak in favor of this application.

Joe Kwasniewski, 67 Walnut Hill Rd. stated that he thought the term "earth products" could open the Town to legal problems. He added that the Zoning Commission has to be more careful and accurate in its choice of terminology.

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

There being no further speakers either in favor or opposed, Mr. Formica closed the Public Hearing II at 9:24 PM.

Respectfully submitted,



Anita M. Bennett  
Recording Secretary