

EAST LYME ZONING COMMISSION

REGULAR MEETING

OCTOBER 21, 1999

MINUTES

FILED IN EAST LYME TOWN

CLERK'S OFFICE

Oct 25, 1999 at 2:25 PM

Esther B. Wallace

EAST LYME TOWN CLERK

The East Lyme Zoning Commission held a Public Hearing and Regular Meeting on October 21, 1999 at Town Hall, 108 Pennsylvania Avenue, Niantic, Connecticut 06357. Paul Formica, Chairman, called the Public Hearing to order at 7:31 PM and the Regular Meeting to order at 7:43 PM.

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

Also Present: William Mulholland, Zoning Officer.

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

After opening the meeting, Mr. Formica introduced the Commission Members and Zoning Officer. He indicated that Mr. Bulmer and Mr. Dwyer would sit this evening for Mrs. Cone and Mr. Peck who is sitting out due to a conflict. Mr. Formica led the meeting in the Pledge of Allegiance.

PUBLIC DELEGATION

Mr. Formica reviewed the purpose and procedure for Public Delegation. He indicated that Public Delegation is an opportunity for the public to address items and subject matters that are not on the Agenda. He recommended to the Commission that the Zoning Commission add an Agenda item for Public Discussion at the end of the meeting at which time the Commission members and public can discuss items on the Agenda for purposes of clarification only.

Mr. Price made a motion to add Public Discussion to the Agenda of future meetings. Mr. Weber seconded that motion. Mr. Weber noted that this item should be under New Business in the Regular Meeting. Mr. Price withdrew his motion and Mr. Weber withdrew his second to that motion.

1. Robert Gadbois, 358 Boston Post Road, East Lyme. Stated that Ted Harris is the attorney for Benchmark Assisted Living, LLC and also was the attorney for Mr. Formica on a prior matter. He questioned whether Mr. Formica should remove himself from discussion and vote on the Benchmark application because of an apparent conflict of interest.

2. Joseph Mingo, 397 Boston Post Road, East Lyme. Mr. Mingo noted that if the Commission is to vote on a matter not on the Agenda, the Commission must make a motion to add the item to the Agenda and it would take two-third vote to pass and be placed on the Agenda.

REGULAR MEETING

A. Acceptance of Minutes

Mr. Formica noted corrections on Page 5 of 7 Public Hearing. Mr. Bulmer noted correction on Page 3 of 7. Mr. Bulmer indicated that para 5 of Page 3 of 7 ("Mr. Harris indicated that Benchmark LLC would be willing to allow color approval but stressed that the plan is for the color to be 'muted'.") is ambiguous and needs clarification as to who would approve, as the Zoning Commission does not have jurisdiction in that regard.

- MOTION (1):** Mr. Weber moved to approve the Minutes of October 7, 1999 as corrected.
Mr. Dwyer seconded the motion.
Corrections: Page 3 or 7 (Public Hearing I), para. 1, sentence 2 should add the word "within" before "950 feet..."
Page 5 of 7 (Public Hearing I), para 7 correct Kevin Blodgett to Kenneth Blodgett.
Vote in favor: (5-0), Mr. Price abstained.

B. Application of Theodore Harris, agent for Benchmark, LLC, for a Special Permit and Coastal Site Plan Review to construct a 66 unit Assisted Living Facility at 417 Main Street, 8 and 14 Lake Avenue, Niantic, CT.

Commission members seated: Mr. Formica, Mr. Weber, Mr. McLaughlin, Mr. Dwyer, and Mr. Bulmer.
Mr. Peck excused himself due to a conflict. Mr. Price excused himself, as he was not present for the Public Hearing.

Mr. Formica indicated that at this time the Commission would deliberate and could request clarification through the Zoning Official and Town Staff. There is not an opportunity for the public or the applicant to speak during these deliberations. The Commission has 65 days to make a decision on this application.

Mr. Dwyer requested copies of the drawings showing the elevations be available to the Commission. Mr. Mulholland provided several sets of the drawings for the Commission.

Mr. Dwyer indicated that he had several issues to discuss.

1. Traffic that the facility would generate. He stated that, having reviewed the traffic report, he did not feel that the facility traffic was a major issue.
2. Elimination of business sites. He stated that currently in the Niantic Village there are 40 vacant stores. Utilizing this space is not going to effect the business space availability.
3. Property values. He stated that he believed that the property near the facility, in his opinion, would be effected negatively.

Mr. Bulmer addressed several issues.

1. Adequate parking facilities. Mr. Bulmer stated that the parking proposed complies with the Regulations, however, his recollection is that there are more employees at this proposed facility (20 employees) than what the Commission was told and considered during the process to amend the Regulations to allow this use. The number of parking places might be marginal and could be inconvenient as well as a safety concern. Mr. Bulmer stated that he would like to see 8-10 additional parking spaces on the site.

Mr. Mulholland indicated that 27 parking spaces are required per the Regualtions and the applicant is proposing 30 spaces.

2. Service area: Mr. Bulmer stated that a tractor-trailer truck cannot access the loading dock and he considers this a safety problem. In all probability, there are going to be instances when tractor-trailer trucks will need to gain access. Also, service vehicles crossing the sidewalk areas present a safety issue.
3. Color scheme: He stated he hoped Benchmark would cooperate in putting the color scheme on the plans as a good gesture and make the color scheme a part of the application.
4. Building height: Mr. Bulmer noted that the Regulations require that the building shall be in harmony with the buildings around it. The height proposed is 37 ft. and which is within the Regulations, however, he indicated that he believed the height should be reduced.

Mr. McLaughlin addressed and reiterated some of previous issues.

1. Parking spaces proposed are inadequate in number given the size of the project.
2. The project size is too large for the lot.
3. Traffic generated, particularly the service vehicles accessing the facility via Hope St. and Lake Ave. The area only accommodates a single truck placing any additional service vehicle on Lake St. or Main St.
4. Decrease the property values in the zone and particularly next to the facility. The CB Zone bordering Main St. should be left for commercial use.
5. Emergency access is inadequate. Mr. McLaughlin stated that the grassed emergency access across the rear of the property poses possible difficulties in the winter when it is covered with snow.

Mr. Dwyer indicated that the grassed emergency access area has been reviewed and accepted by the Town Engineer. It is proposed to be constructed in such a manner as to accommodate and support necessary emergency vehicles.

Mr. Weber read from the plan regarding the emergency access construction.

Mr. Mulholland stated that the Town Engineer has responded to some issues and also pointed out on the plan where changes had been made to accommodate a 30-foot box truck.

Mr. Formica read a letter from the Town Engineer to the Zoning Official dated October 19, 1999 which addressed some of the drainage issues, lighting, demolition, increasing the loading area drive to accommodate proper maneuvering of a 30 foot box truck, etc.

Mr. Bulmer noted that the service area driveway does not accommodate an 18-wheel tractor-trailer, but rather a 30-foot box truck.

Mr. Formica stated that most businesses have only a single loading area and agreed that this plan does not accommodate two vehicles. He stated that he didn't know if space for a second vehicle in this area is necessary. The facility can be expected to receive primarily consumables and perishables once or twice a week.

Mr. Weber commented on various issues previously mentioned.

1. Inadequate parking spaces. He noted that the proposal complies with Zoning Regulations.
2. Height/size of the building is too large for the lot, but is within the requirements of the Regulations.
3. He stated that there is a need for Elderly Assisted Living Facilities and one of the impacts on East Lyme is that the facility adds to the tax base.
4. He stated that the project does not blend well with the area. He added that the project appears to be industrial in appearance not residential. It dwarfs surrounding area/building and he feels it is not in harmony with the orderly development of the district.
5. The traffic generated will have a minimal impact. However, he expressed concern for increased ambulance traffic near and around the facility.
6. Service vehicles won't have a major impact on the area.
7. School and Children's Museum proximity does not present a major issue.
8. Concern was expressed during the public hearing regarding whether or not mental patients would be housed in the facility. With this in mind, Mr. Weber questioned whether the medical personnel on-staff are qualified. The State and Federal government have yet to create standards for staffing for Assisted Living Facilities.
9. Emergency access will meet the needs when new, but as the trees and shrubbery around it grow the space will become restricted and the gravel base will deteriorate over time.

Mr. Dwyer stated that he did not have a major concern with regard to the number parking spaces. He added however that he would prefer to see more spaces.

1. He stated that a decrease in property values in the area would be a major concern.
2. He stated that the applicant could be requested to increase the number of parking spaces and reduce the building height, but both do currently comply with the Regulations.

Mr. Formica noted that during the Public Hearing, Mr. Ericson indicated that he would provide a letter of amendment with regard to the height of the building as the figures on the submitted plan differ from those he presented during the public hearing. Mr. Mulholland stated that he had not received any such correspondence to date.

Mr. Formica stated that when the Commission was requested to amend the Regulations to allow this use in the CB Zone he felt it was a good idea. He stated that he believes the Town needs to continue to develop Niantic Village and in order to do that the Town needs to attract people to the area. He added that the applicant described a low-impact facility to the village that will allow some exposure to the public to the village of Niantic. The applicant had indicated that a small percentage of residents typically have cars and most often are taken into the community via facility vans. They also indicated, as Mr.

Formica recalled, that staff would number about eight and the Commission relied in the figures the applicant presented.

Mr. Formica stated his concern that some members of the public perceived the amendment adoption to allow Assisted Living Facility as a use in the CB Zone as spot zoning. He indicated that the Zoning Regulations are prohibitive and anyone can come forward and request of the Planning and Zoning Commissions an amendment to the Regulations. In this case, the Planning Commission approved the amendment unanimously and as required, the Zoning Commission held a Public Hearing.

Benchmark, LLC has applied for a Special Permit under Section 9.2.8, Section 25, Section 24 and Section 22 of the Zoning Regulations. (Section 25.5. – Parking Criteria, Section 22 Parking Stalls, Driveways, and Section 24 Site Plan). The Commission is charged with the opportunity to defend the regulations and to allow or disallow uses based on the Regulations.

Mr. Formica read from the Regulations, Section 9.2, Permitted Uses in the CB Zone. Two-family dwellings, retail and sales stores, business or professional offices, standard restaurants and bakeries, confectionery store, cafeteria, hotel, personal service shops, bed & breakfasts, wholesale commercial use, cold storage lockers, gasoline service stations, auto garage, automobile sales agencies, private educational uses, all related accessories customarily associated with these uses. Also allowed as a Special Permit Use are private clubs, commercial recreation, indoor theaters, dwelling units, fast food, multifamily-multistory dwellings, small animal veterinarians, and parking lots. In August, Assisted Living Facility was added as a Special Permit Use.

Mr. Formica reviewed the applicable Sections and requirements stated in the Regulations and noted that the applicant seems to have complied with these Regulations.

Mr. Formica stated that it was his opinion that

1. Parking space needs to be increased. Peak employee number was given by the applicant as 20, plus two facility vans and 5% of the residents could have cars ($5\% \text{ of } 66 = 3.3$) resulting in 26 cars with only 4 spaces for visitors. He recommended the applicant be requested to add 8-10 parking spaces.
2. He added that the loading dock area is not adequate to service this facility even with the accommodation for a 30-foot box truck. A tractor-trailer truck should be able to access and exit the site. Mr. Formica stated that he does not have a concern or problem with the industrial look of the building that Mr. Weber has, nor the height of the building.
3. Although not having any expertise in valuing property, Mr. Formica stated that he believed that property values would not be negatively effected.
4. Somewhat more traffic would be generated than currently, but certainly not more than any of the other permitted uses.

Mr. Bulmer stated that he supported the concept of the Assisted Living Facility. He indicated that he has walked the 417 Main St. to Pennsylvania Ave. at the Town Hall and found a number of vacant buildings and spaces. This facility is not, therefore, threatening available commercial/retail space. He added that all things considered, the facility would be an asset to the Town as part of the tax base and to the businesses in Niantic. He added that he suspects the property values would rise not fall with the Assisted Living Facility in the area. Mr. Bulmer also noted that this facility would bring people into the village of Niantic in the non-tourist season.

Mr. Bulmer stated that a compromise is needed and the Commission needs to be concerned about the public and the concerns of those in the neighborhood. Mr. Bulmer also stated that since the applicant does not have the correct dimensions on the drawings, indicates that the application is not complete, and that he does not feel comfortable voting under these circumstance.

Mr. Weber noted that to revitalize downtown Niantic, one needs traffic to do it.

Mr. Formica noted that the discussion has brought forward several changes in the project that the Commissioners felt would be appropriate.

Mr. Mulholland stated that an examination of the site and in discussions with the applicant, there is probably space to add 8-10 parking spaces. He added that as a condition for approval, the Commission could require those additional spaces. The applicant had previously indicated to Mr. Mulholland that this would not create a burden on them.

Mr. Bulmer stated that one problem with making the conditional approval is that the Commission would not see the actual location and traffic flow for the additional parking spaces prior to approval and therefore he would not support this as a condition.

Mr. Dwyer stated that he would not like to see the park-like area on Main St. lost to parking lots.

Mr. Mulholland indicated that staff could obtain clarification for the Commission on the issues raised without it being additional testimony. Staff and Town Engineer would have the opportunity to re-examine the plan.

Mr. Formica noted that there is a Coastal Site Plan Review with this application.

Mr. Dwyer noted that the applicant has requested a waiver of the buffer plantings on the eastside abutting the Gada property and the west boundary as shown on site plan.

It was the consensus of the Commission to continue deliberation until the next Regular Meeting, November 4, 1999.

C. Application of Robert D. Tobin, agent for West Hill, LLC for a Special Permit to construct 88 units of Elderly Housing at 237 Flanders Road (rear).

Public Hearing was continued to November 4, 1999.

Commissioners seated: Mr. Formica, Mr. Peck, Mr. Price Mr. Weber, Mr. McLaughlin and Mr. Bulmer

OLD BUSINESS **None**

NEW BUSINESS

A. Correspondence

Mr. Formica stated that the Town has received a letter from McDonald's indicating that they have agreed to sandblast the white paint off their building on Main St.

B. Any Business on the Floor, if any, by the Majority of the Commission

MOTION (2): Mr. Peck moved to add to the Agenda a discussion of Public Discussion as an agenda item.
Mr. Price seconded the motion.
Vote in favor: (6-0), Unanimous

Mr. Formica noted that Public Delegation at the beginning of the meeting is time set aside for the public to address the Commission on subject matters not on the Agenda. Public Discussion, which would occur at the end of the Meeting, would be open to the public to talk to the Commission about items on the Agenda. The Commission responses would be clarification purposes only. No evidence or testimony can be introduced and applications in public hearing or deliberation cannot be discussed.

Mr. Peck stated that he would like to see Public Discussion added to the Agenda on a trial basis.

Mr. Price stated that there need to be some clear rules and structure established to govern. He also recommended the Town Attorney be consulted before instituting Public Discussion periods.

C. Zoning Official:

Mr. Mulholland indicated work is going forward on the Cracker Barrel application; Harbor Plaza and the new Post Office is underway; work is ongoing on the hotel project on King Arthur Dr. among other things.

D. Ex Officio: None

E. Comments from Planning Representative: No present

F. Adjournment:

MOTION (3): Mr. Price moved to adjourn the Meeting of the East Lyme Zoning Commission.
Mr. Bulmer seconded the motion.
Vote in favor: (6-0), Unanimous

Respectfully submitted,



Anita M. Bennett
Recording Secretary