

# Town of East Lyme

P.O. DRAWER 519

NIANTIC, CONNECTICUT 06357

ZONING COMMISSION

## CONTINUATION OF PUBLIC HEARING

July 21, 1994

PRESENT:

Wayne Fraser, Chmn.; Paul Formica, Secy.; William Dwyer, Norman Peck III, Sharon Baroni; and Alternate Shawn McLaughlin.

ABSENT:

Athena Cone, and Alternates Paul Smith and Chris Mullaney.

The meeting was called to order by Wayne Fraser, chairman, at about 7:08 p.m. He asked Shawn McLaughlin to sit on the Board in the absence of Athena Cone. (Shawn had been present at the previous hearings on the Skeet Range.)

Continuation of Public Hearing on application of Niantic Sportsman's Club, Inc. for a Special Permit to operate a Commercial Club (Skeet and Trap Range) on property off Plants Dam Rd., East Lyme, Ct., further identified as Lot #10 on East Lyme Tax Assessor's Map 65.

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Correspondence re: this item was read:

1. A letter by Myron F. Tethal was read opposing the granting of this permit. He cited loss of value to his property because of the noise of the shooting, which is less than 3/8 mile from his home.
2. Letter dated 7/20/94 by Peter Hopkins, 8 Frog Hollow, also opposing the granting of the permit. He suggested range hours like 10:00 am to 4 p.m.

The Exhibits received so far were listed again - A through J. The letters from the intervenor were listed with numbers, 1 through 9.

Mr. Michael Stevens, an intervenor, said his packet was entered last week, and he presented five packets tonight, for an Exhibit.

Atty. Harris called a point of order as he feels a lot of this material is irrelevant. Mr. Stevens said there is some factual information here.

Mr. Stevens said he works on vaccines, and his job is to look at problems and at pesticides. He is very concerned about lead. He disapproves of the new skeet range.

Filed in East Lyme Town  
Clerk's Office

July 26, 1994 AT 1:00 AM  
Lesley A. Blas (PM)  
East Lyme Town Clerk

EXHIBIT #10 was submitted- Niantic Sportsman Club -1987 letter.

Mr. Stevens said when he moved in there was a skeet range, but now they want a new one. His concerns were that there is not an adequate map of the range that shows just where the range is, and (2) chemical pollution, and (3) The EPA is likely to ban the use of lead in fishing sinkers, and in future years it may be banned on skeet ranges. He feels lead is getting into the water in this aquifer zone.

He disputed Dr. Sever's claims that lead is not leaving the site. Mr. Stevens also spoke of a need for a fence around the site. He feels steel shot should be used to reduce the lead contamination.

Regarding the noise level, he claimed it was frequently over 100 decibels. He claimed the leaves on the trees do make a difference. He felt there should be more testing, both when the leaves are out and when they are not.

He said if you approve this range, the people will have to sue because they can't live here with this noise.

The chairman declared a five minute recess.

Hearing was called back to order about 8:30 p.m.

Atty. Stevens asked Mr. Stevens if he was a hydrologist (No). He asked if he ever worked for the DEP (No) and asked if he had ever been on skeet site (No), and asked if he had done any soil testing on the site (No was answered by Mr. Stevens).

Thomas Nazarko, 16 Spring Rock Rd., East Lyme, an intervenor, said it is a question of when the lead will leach through the soil. The Westchester N.Y. case was again cited.

Atty. Harris felt they are getting too far afield when they cite this. They should not get into what happened at other sites, he said.

Mr. Nazarko spoke of the town's liability in a clean-up situation. He disagreed with the statement that the town would not get stuck with a clean-up here. He said the EPA has shown where you can clarify a town's responsibility. He gave a phone number to call EPA 617-565-3420. He said one solution would be for the club to obtain insurance to cover any future costs for clean-up.

He submitted EXHIBIT #11- a list of people who can help alleviate the noise levels.

He asked if the town is willing to re-assess the property in the skeet area because of the noise.

SPEAKING FOR THE APPLICATION:

(Before anyone spoke, Mr. Stevens added some sheets to go with EXHIBIT #10- now 10B.

Dick Younger, 103 Blood St., Old Lyme spoke as a former resident of East Lyme for 27 years, and as a member of the

East Lyme Town Clerk's Office

MA

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TA 81

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Sportsman's Club since Oct. 1956. He said there used to be lots of land in East Lyme where you could hunt, but it is now all developed. The club has now become a sport shooting club for recreation. They now have 500 members. He said they had 97 acres originally, and then bought 80 acres later on. He claimed the DEP has their own rifle range in Franklin and shoot into the swamps. He said we shoot in the summer time from 6 p.m. to 8 p.m. and on Saturday and Sunday from 10 a.m. to 1:30 p.m.

He said in the winter it is dark evenings so there is practically no shooting except on Saturday and Sunday. There is a league on Sunday, and they shoot for four hours usually. He said Burns Security uses the range on a continuous basis to qualify their people on the rifle range.

He asked that this permit be approved.

PATRICK LOONEY, Old Lyme, and also a tax payer in East Lyme, urged approval of the Special Permit. He said people come here to learn gun safety.

DR. CASPER BURKE, 11 Smith Ave., Niantic, said he came here in 1979 and joined the club. He said signs state that no liquor can be used in the pistol, rifle or skeet range. He recommended approval.

SPEAKING AGAINST:

Michael Nazarko, 12 Spring Rock Rd., said 165 of the 500+ members are East Lyme residents. He said only 1% of the members live within 3/4 mile of the club.

He asked if there are any zoning regulations violated on the lower range. He claimed no permit should be given if there are violations.

Wayne Fraser explained that the Zoning Commission can hear an application if there is a "Cease and Desist Order", and the Commission can approve the application to correct a Zoning Violation on the property.

He asked Mr. Mulholland if there was a zoning violation on the property. The Zoning Officer answered that to the best of his knowledge there was not.

Mr. Nazarko was reminded by the chairman that the Board is here to hear testimony- not to answer questions. He submitted EXHIBIT #12- "How Far a Shot Travels" a Sports Arms Institute Report.

Mr. Nazarko also submitted old zoning regulations (1954 regs.) as EXHIBIT #13.

He claimed the building on the upper range will be the new club house. He asked if this is part of the application.

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Atty. Harris said it is not.

Mr. Nazarko said he has a Certificate of Occupancy for a single family dwelling. He asked if this is a skeet shooting building or an office.

Atty. Harris said if this permit is granted after tonight's hearing, then we will not alter this building to a dwelling.

A five minute recess was declared at 9:30 p.m. and called back to order at 9:35 p.m.

EXHIBIT #14, a Certificate of Occupancy dated Sept. 1993. He cited several situations he termed as violations.

GARY WILSON, 47 Spring Rock Rd. said he was aware of the gun club when he moved here. He is concerned about the value of his real estate if this permit is given. He could lose a lot of money, and has already lost his peace and quiet, he stated.

STEWART CRAIG, 44 Shore Rd., feels the experts gave biased opinions. He said the noise is clearly offensive to the residents. He said the noise was even louder at Deans Ridge when he drove up there. He feels the permit should be denied.

BOB JACINSKI, 144 Bridge Brook Rd., said he has lived here 38 years. He said he can <sup>hear</sup> hear shots with the windows closed. In the last three years he said it has been continuous all day long.

LISA MIKO, 38 Spring Rock Rd., was concerned about lead being absorbed in the soil. She hears continuous gun shots, both inside and outside her house.

MARTINO FORTUNATO, East Lyme, is concerned there is no field data to back up the ground water flow data. She said the noise is unbearable when the skeet range is being used, and the children can't nap during the daytime. She asked the permit be denied.

DR. BILL LAMBERT, 17 Spring Rock Rd., a health professional, who said his PHD is in physical chemistry. He said any lead going into the water of our system is going into us. He showed particles of chemicals in the soil to which lead could become attached and go on down to the ground water. He objected to the statement that lead only goes down 3 inches. He said it is toxic to animals, plants and man. He said there should be some unbiased experts give reports also.

MRS. MARTINA CRAIG, 53 Spring Rock Rd., spoke of the high decibels of noise recorded on the Fortunato's property. She said there were 300 shots an hour for several hours. She is also concerned about lead, and opposed the permit.

BILL KOHLBRENNER: 17 Tanglewood Dr., East Lyme. He stated the noise from the range is objectionable as his house faces this area, and he feels his investment is jeopardized.

Presented EXHIBIT #15- "Field Survey on Annoy. those by Sounds from Small Fire Arms".

MR. SAL KLICZE, 20 Tanglewood Dr. spoke of concern about the noise.

JOHN FACAS, 1 Tanglewood Dr. said he finds the noise totally objectionable- 4 hours every Saturday and Sundays. He would like the Zoning Board to hear this noise.

QUESTIONS FROM ZONING COMMISSION MEMBERS:

Bill Dwyer asked about impulse noise, and is it actually measured differently. He also asked if the permit is approved, what system would be used to monitor the water and soil.

Atty. Harris asserted that impulse noise is measured differently. If a monitor plan is made, Atty. Harris said (in answer to a question by Paul Formica)-that it would be by an expert, Mr. Sever or Mr. Whiting. He said he would like to see both sides get together on monitoring.

Atty. Harris said they have explored reclamation on site, but they found it could disturb the site more by equipment coming in. He said it is hilly and brushy to get in there. He said until the site is abandoned, he felt lead is not a waste.

Paul Formica asked what happens to the old or existing skeet range after the new is approved.

Atty. Harris replied that the old one will be closed, and it will be cleaned up some, and may be turned into an archery range.

Norman Peck asked about the quantity of lead, and is this a key to our problem. Dr. Sever maintained it will stay in the top 3" of the soil and probably travel only a short distance. He said you could be talking about 1000's of years before it would reach saturation point.

Mr. Formica asked Mr. Von Winkel about the noise issue, as he feels this is the biggest problem to the people. He asked if this noise could be buffered down to 50 decibels range.

Mr. Von Winkel said you could build barriers like you see on the highway, like 20 ft. high. He said by the EPA standards the sound level was low. He said there is a lot of controversy whether the sound barriers do any good.

THOMAS NAZARKO claimed EPA calls lead hazardous waste, and he finds it incredible that Mr. Severs did not. He said the Sportsman Club was initially a rifle range where they shot into piles of dirt. They did not have a skeet range then.

JAY LOONEY, East Lyme, asked about the new range and the old range being together. He said the Conn. DEP calls shot a hazardous waste, and they said they cannot approve or disapprove the Sportsman Club because the Club has not made application to DEP.

DR. BARRERA, 91 Riverview Rd., felt the skeet shot mostly travelled 20 yards, not 200 ft. He said the Commission should take into account that the club has been there many years. He did not think it was fair of people to impugn the reputations of the experts.

DON FORTUNATO said you are talking about 2000 shots a week, and it is too loud. He spoke of the aquifer recharge area being near the Bride Brook wells. He said there is aquifer mapping going on right now by the DEP.

MICHAEL NAZARKO claimed the shot reached 176 yds to 220 yds. and it is well into the area of the aquifer protection zone, he said.

Atty. Harris asked Dr. Sever to answer some of the questions about a culvert which is 40 ft. away from the wetlands area. Dr. Sever said there is a hill south of the wetlands area. He said water on the north side of the hill moves to the wetland area, which will be a recharge area.

JOHN MCDOUGALL, SPORTSMAN CLUB, spoke of the fact that Mr. Fortunato tore down his old house and built a new one, so the soil cannot be too bad, he said. He said the club does not intend to abandon the property.

Atty. Harris said the Zoning Commission cannot be in a position to determine the jurisdiction of the federal or state government (as to DEP and EPA issues). He said Zoning regulations require approval of the site plan. He said DEP said there is no application process for a gun club. He said EPA still takes the position that lead is not a hazardous waste until the range is dead. He said the concern of the Commission is "Does this affect the water of the town and get into the aquifer". Mr. Sever says it does not.

EXHIBIT L is of the two wells at Bride Brook. Atty. Harris said a well on the site showed no lead. He said our real issue here is 1- Lead on the site, which is not really soluble, and will not go off site. 2-Noise. He said in terms of impulse sound, you are nowhere near the level not allowed. He suggested a barrier might be erected near the Fortunato's house to reduce the sound level. He said 70 decibels was not exceeded.

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Atty. Harris said they would be willing to not start operating at the club before 10 a.m. on anyone morning. He said they will start the monitoring program as required by the Conservation Commission.

Atty. Stevens said this all started in Jan. 1993 when Mr. Fortunato wrote a letter. Mr. Nazarko has asked them to shut the club down. Atty. Stevens said the Ordinance cited by Mr. Nazarko does not apply to lead. A Special Permit is allowed in the zone, and they are well in the guidelines of the zoning regulations. The club was here before the subdivision came.

He said the wetlands commission felt there was no danger being done, and they feel the new location is better than the old one. The real issue is the noise. He said the noise from the old range was louder than from the new skeet field. He said they are shooting away from Tanglewood. He said they are building a barrier to help Mr. Fortunato.

Atty. Stevens said these experts are the best we could find. He feels the Board should grant the permit. He said the noise from the new range is less than from the old.

At midnight, Mr. Fraser said this hearing has been very well presented by both sides. This application will be on the next agenda for review.

Hearing was duly closed about 12:08 a.m.

(A Complete transcription of the hearing will be filed by a court stenographer).

Attest:

  
Elizabeth J. Taylor  
Recording Secretary