

# Town of East Lyme

Niantic, Connecticut 06357

P.O. Drawer 519

## MINUTES OF THE ZONING COMMISSION REGULAR MEETING Thursday, June 16, 1994 East Lyme Town Hall

### PUBLIC HEARING

**PRESENT:** Wayne Fraser, Chairman, Paul Formica, Secretary, Athena Cone, William Dwyer, Norman Peck, Sharon Baroni. Alternate: Shawn McLaughlin  
Zoning Officer: William Mulholland

**ABSENT:** Paul Smith, Chris Mullaney

**EX-OFFICIO:** Don Jourdan

**DELEGATION:** Wilson Scott, Attorney Jean M. Stawicki of Colchester, Woodrow Scott, Joseph Kwasniewski, Daniel McKay, Clayton Palmer

#### Call to Order

The meeting was called to order at 7:35 pm by Chairman, Wayne Fraser. Mr. Fraser asked Shawn McLaughlin to sit on the Board in the absence of Paul Formica. Mr. Formica arrived at the meeting within a few minutes and assumed his seat on the Board.

#### Public Delegation

Attorney Jean M. Stawicki of Colchester presented information on behalf of Wilson Scott for the purpose of obtaining a Special Permit to excavate gravel from a portion of Scott Farm property, (~ 4 acres), off Stone Ranch Road, East Lyme, further identified as Lot #52 on East Lyme Tax Assessor's Map 70. Ms. Stawicki cited exceptions in Sections of the Zoning Code; 17.2.2, 25.4.1 and 25.4.2, dealing with the removal and sale of gravel from farms. She explained that the primary purpose for excavating gravel from the property was to adjust the contours, thereby making the land suitable for crops and more valuable as farmland. Ms. Stawicki stated that other adjoining areas, previously excavated, have been restored.

Mr. Fraser requested and received clarification that the application was for a Special Permit and not an Exception.

Filed in East Lyme Town  
Clerk's Office

June 28, 1994 AT 3:45 AM  
PM  
*Lesley A. Blais*  
East Lyme Town Clerk

Mr. Fraser read into the Record, a letter to the Commission, dated June 15, 1994, from Planning Commission Chairman, Richard Bonin. The letter requested the Public Hearing on the application by Wilson Scott be continued because the Planning Commission was unable to make a timely determination on the proposal because of incomplete information, and expected a recommendation would be forthcoming immediately following their June 21st meeting.

Mr. Fraser read into the Record, a memo to Zoning Official, Bill Mulholland, dated June 14, 1994, from Planning Commission Member, Jeanne Davies. The memo was a site plan review of the Scott proposal in response to the Zoning Commission's request. The response listed five recommendations.

1. Curbed, paved refueling pad installed near entrance to property to protect against contamination of aquifer
2. Regrade existing access road near entrance to subject area for increased visibility and protection against fuel spills
3. Independent monitoring of water table through new test wells installed by the applicant along existing 130, 140, and 150 contour lines, and monthly testing of depth to ground water to maintain 5-8' of soil above water table
4. Required reclamation with respect to total acreage to date; soil erosion and sedimentation controls constructed to minimize existing erosion of remaining topsoil; reclamation of gravel permit operation in phases to minimize amount of exposed area and with a bond amount appropriate to reclaim the land if needed
5. Delineate stockpiles areas of retaining ground cover material on the plan and install appropriate soil and erosion controls around that area

Mr. Fraser noted that the area was under a Cease and Desist Order and that the application could be granted subject to the wishes of the Commission.

Mr. Mulholland stated his wholehearted endorsement of the planner's recommendations, and if they were met, he would recommend approval of the application.

At the request of Messrs. Fraser and Formica, clarifications and explanations were provided by Mr. Scott on details of the operation, including identification of New England Borin of East Hartford who placed, monitored, and would remove upon completion all test wells, and by Mr. Mulholland on whether existing and completed project requirements had been satisfactorily met. Mr. Mulholland stated that bonds held by the Town of \$12,500 on the first permit and \$9,000 on the second permit were sufficient and recommended a review in concert with the Town Engineer to determine an appropriate amount to be held on any new permit to grade, loam, and seed if necessary. He also explained that the Cease and Desist Order exists because of the disturbance of soil without a permit, and that approving this new permit would close the Cease and Desist Order.

Mr. Fraser invited those present to offer any pertinent information regarding the permit application; first to those speaking in favor of the application. Joseph Kwasniewski of 67 Walnut Hill Road and Daniel McKay, address not given, offered information regarding the aquifer and the ongoing placement of wells on a yearly cycle. Woodrow Scott of 32 Scott Road provided a short history of four generations of Scott farmers that began in 1898.

Opposed: Mr. Fraser recognized Clayton Palmer of 25 Stone Ranch Road whose property borders the Scott Farm in the area of this and two other adjoining excavation sites. Mr. Palmer felt a bad precedent would be set to allow a violation of Zoning Regulations to be remedied by the granting of a Special Permit. He further stated:

- \* The previous excavation sites included a buffer of trees, which is not required in this permit
- \* Section 25.4.2 deals with a special permit vs. permitted use
- \* Objection to operating both gravel pits at the same time
- \* This third permit application is moving the gravel operation even closer to his property, thereby disrupting life for several years before and an unknown amount of time into the future.

Discussion was held and clarification provided concerning screening and crushing equipment, stockpiling, mined processing, top soil, parking of equipment, RU 40 zoning, concurrently running permits, and length of time for this project.

Mr. Fraser thanked those present for their help. The Public Hearing portion of the meeting was closed at 8:53 pm.

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Mr. Fraser continued the Regular Meeting of the Zoning Commission.

**Minutes**

- MOTION #1** by Mr. Dwyer to approve the Minutes of June 2, 1994 as presented.  
Seconded by Mr. Peck.
- VOTE** Unanimous (6-0)

Mr. Fraser stated the meeting was open for deliberation on the application by Wilson Scott for a Special Permit.

Mr. Formica said he was sensitive to noise and disruption that affected small children and would like to solve Mr. Palmer's dilemma, while at the same time be fair to Mr. Scott and suggested the amount of time to process and remove 20,000 yards of gravel could perhaps be limited to five (rather than eight) months with a transfer of \$4,500 of the \$9,000 bond from the previous permit.

Ms. Cone requested information to clarify well monitoring frequency and bond amounts.

Mr. Dwyer expressed concern regarding soil excavation and suggested the project be done as quickly as possible.

Mr. Peck said he thought eight months was an appropriate amount of time to accomplish the project and accepted Mr. Mulholland's recommendations.

Ms. Baroni said the Cease and Desist Order was being ignored and should be considered before proceeding with any permit.

Mr. Fraser asked Mr. Mulholland to explain if a permit was needed when a farmer wanted to sell soil that was not being used. Mr. Mulholland responded that supporting documentation for exemption to Section 17.2.2 does allow an exemption to regrade (transport and remove, but not sell). Mr. Fraser suggested approval of the application would foster harmony.

Mr. Formica requested additional information regarding the Cease and Desist Order. Mr. Mulholland responded that approval of this application for a Special Permit would close the Cease and Desist Order.

Mr. Fraser read the letter, dated May 19, 1994, from Robert W. Marrion of the Waller, Smith & Palmer Law Firm to Mr. Mulholland, in response to his question concerning an application for work to be done while a Cease and Desist Order is outstanding. The letter quoted Section 25.8 of the regulations, which reads as follows: 25.8 Existing Violations: No special permit shall be issued for property where there is an existing violation of these regulations. The letter further states, "If a special permit cannot be granted to a property owner against whom a Cease and Desist Order is outstanding, it may be impossible to cure the violation. If the corrective work can only be done under a special permit, it must be possible for the property owner to apply for and be granted a special permit for that purpose. Otherwise, the overriding goal of bringing property into conformity with the regulations will be frustrated. Therefore, I believe that Section 25.8 may be read to mean that no special permit shall be issued for property where there is an existing violation of the regulations except for purposes of correcting the violation."

Ms. Baroni stated that the problem that caused the Cease and Desist Order to be in effect should be fixed, not used as a means to do more excavating.

Mr. Fraser called for a break at 9:23 pm. The meeting resumed at 9:30 pm and Mr. Fraser requested suggestions for specific permit restrictions.

**MOTION #2** by Mr. Formica to approve the application of Wilson Scott for a Special Permit to excavate gravel from a portion of property off Stone Ranch Road, East Lyme, further identified as Lot #52 on East Lyme Tax Assessor's Map 70, with the following stipulations:

1. Work may be conducted only Monday through Friday between the hours of 8:00 am and 4:30 pm.
2. The existing paved refueling area will continue to be used as the refueling area.
3. This Special Permit is in effect for six (6) months from the date of issue.
4. Wells/Water will be monitored as required by the Zoning Officer.
5. The Bond is to run concurrently with existing permits. Amount of Bond for loam, seeding, and site reclamation will be determined by the Town Engineer and the Zoning Officer.

Seconded by Mr. Dwyer.

**VOTE** Five Members in favor; one opposed. The Motion carried.

### Old Business

1. Mr. Fraser announced that the application of Mobil Oil Corporation had been withdrawn.
2. **Subcommittees**
  - a. Mr. Dwyer explained and distributed to Board Members, pictures of trailers that have been parked in various locations for several months. Copies of these pictures will be placed on sign boards.
  - b. It was decided that subcommittee items should be prioritized and more emphasis placed on shared parking. Mr. Mulholland offered to compile and distribute some information he had recently received on municipal parking.

### New Business

The application of Barbara P. Burdick for a Coastal Site Plan Review for a proposed single family dwelling at 20 Attawan Avenue, Niantic was considered. Mr. Mulholland stated there were elevation problems that would require a CAM (Coastal Area Management) Report and that the date of August 4th be set aside to consider the matter without a Public Hearing.

No correspondence was received.

Ex-officio member, Mr. Jourdan, presented a status of the Economic Development Committee's Vision 2000. The EDC requested a brochure from Mr. Mulholland detailing all the steps necessary when a person presents an application to the Zoning Commission.

The next regular meeting of the Zoning Commission will be held on Thursday, July 14, 1994. The main item of business will concern the Sportsman Club/Nazarko controversy.

**MOTION 3#** by Ms. Baroni to adjourn the Regular Zoning Commission Meeting.  
Seconded by Ms. Cone

**VOTE** Unanimous (6-0)

The meeting was adjourned at 10:09 pm.

Respectfully submitted,

A handwritten signature in cursive script that reads "Linda Webster".

Linda Webster  
Substitute Recording Secretary