

Minutes of the East Lyme Zoning Commission March 28, 2024, Special Meeting

Date and Time: 3/28/2024 7:30PM to 8:10PM
Present: Members: Anne Thurlow, Chairman, Nancy Kalal, Secretary, Norman Peck, Michael Foley, Gary Pivo. Alternates: Cathy Yuhas, James Liska. Staff: William Mulholland. Recording Secretary: Jessica Laroco.
Absent: Member: Denise Markovitz. Alternate: Sarah Susco. Ex-Officio: Roseanne Hardy.
Location: East Lyme Town Hall Upper Conf. Room, 108 Pennsylvania Avenue

1. Call to Order and Pledge

Ms. Thurlow called the Special Meeting of the East Lyme Zoning Commission to order at 7:30PM and led the Pledge of Allegiance.

2. Attendance

Ms. Thurlow called the roll and noted that Member Denise Markovitz, Alternate Sarah Susco, and Ex-Officio Roseanne Hardy were absent.

3. Public Delegations

There were none.

Ms. Thurlow sat Alternate Jim Liska.

4. Public Hearing

There was none.

5. Regular Meeting

4-a Approval of Minutes of March 21, 2024.

MOTION 1 - DECISION

Ms. Kalal moved to accept the Minutes of the March 21, 2024; Regular Meeting as presented.
Mr. Liska seconded the motion.
Motion passed 6-0-0.

4-b Commission consultant Conn. Gen. Stat. Chapter 124 Section 8-1c.

Ms. Thurlow invited Mr. Pivo to explain his presented information.

MOTION 2 - NO DECISION

Mr. Pivo made the following motion:

Whereas under CGS Sec. 8-1c(b) “a municipality may, by regulation, require any person applying to a municipal zoning commission for approval of an application to pay the cost of reasonable fees associated with any necessary review by consultants with expertise in land use of any particular technical aspect of such application for the benefit of such commission;”

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EAST LYME, CT
2024 APR - 1 P 4: 55
Cassidy M. Pivo
TOWN CLERK

Whereas the East Lyme Code of Ordinances Sec. 155.01 provides that for subdivision applicants to the Planning Commission may be charged a Professional/Legal Consultations fee based on the actual cost of those services while the Zoning Commissions Fees do not include that option;

Whereas the fee schedule in Section 155.01 of the East Lyme Code of Ordinances was last amended in 2011 and inflation since then has total more than 36%;

Whereas the Commission needs consultants from time to time when town staff do not have the particular technical expertise or sufficient time to analyze issues of critical importance related to environmental, health, safety, historic, aesthetic, fiscal, or other issues of substantial public interest;

Whereas East Lyme's budget nor the current zoning fees schedule can cover the cost of consultants without using funds also needed for other community services;

Whereas expert reports are important for establishing the foundation for decisions that are defensible in a court of law and responsive to general public concerns;

I therefore move that the Zoning Commission ask the Board of Selectmen to amend the East Lyme Code of Ordinances Section 155.01 to give the Zoning Commission the same authority that the Planning Commission has to charge a Professional/Legal Consultations Fee based on the actual cost of those services and the Commission develops and adopts procedures for determining when and how to seek technical assistance.

There was no second.

Ms. Thurlow asked for discussion.

Mr. Peck made the following points:

- He feels confident in the current (Town) Engineering Department.
- He worries about putting more burdens on developers and perhaps future Boards would abuse the ability to hire a consultant.
- There are several Architectural Design Districts
- He may know of an architect who is willing to be a consultant on a volunteer basis.
- He does not think an ordinance is needed currently.

Ms. Thurlow noted that the Town Engineers and Mr. Mulholland are very good and have an excellent reputation in the state and if individual applications did need an architectural review, the Board could vote on it on an individual basis. Additionally, she is uncomfortable with seconding this motion without an attorney looking at it first.

Mr. Liska made the following points:

- The town looks very good, and he is unsure what gap this ordinance is trying to fill.
- The regulations have been crafted over the years to help maintain a seaside town and the vagueness of the regulations lends themselves to being able to be flexible with each application.
- Mr. Mulholland is very good at what he does.
- He doesn't think putting hard restrictions on developers would serve the town well.

4-c Site Plan

Ms. Thurlow asked Mr. Pivo to clarify what his ideas were regarding the information he had sent to the commission.

Mr. Pivo noted the following:

- There is a lot of demand for multi-family housing as it is very profitable, and the town can expect to see more of it.
- It is allowed in the SU, SU-E districts, and CA Zones.
- The Special Use standards are minimal.
- The Site Planning Standards are a little better, but it mostly only touches architectural design and there is more to a good site plan than that, such as tree preservation and buffers etc.
- The regulations should be more articulate in the expectation.
- He suggested guidelines or regulation changes for clarity so an applicant would know the standards before turning over to an engineer.
- Although Mr. Mulholland does his best, he doesn't always accomplish what he wants and is not as articulate in site planning as he wished.
- To avoid multi-family projects that are incompatible with the livability standards, unsafe, unsustainable, unecological, inefficient, ugly then leave things the way they are.
- To get modern, contemporary, well-thought-out site plans the standards need to change.

Mr. Peck stated the following:

- No matter the regulations, there is very little control over affordable housing projects.
- His experience on the board has shown him that developers have respect for the Board, they know what is wanted and expected.
- Developers know Mr. Mulholland's reputation and he is tough, and he has the ability to work with developers.
- If the regulations were six inches thick there would be no reason for the Board to do anything. Having flexible regulations allows discussion and compromise between the Board and the Applicant. It works.
- Each site is different, and it is difficult to write something that is hard and fast yet flexible to accommodate different projects.
- The exception is the 8-30g application.
- He likes working with developers instead of micromanaging them.
- He appreciated the initiative by Mr. Pivo even though he disagreed.

Ms. Thurlow stated that there are many nonconforming lots in town and the flexible regulations allow for different applications and there are architectural design regulations in place to deal with lot coverage and setbacks and size parameters. Occasional Text Amendments allow for change to happen and for the regulations to change as well.

Mr. Liska asked if there was a particular multi-family development to which Mr. Pivo was referring, and if there was one, did it have an 8-30g aspect to it.

Mr. Pivo would not speak on a specific site. Additionally, he noted there are several conforming lots available, and they would not have to be an 8-30g application, and the Board would be unprepared and not know what it wanted. He stated that he would not debate the quality of existing projects.

Mr. Liska noted that the comments made by Mr. Pivo to the Board were insulting in nature and they would not affect any of the 8-30g projects as they would not be enforceable on those projects and if Mr. Pivo could point to a particular project, they could discuss it.

Mr. Pivo withdrew the offer and left the meeting at 7:50PM.

6. Old Business

6-a Subcommittee- Outdoor Lighting

Mr. Peck has been unable to make time but will work on it.

6-b Text Amendment CA Zone

Mr. Peck explained the following:

- Forming a new zone called the CA-1
- Identical regulations of the CA zone with the addition of one (1) item
- The new item would be regarding mixed use buildings and not allowing them in the Boston Post Road commercial zone.
- The Post Road properties would not allow new construction of mixed use to save the remaining historical buildings.
- The intention is that the current mixed-use buildings are truly affordable as they are older, but if developers come in and tear down historical buildings and put up new buildings then they charge much more and those rents are no longer truly affordable.

Mr. Mulholland noted that this would be written up and given formally to the Board for review. However, there had recently been an applicant who wished to put up a mixed use building downtown and because the regulations had changed, he then stated he would apply under the 8-30g regulations which would make the regulations moot. He noted that was an outcome of changing regulations. He pointed to the affordable housing units on Hope Street as having turned out attractively after discussions.

Mr. Foley asked if there was a vacant lot on the Post Road: could the Board narrow the regulation to allow that as it wasn't tearing anything down.

Mr. Mulholland noted that it would be difficult to say both things.

Mr. Peck stated that because the town is lucrative, the formula for affordable housing keeps it unaffordable.

TASK Mr. Mulholland to craft the regulation change for the Board to review.

6-c Affordable Housing Update

Attorney Bleasdale recovering from Covid

7. New Business

7-a Zoning Official

Mr. Mulholland is an advocate for flexible regulations and Gateway, Chapman Farms, Chapman Woods, Spinnaker are examples that the Board has completed, and the Board has been conscientious of desirability and tree preservation and so on. He agreed with Mr. Pivo that there is always room for improvement.

Mr. Foley agreed that if the regulations become too impenetrable that doesn't keep developers out, it keeps the Board boxed in.

Ms. Kalal asked if the town was close to reaching the necessary obligations for affordable housing quantities.

Mr. Mulholland noted that he did not believe so but hesitated to say for sure without the attorney. To qualify for a moratorium the town would have to present evidence to the state.

Mr. Foley noted that the four-year waiver from the state may not be an attractive alternative as the town would then need to guarantee public partnerships.

Mr. Peck asked if Mr. Mulholland had been contacted by the volunteer architect regarding the architectural review and Mr. Mulholland had stated that he had not yet heard.

7-b Comments from Ex-Officio

Not present

7-c Comments from Zoning Board Liaison to Planning Commission

1. Ms. Kalal is attending the 4/9/2024 meeting.

7-d Correspondence

There was none.

7-e Comments from the Chairman

Ms. Thurlow reminded the Board of the Site Walk scheduled for March 29, 2024, at 10:00AM at 91 Boston Post Road. There will not be a Recording Secretary and those who attend should remember there should be no discussion or interaction with the Applicant or other Members, they will only be pointing out where things will be located. She asked that questions be saved for the 4/4/2024 Regular Meeting as the Public Hearing had been previously continued. She reminded the Board they must close the Hearing at that time and make a decision.

Mr. Foley noted he would not attend the Site Walk.

MOTION 3 - DECISION

Ms. Kalal moved to adjourn the Special Meeting of the East Lyme Zoning Commission at 8:50PM.

Mr. Foley seconded the motion.

Motion passed 5-0-0.

Respectfully submitted,
Jessica Laroco
Recording Secretary