

TOWN OF EAST LYME

ZONING COMMISSION

AUGUST 6, 2015

SPECIAL MEETING MINUTES

MEMBERS PRESENT:

MATTHEW WALKER, CHAIRMAN  
TERENCE DONOVAN  
WILLIAM DWYER  
NORM PECK  
JAMES LISKA, ALTERNATE (SAT FOR SPECIAL MEETING)  
GEORGE MCPHERSON (ARRIVED AT 7:20 P.M., DID NOT SIT)  
PETER LUKAS, ALTERNATE (ARRIVED AT 7:30 P.M., DID NOT SIT)

FILED IN EAST LYME  
CONNECTICUT  
Aug 10 2015 AT 10:35 AM PM  
Tina Sulps on  
EAST LYME TOWN CLERK

ALSO PRESENT:

ATTORNEY MARK ZAMARKA  
HOLLY CHEESEMAN, EX-OFFICIO  
BILL MULHOLLAND, ZONING OFFICER  
RITA FRANCO-PALAZZO, PLANNING REPRESENTATIVE

MEMBERS ABSENT:

MATTHEW KANE  
SHAWN SINGER, ALTERNATE

CALL TO ORDER

Chairman Walker called the Special Meeting to order at 6:17 p.m.

PLEDGE OF ALLEGIANCE

Chairman Walker led the assembly in the Pledge of Allegiance.

Mr. Liska sat as a regular member in Mr. Kane's absence.

PUBLIC DELEGATIONS

Steven Massad of 7 Whiting Farms Lane stated he is trying to get help from the Building Department, he bought a unit at Whiting Farms and the Town doesn't seem to want to get anything done. The roads are crumbling, there are no street lights. He stated that his comments are supported by 90% of his neighbors. The driveways flood, and in the winter it is all ice. It is an over 55 development.

Mr. Mulholland stated he talked to the developer about two weeks ago. The project is not done, it is a private project. He is trying to be helpful by meeting with Mr. Rodgers, but he cannot order him to do things. He will talk to him again. He did discuss the street lights with him, but he didn't like the lights he wanted to put up. He will help where he can, but it is a private project. He did get him to put a stop sign

up. He also asked him to cut the brush at the beginning of the road. He concurs with him that he can be more diligent. He invited Mr. Massad to come see him on Monday. He also will try to set up a meeting with both parties. He understands it's not fun living in a construction project, but sooner or later he has to do this. He can't force him to pave it.

Chairman Walker stated it sounds like it is a private project and is out of Mr. Mulholland's purview. The pictures presented by Mr. Massad are very telling. Sub-par is an understatement. He encouraged Mr. Massad to work with Mr. Mulholland in a joint effort to coax the developer to follow through soon on these issues.

Mr. Mulholland stated he has told him he won't get final CO's until everything is done, but it may be a while.

Joe Arcarese of 5 Whiting Farms Lane stated he understands, but they don't want the town to forget about them. The water fills up and goes into his garage, the roads are in disrepair. The Town should be looking out for them.

Mr. Mulholland stated he is there about once a week. He encouraged them to come see him and he will try to arrange a joint meeting. There may be some elevation issues.

- 1. PETITION OF TIMOTHY S. HOLLISTER FOR LANDMARK DEVELOPMENT GROUP, LLC AND JARVIS OF CHESHIRE, LLC UNDER CONNECTICUT GENERAL STATUTES SECTION 8-30G TO REZONE 123.02 ACRES FROM RU-120, ITS EXISTING ZONING DESIGNATION, TO AFFORDABLE HOUSING DISTRICT (SECTION 32 OF THE EAST LYME ZONING REGULATIONS) AND FOR APPROVAL OF A PRELIMINARY SITE PLAN (SECTION 32.9 OF THE EAST LYME ZONING REGULATIONS) WHICH PROPOSES OPEN SPACE OF 87 ACRES FOR PROPERTY IDENTIFIED IN THE APPLICATION AS CALKINS ROAD, EAST LYME, AND FURTHER IDENTIFIED IN SECTION 9 OF SAID PETITION AS BOSTON POST ROAD, (EAST LYME ASSESSOR'S MAP 31.0, LOT 4), 23 CALKINS ROAD, (EAST LYME ASSESSOR'S MAP 32.0, LOT 1) AND QUARRY DOCK ROAD (EAST LYME ASSESSOR'S MAP 27.0, LOT 14).**

Chairman Walker stated these are continued deliberations on this item. He wants to make clear that this Commission recognizes the need for affordable housing in East Lyme. They are committed to working toward that end. They are also keenly aware of the uniqueness of this property. There has been much discussion. The public record is extensive. They are continuing to work toward the process of specific findings. The goal is to form a detailed resolution. There are three possible outcomes, approval, approval with conditions, and denial. Straight approval does not seem to be something that is likely because of the concerns and issues. They cannot deny it unless there is quantifiable probably of harm to the public interest, not just the possibility of harm. He feels they have more questions than answers. There seems to be a lot of missing information. He has the sense of wanting to demand more information, but that won't happen. Attorney Zamarka has prepared draft resolutions.

Attorney Zamarka stated their decision is due by August 20<sup>th</sup>. There is the possibility that time could be extended because of the Inland Wetlands Report, however there is not a lot of case law on that subject, and the applicant hasn't consented to an extension so he strongly suggests they make their decision by August 20<sup>th</sup>. He drafted a resolution based on last week's discussion. There is a lot going on in this application. It is a large record. In the interest of clarity he drafted a resolution for conditional approval,

and he attempted to incorporate the concerns of the Commission from last week. This is just a preliminary draft and is not intended to be anything more than a framework for discussion.

Chairman Walker asked Attorney Zamarka if it is his legal point of view that they should reach a resolution by the 20<sup>th</sup> unless the applicants consent to an extension.

Attorney Zamarka stated they should not hang their hats on an extension. The applicant has the option of granting an extension but it has not been done at this point. The draft has proposed conditions, the Zoning Commission felt some requirements of the Preliminary Site Plan were not met, roadway access, wetlands; all of these conditions were based on the Commission's concerns. He suggested they review the record and decide if this is how they want to move forward.

Mr. Peck stated last time we struggled with the wetlands issue. There is good documentation that a building will be placed on the wetlands, but we really have no idea where the wetlands are. The wetlands mapping the applicant presented seemed off. Could it be denied because there is not enough information for a condition to be put on?

Attorney Zamarka stated that is what the interveners would like.

Mr. Peck stated we don't have the knowledge to prepare a condition to move the buildings.

Attorney Zamarka stated he raises a salient point because the conditions have to be supported by the record.

Mr. Dwyer asked if it is proper to quote environmental experts.

Chairman Walker stated yes, in the report of Mr. Trinkaus (Exhibit 26) dated May 2<sup>nd</sup> there are a number of concerns cited regarding pollutant loads, discharge to wetlands, no water quality treatment proposed, discharge into the river, the 36 impervious acres, the ridgeline will be flattened, and erosion concerns. On the second to last page there are soil concerns. The water won't infiltrate into the bed rock. He refuted much of the assertions made by the applicant. Nitrogen in the runoff and that effect on the river. That is already a concern in the river. They are also trying to build up the eel grass in the river.

Mr. Donovan stated the DEEP Letter (Exhibit 10) mentions the potential sediment and erosion along the river. All of these exhibits basically have the same findings.

Mr. Donovan stated there are items missing such as a coastal site plan.

Chairman Walker stated there is no evidence to show there will be minimal impact on the environment and coastal resources.

Mr. Donovan stated the Niantic River Watershed Letter (Exhibit 21) stated there will be a greater number of pollutants. The river is already impaired. The water runoff will be significantly more and pollution will probably most definitely happen.

Chairman Walker stated Trinkaus discussed the impervious area and its source of pollutants from sand and salt in the winter, he also said the calcium chloride they intend to use is not better, nutrients from fertilizer, metal from brake pads and oil drips.

Mr. Donovan stated in the Niantic River Watershed letter they mention the pollutants in the water related to the impervious surfaces in the watershed. Pollutants can affect water, water life, and human water related activities.

Chairman Walker asked if there is any balance in the conversation that suggests we can mitigate these problems.

Mr. Liska said Exhibit 16 stated there will be irreversible impact to the wetlands, Exhibit 21 mentioned the nitrogen, and Exhibit 49 all conclude the same things.

Attorney Zamarka stated he does believe there was a storm water management plan in the initial application, and that was updated on June 18<sup>th</sup>.

Chairman Walker stated Trinkaus cites that in his report.

Mr. Donovan stated the June 18<sup>th</sup> letter page 1 addresses that.

Mr. Liska stated we have two reports, one says it's acceptable, and one says it's not.

Mr. Donovan stated Trinkaus addresses the catch basins in his report.

Mr. Dwyer stated he rebukes what they presented for solutions for storm water.

Chairman Walker stated a number of people spoke regarding concerns collectively wanting to protect the public interest in that land. Environmental concerns were a common thread. There were a multitude of people in opposition.

Mr. Peck stated the three letters from Trinkaus dated May 2<sup>nd</sup>, May 21<sup>st</sup>, and June 16<sup>th</sup> were all more and more strong in words. Exhibit 2 stresses the engineered septic hazard. Everyone is saying the same thing.

Mr. Liska asked if they can do a condition that if they don't get the 118k gallons then they don't get approval. The experts don't believe sewage would be adequately drained.

Chairman Walker stated these are all significant concerns. Judge Frazzini was clear that environmental concerns were remanded to us. There are quite a bit of concerns regarding the environment.

Mr. Dwyer stated for all of our concerns we should list the expert, and not just our opinion.

Mr. Donovan stated there is nothing saying who is going to take care of sediment and debris.

Chairman Walker stated there is a lot of missing information we would love to have in front of us.

Attorney Zamarka stated water and sewer is to be provided at the Final Site Plan phase. The Commission needs to decide whether these interests adequately can be protected by reasonable changes. There is a public interest in protecting the inland wetlands and watercourses.

Mr. Dwyer stated the environmental experts are against this. They were all negative about the plan, but none came up with a solution. The solution is up to us.

Attorney Zamarka stated he is correct. It is up to this Commission to come up with the solutions. They may say buildings should be moved, they may say they need inland wetlands approval first.

Mr. Dwyer asked if we have the expertise to move the building.

Attorney Zamarka stated they have to base their conditions on what is in the record or decide there are fatal flaws and deny the application, or they could condition it to ask for additional information.

Mr. Dwyer stated it seems like a catch 22.

Chairman Walker stated we have more work to do. We have some additional information to look at. We are getting closer.

**Motion (1) Mr. Donovan moved to adjourn the Special Meeting at 7:15 p.m.**

**Seconded by Mr. Dwyer.**

**Motion Passed 5-0.**

**Respectfully Submitted,**



**Karen Miller Galbo  
Recording Secretary**