

TOWN OF EAST LYME  
ZONING COMMISSION  
SEPTEMBER 18, 2014  
PUBLIC HEARING MINUTES

**Members Present:**

Marc Salerno, Chairman  
Matthew Kane  
George McPherson  
Norm Peck  
Peter Lukas, Alternate (Sat for Public Hearing)  
William Dwyer, Alternate (Sat for Public Hearing)

FILED IN EAST LYME  
CONNECTICUT  
Sept 23, 2014 AT 9:00 AM/PM  
*Marc Salerno, at*  
EAST LYME TOWN CLERK

**Members Absent:**

Matthew Walker  
Terence Donovan  
James Liska, Alternate

**Also Present:**

Rose Ann Hardy, Ex-Officio  
Bill Mulholland, Zoning Officer  
Attorney Mark Zamarka  
Ernie Covino, Planning Representative

**CALL TO ORDER**

Chairman Salerno called the Public Hearing to order at 7:30 p.m.

**PLEDGE OF ALLEGIANCE**

Chairman Salerno led the assembly in the Pledge of Allegiance.

Chairman Salerno sat Mr. Lukas in Mr. Donovan's absence and Mr. Dwyer in Mr. Walker's absence.

**PUBLIC DELEGATIONS**

There were no public delegations.

**PUBLIC HEARING**

1. **REMAND ORDER DATED JUNE 26, 2014, IN THE MATTER OF JAG CAPITAL DRIVE, LLC v. EAST LYME ZONING COMMISSION DOCKET NUMBER HHD LND CV 13-6044284S, FOR THE LIMITED PURPOSE OF A FACTUAL HEARING ON THE DAY TO DAY OPERATIONS OF THE BRIDE BROOK NURSING AND REHABILITATION CENTER.**

Attorney Zamarka stated this is based on the JAG Capital Drive, LLC 2013 application for an affordable housing development in the industrial park off of Capital Drive. It was denied by the Zoning Commission in part because of the industrial exemption that exempts land zoned for industrial use and does not permit residential uses. The appellant appealed and there was a trial in June. During the course of the trial the day to day operations of Bride Brook became an issue regarding whether Bride Brook is a residential use. The town contends that it is not, the appellant contends that it is. Judge Cohn issued an order.

Attorney Zamarka read the Order from Judge Henry S. Cohn dated June 26, 2014.

Attorney Zamarka stated that pursuant to that Order they are having this public hearing tonight for a factual hearing on the day to day operations of Bride Brook. Any evidence submitted tonight will be submitted to the Court. The evidence and comments will only be limited to the Bride Brook facility.

Matthew Kane read a memo from Mr. Mulholland.

Attorney Tim Hollister representing JAG Capital Drive, LLC submitted Exhibit Z – Remand Hearing Submission of JAG Capital Drive, LLC

Attorney Hollister stated he believes the appellant's property is not in the industrial park but in a light industrial zone. He also suggested the Commission doesn't need to make the decision as to the day to day operations of the facility. He does not read the Order as asking the Zoning Commission to make that decision.

Attorney Hollister read the affidavit of Dianne Caristo-Gaynor.

Dianne Caristo-Gayner of 7 East Street, Niantic stated she has spoken with Mr. Mulholland regarding Bride Brook. The results of this hearing do not affect her. She has been the Bride Brook administrator for 16 years.

Mr. Mulholland asked Mrs. Caristo-Gayner about information he obtained from the internet. Does Bride Brook perform clinical lab services?

Ms. Caristo-Gaynor stated Day Kimball hospital comes and draws blood at Bride Brook.

Mr. Mulholland asked if they have dental services.

Ms. Caristo-Gaynor stated a dentist comes to the facility.

Mr. Mulholland asked about dietary services.

Ms. Caristo-Gaynor stated they do provide dietary services each day. They also have housekeeping, and they contract with Med Options for mental health services. They also have nursing services 24 hours per day with RN's, LPN's and CNA's. They meet the patient's needs.

Mr. Mulholland asked if nurses give medications.

Ms. Caristo-Gaynor stated yes, they give medications to people who can't take their own.

Mr. Mulholland stated some people are in wheelchairs, and some need help getting out of bed.

Ms. Caristo-Gaynor stated yes some require help.

Mr. Mulholland asked if they have occupational therapy.

Ms. Caristo-Gaynor stated yes on the rehabilitation floor, and speech therapy.

Mr. Mulholland asked if they have physical therapy.

Ms. Caristo-Gaynor stated on occasion a therapist will evaluate someone to see if they need physical therapy or occupational therapy.

Mr. Mulholland asked about physician services.

Ms. Caristo-Gaynor stated they have a medical director that services the patients on the first floor, another one does the 2<sup>nd</sup> floor, and another does the third floor. Their residents need to be seen once every 60 days and if anyone falls ill a doctor will be called.

Mr. Mulholland asked if nurses see them every day.

Ms. Caristo-Gaynor stated yes.

Mr. Mulholland asked how frequent, is there a schedule?

Ms. Caristo-Gaynor stated it depends on the need, some residents are checked every two hours.

Mr. Mulholland asked if they are for profit.

Ms. Caristo-Gaynor stated yes.

Mr. Mulholland asked if he wanted to move in, but was healthy could he move in.

Ms. Caristo-Gaynor stated not unless he needs care.

Mr. Mulholland stated so an average citizen could not move in?

Ms. Caristo-Gaynor stated that is correct. They are a health care facility and by law people need to be in need of care. The majority of people there don't have family to care for them. They treat residents as if it's their home. If they didn't they would be called deficient and negligent. If residents don't want to get up they don't have to. If they have a special diet, the law says they make that choice. Meals are scheduled. They can eat in their room or go to their restaurant where they receive food. A van takes residents out, they choose where they go.

Mr. Mulholland asked if staff was with them when they are taken out.

Ms. Caristo-Gaynor stated staff from the recreation department drives the van.

Mr. Mulholland asked if some need help with hygiene.

Ms. Caristo-Gaynor stated a CNA would help with that. Some do shower themselves.

Mr. Mulholland stated he believes it costs about \$385.00 per day.

Ms. Caristo-Gaynor stated that is correct, but that meets all of their needs.

Mr. Mulholland asked about room sizes.

Ms. Caristo-Gaynor wasn't sure of the measurements of the rooms but they have private and semi private rooms. People are asked to bring their own belongings; they are required by law to provide a hospital bed. People decorate their rooms.

Mr. Mulholland asked if there was a bathroom and shower in every room.

Ms. Caristo-Gaynor stated they do not have a shower in every room.

Mr. Mulholland asked if they have a kitchen in every room.

Ms. Caristo-Gaynor stated no, they do have a room that is a kitchen in long term care, that is all part of the recreation facilities.

Mr. Mulholland asked if there are handicapped units with grab bars.

Ms. Caristo-Gaynor stated there are bars set up in every bathroom. The rooms have to be handicapped accessible.

Chairman Salerno asked if a patient can come and go as they please.

Ms. Caristo-Gaynor stated they can walk around the facility, but they do not have cars, some do go out or go home for the weekend.

Chairman Salerno asked if someone wanted to walk to Niantic could they.

Ms. Caristo-Gaynor stated no.

Chairman Salerno asked if there is parking if someone had a car.

Ms. Caristo-Gaynor stated yes, but they don't have anybody now that does.

Mr. Mulholland asked if family can spend the night.

Ms. Caristo-Gaynor stated that doesn't happen often, but yes, most frequently when someone is very ill.

Chairman Salerno asked if family members could stay for a month.

Ms. Caristo-Gaynor stated that is a rare occurrence. One family stayed for a month because they were worried; finally they were comfortable and left.

Mr. Dwyer stated the parking regulations were based on this being a convalescent home.

Mr. Mulholland stated back in 1989.

Mr. Dwyer stated if this is residential they could be in violation of the parking regulations.

Mr. Mulholland stated when this was approved as a convalescent home the parking was approved by the Commission.

Mr. Dwyer stated if it's residential they have to provide parking.

Chairman Salerno asked if someone can decide to stay and refuse medical and food services.

Ms. Caristo-Gaynor stated they have never had that happen. They can't get in without a medical need.

Mr. Mulholland asked if they have security.

Ms. Caristo-Gaynor stated they don't have guards, but they have a security system. People are buzzed in at night.

Ms. Caristo-Gaynor stated convalescent home is an antiquated term for nursing home. A rest home is a different license. They have 87 residents on the 2<sup>nd</sup> and 3<sup>rd</sup> floors, and 43 on the first floor. The first floor is for rehabilitation and they plan to go home.

Mr. McPherson asked who does the laundry.

Ms. Caristo-Gaynor stated they offer a laundry service, but the family has the right to take it home and do it.

Mr. McPherson asked if people are supervised when using the kitchen recreation space.

Ms. Caristo-Gaynor stated yes someone is in there.

Mr. McPherson asked what portion is paid by Medicare and Medicaid.

Ms. Caristo-Gaynor stated it is by the individual, most people have additional insurance that pays the copay.

Mr. Kane asked what the difference is between the people on the second and third floors.

Ms. Caristo-Gaynor stated initially there was a difference but now they are about equal.

Chairman Salerno asked if Medicaid is paying for people to stay would they pay for people to stay in their own homes.

Ms. Caristo-Gaynor stated there is a new program through Medicaid called "Money Follows the Person" They would receive services at home.

Mr. Mulholland submitted Exhibit Y – Description of Bride Brook Health and Rehabilitation from UCompare Health Care.

Attorney Zamarka asked what the average length of stay was.

Ms. Caristo-Gaynor stated 30 days.

Attorney Zamarka asked if they have Hospice.

Ms. Caristo-Gaynor stated Hospice does come in.

Attorney Zamarka stated that people can't move in without a doctor recommendation for a medical need.

Ms. Caristo-Gaynor stated that is correct.

Attorney Zamarka asked for examples.

Ms. Caristo-Gaynor stated people who can't care for themselves. People who need assistance with bathing or feeding.

Attorney Zamarka asked if there was a nurse's station on each floor.

Ms. Caristo-Gaynor stated yes.

Attorney Zamarka asked if there was a medicine locker on each floor.

Ms. Caristo-Gaynor stated yes.

Mr. Peck asked if all three floors have 24 hours staff.

Ms. Caristo-Gaynor stated that is correct.

Mr. Dwyer asked if the private dining area was open all the time.

Ms. Caristo-Gaynor stated the kitchen is only open certain hours but there is a nourishment room on each floor. If someone desires to eat at midnight they can save their meal and reheat it at midnight.

Chairman Salerno asked if residents can lock their rooms.

Ms. Caristo-Gaynor stated no, they do have a lock box in each room though.

There were no public delegations.

Attorney Hollister stated people can't register to vote where they get medical services, only where they reside.

Mr. Peck stated the Regulation Definitions describe what is permitted in the industrial zone.

**Motion (1) Mr. Peck moved to close the Public Hearing.**

**Seconded by Mr. Dwyer.**

**Motion Passed 6-0.**

**Respectfully Submitted,**

A handwritten signature in cursive script that reads "Karen Miller Galbo".

**Karen Miller Galbo  
Recording Secretary**