

TOWN OF EAST LYME

ZONING COMMISSION

OCTOBER 18, 2012

PUBLIC HEARING MINUTES

FILED IN EAST LYME
Oct 24, 2012 AT 9:30 a.m.

Ashley A. Blais
EAST LYME TOWN CLERK

Members Present:

Marc Salerno, Chairman

Norm Peck

Terence Donovan

Matthew Walker

Matthew Kane

George McPherson

James Liska, Alternate (Did Not Sit)

William Dwyer, Alternate (Did Not Sit)

Members Absent:

John Hogan, Alternate

Also Present:

Bill Mulholland, Zoning Enforcement Officer

Rose Ann Hardy, Ex-Officio

Attorney Mark Zamarka, Town Attorney

Attorney Ed O'Connell, Town Attorney

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.

PUBLIC DELEGATIONS

There were no public delegations.

PUBLIC HEARING

- 1. PROPOSED TEXT AMENDMENT TO Section 32 OF THE EAST LYME ZONING REGULATIONS, REGARDING AFFORDABLE HOUSING DEVELOPMENTS, PURSUANT TO AN APPLICATION FILED BY LANDMARK DEVELOPMENT GROUP, LLC ON REMAND FROM THE SUPERIOR COURT**

Mr. Mulholland confirmed the legal advertisement had run on this item.

Mr. Walker read a letter from DEEP.

Mr. Walker read a letter from the Planning Commission.

Attorney Zamarka stated the subject of this Public Hearing is the result of work done by the Town Attorneys and Staff and the Landmark Counsel.

Mr. Zamarka reviewed the proposed changes to Section 32.

Mr. Zamarka stated this is on remand from the Superior Court and timelines don't apply, but they should try to stick as close to the statutory requirements and should try to conclude the Public Hearing within 35 days and should have a decision within 65 days of the Public Hearing closing. They should also be mindful of the fact that date would be December 22nd, which is a Saturday. They may want to consider making a decision at the regular December 6th meeting.

Mr. McPherson suggested they incorporate some of the suggestions from DEEP into Section 32.

Mr. Zamarka stated that could be done.

Attorney Hollister representing Landmark stated his original letter was dated June 1, 2012, and he feels the Zoning Commission should have followed the Connecticut General Statute timelines. Two days ago Planning met and he nor Landmark were notified.

Affordable housing zoning applications can be governed by Zoning Regulations but they don't have to be. The standard is whether there is a public health or safety issue, just because the Regulations aren't met that does not disqualify an application.

Attorney Hollister amended the draft that Attorney Zamarka had presented earlier, and presented the Commission with his amendments.

Attorney Hollister questioned whether Marcy Balint of the DEEP had a reason to comment on this application at all. There is only a small area with a driveway through the coastal area. He does not think it is the jurisdiction of her office to comment.

Attorney Paul Geraghty representing two parties as intervenors, the Friends of Oswegatchie Hills Inc, and Save the River Save the Hills Inc., believes this parcel's need for more open space is greater than 10%. The Judge thought 80 acres was the first step to protecting the environment. This proposed Open Space regulation wouldn't affect Landmark's current application. They are concerned going forward, and looking beyond this application. 10% of Open space is not appropriate. They believe Open Space regulations should be adopted on a sliding scale basis.

There were no comments in favor of this application.

Mike Dunn of 9 King Arthur Drive stated he is on the Board of Friends of Oswegatchie Hills and one size does not fit all. Affordable housing is a good thing, but some sites are better than others. The public interest outweighs the need for affordable housing, given the nature of the site.

Patricia Sher of 4 North Pine Street stated she opposes any language that would give a toe hold to development that would harm the Niantic River Watershed.

Attorney Jason Westcott lives in Saunders Point and represents the intervenors with Attorney Geraghty, he encourages adoption of the Open Space proposal by Attorney Geraghty.

Fred Grimsey, the President of Save the River Save the Hills discussed the DEEP letter and that the CAM line is not cast in stone. When land goes to the water as it does on this parcel there is a route that polluted runoff will take to get to the river. This parcel is very susceptible to runoff.

The following Exhibits were presented:

Exhibit A - Comments from Attorney Hollister to Attorney Zamarka's draft
Exhibit B - Memo from Attorney Paul Geraghty

Mr. McPherson asked Attorney Hollister to rebut the letter from the Planning Commission stating this is inconsistent with the POCD.

Attorney Hollister stated that their finding is not a relevant consideration under affordable housing. Also, there are no open space requirements under 8-30g, the bottom line is health and safety.

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

Seconded by Matthew Kane.

Motion Passed 6-0.

There was a two minute break and the Public Hearing continued at 9:00 p.m.

Item 3 was heard prior to Item 2.

2. PROPOSED TEXT AMENDMENT TO Section 32 OF THE EAST LYME ZONING REGULATIONS, REGARDING AFFORDABLE HOUSING DEVELOPMENTS, PURSUANT TO AN APPLICATION FILED BY LANDMARK DEVELOPMENT GROUP, LLC ON REMAND FROM THE SUPERIOR COURT

The applicant was not present, and Mr. Mulholland suggested they open this Public Hearing and continue it.

Motion (2) Mr. McPherson moved to continue the Public Hearing.

Seconded by Mr. Donovan.

Motion Passed 6-0.

3. CONTINUATION OF THE EAST LYME ZONING COMMISSION PROPOSAL TO AMEND THE EAST LYME ZONING REGULATIONS BY DELETING SECTION 13 AQUIFER AND PRIMARY RECHARGE DISTRICT AND SCONDARY RECHARGE DISTRICT, AND SECTION 30, AQUIFER PROTECTION DISTRICTS FROM THE EAST LYME ZONING REGULATIONS, AND TO AMEND THE ZONING MAP BY REMOVING THE AQUIFER PROTECTION ZONES, JURISDICTION AND RESPONSIBILITY WILL BE TRANSFERRED TO THE TOWN'S AQUIFER PROTECTION AGENCY.

Mr. Mulholland confirmed the legal advertisement had run on this application.

There was discussion of whether they should leave this as it is.

Mr. Walker read a memo from Mr. Mulholland.

Mr. Walker read a letter from James Rabbitt of SCCOG.

Mr. Walker read another letter from James Rabbitt of SCCOG.

Mr. Walker read a letter from Gary Goeschel, Town Planner.

There was no public comment.

There was discussion of using the new mapping and doing away with the 1973 version.

Mr. Mulholland suggested they continue and compare the two and make it clear before they do anything. He will bring in the two maps, and will put something together to compare.

Motion (3) Mr. Donovan moved to continue this Public Hearing.

Seconded by Mr. McPherson.

Motion Passed 6-0.

Respectfully Submitted,



**Karen Miller Galbo
Recording Secretary**