

TOWN OF EAST LYME

ZONING COMMISSION

AUGUST 4, 2011

PUBLIC HEARING MINUTES

MEMBERS PRESENT:

Marc Salerno, Chairman
Norm Peck
Rosanna Carabelas
Steve Carpenteri
Mathew Walker
William Dwyer, Alternate
Bob Bulmer, Alternate
James Liska, Alternate

MEMBERS ABSENT:

ED GADA

ALSO PRESENT:

Bill Mulholland, Zoning Officer
Rose Ann Hardy (Entered at 7:40)

FILED IN EAST LYME TOWN
CLERK'S OFFICE

Aug 8 20 11 at 8:45 AM PM

Ethel B. Williams

EAST LYME TOWN CLERK

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 asked Mr. Bulmer to sit as a regular member for the Public Hearing.

Mr. Bulmer stated he would have to recuse himself from the last two items on the agenda for the Regular Meeting, and asked if Mr. Salerno would prefer to sit Mr. Dwyer.

Chairman Salerno stated Mr. Bulmer can sit and if he recuses himself he would switch his seat with Mr. Dwyer.

Mr. Bulmer was seated as a regular member for the Public Hearing in the place of Mr. Gada.

PUBLIC DELEGATIONS

There were no public delegations.

PUBLIC HEARING

1. **Application of Keith B. Neilson, PE of Docko, Inc., for John & Lisa Lazine, owners for a Special Permit to construct a dock in a Tidal Marsh Zone at property identified in the application as 90 Old Black Point Road, Niantic, Assessor's Map 08.3, Lot 5.**

Mr. Mulholland stated the legal ad was run on this item.

Mr. Carpenteri read a memo from Mr. Mulholland.

Keith Neilson of Docko Inc. stated the dock will be approximately 30 feet in length, and then there will be a 30 foot hinged ramp onto a float for securing boats. The DEP and the Army Corps of Engineers have approved the project. The float will be 18 inches above the bottom. The pier has to have 5 feet of clearance over the marsh crossing. They would be using pressure treated southern yellow pine, the New York DEC found that to be acceptable and would not be harmful to the marsh or the estuary. This dock will be in harmony with the adjacent development, and will not diminish the value of the adjacent properties. It will be centered on the site so there are no setback issues.

Chairman Salerno asked about the history of the tidal marsh.

Mr. Mulholland stated the applicants want to put in this dock, and it has already been permitted by the DEP. This is their final step. This commission's jurisdiction is at the mean high water mark, below that is the DEP's jurisdiction. We are to be looking at where the dock touches the land. He suggested that they ask the applicant to clarify as far as parking goes, since sometimes residents let their friends keep their boats on their docks, and sometimes parking issues do arise.

Mr. Neilson stated they can have up to a 24 foot boat, and it will be for their personal use, there will be one, or maybe 2 boats.

Ms. Carabelas stated we can be specific in the motion.

Mr. Mulholland stated they can specify that it be for personal use only. Any parking on the road is the jurisdiction of the Board of Selectmen. They can find out if parking is to be done on the site.

Mr. Neilson stated the applicants live across the street, and they have parking areas in their driveway.

Mr. Mulholland asked if they have no intent to park there.

Mr. Neilson stated that is correct.

Chairman Salerno stated this is for one lot, and the members have the DEP permit in their packet.

Mr. Bulmer asked about the pressure treated southern pine's toxicity into the water.

Mr. Neilson stated the chromium stays in the wood, about 10 to 20% of the copper leaches out in approximately 6 months, and approximately 60 to 80% of the arsenic leaches out in approximately 6 months. . That is only the parts that are in contact with the water, and most of this structure is out of the water. The amount of actual chemical in six months would probably be a gallon of arsenic and a quarter cup of copper. The amount of dilution is significant; the tidal flow past this area is millions of gallons. The impact is negligible.

Mr. Bulmer asked about the impact on the flora and fish population.

Mr. Neilson stated the fish population is transient, and the impact is considered negligible.

Mr. Bulmer asked if there are any local wells in the area.

Mr. Neilson stated it would have to be in the immediate area to be affected by the leaching of the chemicals and there are none within 100 feet.

Mr. Bulmer asked what the mean low water level is.

Mr. Neilson stated 1 foot.

Mr. Bulmer asked if that precludes the use of big boats.

Mr. Neilson stated yes it does preclude the use of big boats.

Ms. Carabelas asked how they would protect this from being used by people without permission.

Mr. Neilson stated there will be a gate at the first pile bend.

Ms. Carabelas asked if they will have a private property sign.

Mr. Neilson stated they can do that if this Commission wants them to.

Public Comment

George Perinis of 112 Old Black Point Road asked why they are coming to this Commission now after construction has already begun. Normally in hearings the permit is obtained first.

Mr. Mulholland stated the dock is already permitted by DEP, but at this point they do not have the right to attach it to land. Most people do not know about these regulations and they very seldom even see these applications.

Mr. Perinis stated as far as this being in harmony with the land, these pilings are much larger than anything else along Old Black Point Road, there seems to be 8 pilings there. This dock seems much bigger. He asked if hoists are involved in this construction. He stated the fish may be transient, but the shellfish are not.

Ruth Reluga of 10 Bronson Street is a member of the Commission for the Conservation of Natural Resources, but is here tonight speaking for herself. She agrees with Mr. Perinis. The appropriateness of this dock is questionable. She did contact the DEP when she saw the construction and she was told the permit is for 92 Old Black Point Road. The amount of water in that area is negligible on normal low tide, and absent on the winter tides and full moon tides. This dock extends out where people used to bring boats through, such as canoes or rowboats. The town has a lot more say in this, and should be involved from the beginning.

Heather Perinis of 112 Old Black Point Road stated she read the proposal, and the consent was for two new pilings. Who provides the oversight once this is constructed? She questioned the scale of the dock. She believes it will affect their property values. A gallon of arsenic leaching would be high potency not only to the shellfish, but to the vegetation. It appears the hoist will stay there through the winter months.

Mr. Neilson stated the DEP does not regulate boat usage in regard to what is berthed at that facility. There are many boats in the area left in the marsh at various times. The Shellfish Commission and the Harbor Commission did address this application. The permit is for 90 Old Black Point Road. The float and ramp will be removed in November and will be relaunched in April. The DEP requires as built drawings and those will be filed at the completion of the work. He can submit a copy of the New York DEC study on the arsenic issue. There are a lot of docks along this stretch of road. The float suspension devices are designed to keep the float off of the bottom.

Chairman Salerno asked about the number of pilings.

Mr. Neilson stated there are six holding the pier and 4 holding the float in place.

Ms. Carabelas stated the permit states a certified copy or Notice of Permit must be recorded on the land records within 30 days of the issuance, and proof of that filing must be submitted to DEP within 60 days.

Mr. Neilson stated he will have to check on that.

Mr. Walker asked about the concern that it protrudes out too far to impede small boat traffic.

Mr. Neilson stated that standard criteria are that the dock cannot protrude out more than 25% of the water way width.

Motion (1) Ms. Carabelas moved to close the Public Hearing.

Seconded by Mr. Carpenteri.

Motion Passed 6-0.

Respectfully Submitted,

A handwritten signature in cursive script, appearing to read "Karen Galbo".

**Karen Miller Galbo
Recording Secretary**