

TOWN OF EAST LYME

ZONING COMMISSION

March 7, 2013

REGULAR MEETING MINUTES

Filed March 11, 2013
~~Recorded~~
(AM)
8:40 PM Lesley L. Hill
East Lyme Town Clerk

Members Present:

Marc Salerno, Chairman
Matthew Kane
George McPherson
Matthew Walker
Terence Donovan
Norm Peck
William Dwyer, Alternate (Sat for Item 2, 4, & 5)

Also Present:

Bill Mulholland, Zoning Officer
Attorney Ed O'Connell
Attorney Mark Zamarka

Items 3 – 7 on the Filed Agenda were moved up to be items 1 – 5.

1. Application of Mirabell, LLC, for a Special Permit for Outdoor Dining to include the serving of alcohol, at property identified in the application as 344 Main Street, Niantic, Connecticut.

Motion (1) Mr. Donovan moved to approve the application of Mirabell, LLC for a Special Permit for Outdoor Dining/patio per East Lyme Zoning Regulation 20.27 at property identified in the application as 344 Main Street, Niantic, Connecticut.

With the following conditions:

- 1) No Outdoor Entertainment
- 2) Low level speakers
- 3) Patio will only be open between the hours of 7:00 a.m. to Sunset.

Seconded by Mr. McPherson.

Motion Passed 6-0.

This will be published on Thursday, March 14th and be effective Friday, March 15th.

2. Application of Bill Wild, for Wild-Froyo, LLC dba Peachwave Frozen Yogurt East Lyme, Owner/Applicant, for a Special Permit to operate a Fast Food Restaurant at property identified in the application as 170 Flanders Road, East Lyme, Connecticut, Assessor's Map 26.3, lot 11.

Mr. Peck recused himself and Mr. Dwyer sat for this item.

Chairman Salerno agrees that this is not fast food, and this brings to light that some of our regulations may be outdated.

Mr. Kana hopes this helps to revive that plaza.

Mr. Dwyer stated there is no problem with parking.

Mr. Mulholland stated the lighting is insufficient by today's standards and he received a call from a representative of the owner and he will call them back tomorrow morning.

Chairman Salerno stated there is plenty of parking, and this is not fast food.

Motion (2) Mr. McPherson moved to approve the application of Bill Wild, for Wild-Froyo, LLC dba Peachwave Frozen Yogurt, East Lyme, Owner/Applicant, for a Special Permit to operate a Fast Food Restaurant at property identified in the application as 170 Flanders Road, East Lyme, Connecticut.

Seconded by Mr. Dwyer.

Motion Passed 6-0.

This will be published on Thursday, March 14th and be effective Friday, March 15th.

Mr. Peck returned and Mr. Dwyer stepped down.

3. Application of Francis G. Grace for Main Street Grille, Niantic for a Renewal of a Special Permit for Outdoor Dining at property identified in the application as 252-2 Main Street, Niantic, Connecticut. Assessor's Map 12.1, Lot 115.

Motion (3) Mr. Walker moved to approve the application of Francis G. Grace for Main Street Grille, Niantic for a Special Permit for Outdoor Dining at property identified in the application as 252-2 Main Street, Niantic, Connecticut, Assessor's Map 12.1, Lot 115.

With the following conditions:

- 1) No outdoor entertainment is allowed
- 2) May have speakers of low volume
- 3) Deck and patio to be cleared by midnight and closed
- 4) Lighting must be minimal and turned off at close of business
- 5) This Special Permit is for the rear deck and patio area only
- 6) 1 year permit

Seconded by Mr. Kane.

Motion Passed 6-0.

This will be published on Thursday, March 14th and be effective Friday, March 15th.

4. Application of Steve Carpenteri for Niantic Bay Inn, Inc., (aka Lyme Tavern) for a Renewal of a Special Permit for Outdoor Dining at property identified in the application as 229 W. Main Street, Niantic, Connecticut. Assessor's Map 10.3, Lot 1.

Mr. Donovan stepped down and Mr. Dwyer sat for this item.

Mr. Mulholland stated it is part of the record that he offered to add the lattice buffer, so that does not need to be stated in the motion.

Mr. Dwyer stated he thought those were subjective comments and not complaints about the buffer.

Motion (4) Mr. Dwyer moved to approve the application of Steve Carpenteri for Niantic Bay Inn, Inc., (aka Lyme Tavern) for a Special Permit for Outdoor Dining at property identified in the application as 229-2 West Main Street, Niantic, Connecticut. Assessor's map 10.3, Lot 1

With the following conditions:

- 1) Acoustic outdoor entertainment only with no amplification
- 2) May have speakers of low volume
- 3) Last seating at 11:00 p.m., area cleared by midnight
- 4) Lighting must be minimal and turned off at close of business
- 5) 1 year permit

Seconded by Mr. Kane.

Motion Passed 6-0.

This will be published on Thursday, March 14th and be effective Friday, March 15th.

Mr. Donovan returned and Mr. Dwyer stepped down.

5. Application of Kostas Anastasiou, for a Renewal of a Special Permit for Outdoor Dining at property identified in the application as 26 W. Main Street, Niantic, Connecticut. Assessor's Map 11.2, Lot 17.

Mr. Peck recused himself and Mr. Dwyer sat for this item.

Motion (5) Mr. Donovan moved to approve the application of Kostas Anastasiou for a Special Permit for Outdoor Dining at property identified in the application as 26 W. Main Street, Niantic, Connecticut. Assessor's Map 11.2, Lot 17.

With the following conditions:

- a) No outdoor entertainment is allowed
- b) May have speakers of low volume
- c) Weekday hours until 9:00 p.m., Friday and Saturday hours until 10:00 p.m.
- d) Lighting must be minimal and turned off at close of business

e) 1 year permit

Seconded by Mr. McPherson.

Motion Passed 6-0.

This will be published on Thursday, March 14th and be effective Friday, March 15th.

Mr. Peck returned and Mr. Dwyer stepped down.

6. Application of Theodore A. Harris, agent for JAG Capital Drive, LLC to rezone from its existing zoning designation (Light Industrial) to Affordable Housing District for property identified in the application as West Main Street/Capital Drive, Assessor's Map 09.0, Lot 19.

7. Application of Theodore A. Harris, agent for JAG Capital Drive, LLC for approval of affordable housing development, and a conceptual site plan to construct sixty nine (69) residential units on property identified in the application as West Main Street/Capital Drive, Assessor's Map 09.0, Lot 19.

Mr. Salerno confirmed that all members were familiar with the record. Item 6 and 7 were discussed at the same time.

Attorney Zamarka stated an Affordable Housing application was filed and the development was proposed in a light industrial zone. There was a Public Hearing on February 7th, and at the meeting of February 21st the Commission members reached a consensus and advised him to draft a motion.

Mr. Walker read the following Resolution:

WHEREAS, on August 7, 2012, JAG Capital Drive, LLC ("Applicant"), filed with the East Lyme Zoning Commission ("Commission") an application, pursuant to Section 8-30g of the General Statutes, for approval of an affordable housing development to be located on Capital Drive at or near its intersection with Route 156 in East Lyme. The application included maps or plans prepared by Killingly Engineering Associates, entitled "Boundary Survey Plan" and "Overall Site Plan Layout" ("Application"); and

WHEREAS, on February 7, 2013, the Commission held a public hearing on the Application during which it heard testimony and accepted exhibits submitted by the Applicant, the Commission's staff, and individuals for consideration during the hearing process. Pursuant to a prior request the Commission also accepted into evidence a letter dated February 7, 2013 from the Town Attorney regarding the factors pertaining to affordable housing developments located in industrial zones. In making its decision the Commission is considering and taking into account all of the testimony and exhibits submitted at the hearing; and

WHEREAS, General Statutes Section 8-30g(g)(2)(A) provides an exemption for affordable housing applications in areas which are zoned for industrial use and which do not permit residential uses; and

WHEREAS, according to the Application, the proposed development would be located entirely in an area that is presently zoned Light Industrial ("LI") according to the East Lyme Zoning Map; and

WHEREAS, Section 11 of the East Lyme Zoning Regulations (“Regulations”) describes the LI zone as “suitable for heavy commercial and light manufacturing, oriented essentially to major transportation facilities. The purpose of this district is to provide for industrial and commercial uses in an open setting that will not have objectionable influences on adjacent residential and commercial districts”; and

WHEREAS, Section 11 of the Regulations does not allow residential uses in the LI zone as either a permitted use or as a special permit use; and

WHEREAS, at the public hearing the Commission heard testimony from other property and business owners in the LI zone regarding the industrial nature and uses of the area, including, but not limited to, manufacturing processes, truck travel and chemical storage and transportation; and

WHEREAS, the Commission finds that the LI zoning district is an area which is zoned for industrial use; and

WHEREAS, the Commission finds that residential uses are not permitted in the LI zoning district; and

WHEREAS, the Application does not indicate that it is seeking approval for assisted housing as defined in Section 8-30g(a) of the General Statutes.

BE IT THEREFORE RESOLVED, that the East Lyme Zoning Commission hereby DENIES the application of JAG Capital Drive, LLC for approval of an affordable housing development to be located on Capital Drive at or near its intersection with Route 156 in East Lyme, for the reason that the development is located entirely in an area which is zoned for industrial use and which does not permit residential uses, and that the Application does not seek approval for assisted housing as defined in Section 8-30g(a) of the General Statutes.

Motion (6) Mr. Peck moved to adopt the Resolution as read by Mr. Walker.

Seconded by Mr. Walker.

Motion Passed 6-0.

This will be published on Thursday, March 14th.

- 8. Application of Frank Natale, for a Coastal Area Management Review for a retaining wall at property identified in the application as 23 N. Edgewood Road, Niantic.**

This item was continued to April 18th.

- 9. Approval of Minutes of January 17, 2013, and February 21, 2013**

Motion (7) Mr. McPherson moved to approve the Public Hearing and Regular Meeting Minutes of January 17, 2013.

Seconded by Mr. Peck.

Motion Passed 3-0-3 (Mr. Kane, Mr. Walker, and Mr. Donovan abstained)

Mr. Peck stated in the February 21, 2013 Regular Meeting Minutes on page 2, in the paragraph that starts with "Mr. Peck stated the POCD indicates the percentage of industrial property in town is 1%" the third line from the bottom of the paragraph should read, "Hotels per zoning definition in our town are for transient guests. Convalescent homes are not defined but it means inhabitants are getting better or being cured and not intending a permanent stay at the convalescent home."

Mr. Peck also stated he would like to add on Page 2, just prior to the second paragraph from the bottom "School is the use, dormitory is the accessory use."

Mr. Salerno stated he would like to add at the end of the second paragraph from the bottom of Page 2 the following sentence: "Approval of this application would change the buffer requirements of existing LI parcels which are there to protect residents from light industrial and may result in devaluation of neighboring parcels."

Motion (8) Mr. Peck moved to approve the Regular Meeting Minutes of February 21, 2013 as amended, and the Public Hearing minutes as presented.

Seconded by Mr. Donovan.

Motion Passed 5-0-1 (Mr. McPherson abstained)

Old Business

1. Parking Subcommittee

Chairman Salerno stated their regulations are too simplified. This could have prevented applicants from coming to this Town. They will have a meeting.

Mr. Donovan has joined this subcommittee, since Mr. Hogan has resigned.

2. Sign Subcommittee

Mr. Mulholland will set up a meeting.

3. Outdoor Dining Bars Subcommittee

Mr. Donovan stated they met prior to the last meeting. They came up with some recommendations and Mr. Mulholland is going to tweak them. They will report to the Commission next meeting.

4. Poultry Subcommittee

Draft regulations were sent out, they will discuss them.

Mr. Dwyer stated 2 acres were too much, the intent was for the average guy to have chickens.

New Business

1. Any business on the floor, if any by the majority vote of the Commission

Mr. Salerno stated they have a vacancy for an Alternate to fill.

2. Zoning Official

The office has been very busy, they will have another full agenda next meeting.

3. Comments from Ex-Officio

Ms. Cheeseman stated the Board of Selectmen had a Public Hearing on a proposed Noise Ordinance, they authorized the First Selectmen to enter into agreements regarding homeland security, they approved the Simulcast system, they approved the appropriation for the Amtrak Easement for improvements to the Cini Park Parking Lot. The First Selectman discussed the implications of the Governor's budget. There was no final vote on the budget, they will be meeting tomorrow again to do that.

4. Comments from zoning board liaison to Planning Commission

Mr. Kane did not go.

5. Comments from Chairman

He asked Mr. Goeschel to make sure the Planning Commission takes one final vote on their recommendations they send to us. Sometimes they say it is consistent and not consistent. If Planning has denied something it requires a 2/3 vote from Zoning. He just wants to make sure there is one final vote from them.

Mr. Donovan asked when the Town was due for another study on Affordable Housing.

Mr. Mulholland stated it is required every ten years.

6. Adjournment

Motion (9) Mr. McPherson moved to adjourn the meeting at 9:03 p.m.

Seconded by Mr. Donovan.

Motion Passed 6-0.

Respectfully Submitted,



**Karen Miller Galbo
Recording Secretary**