

TOWN OF EAST LYME

ZONING COMMISSION

MAY 2, 2013

REGULAR MEETING

Members Present:

Marc Salerno, Chairman
Matthew Kane
Terence Donovan
Norm Peck
George McPherson
William Dwyer, Alternate (Sat for Regular Meeting)

FILED IN EAST LYME
CONNECTICUT
May 7 2013 AT 9:50 AM/PM
Brenda O. Dineen ATC
EAST LYME TOWN CLERK

Members Absent:

Matthew Walker
James Liska, Alternate
Peter Lukas, Alternate

Also Present:

Victor Benni, Town Engineer
Holly Cheeseman, Ex-Officio
Bill Mulholland, Zoning Officer
Brad Kargl, Water & Sewer Department

1. Application of Timothy O'Reilly, for East Lyme Café, LLC dba Smokey O'Grady's for a renewal of a Special Permit for Outdoor Dining at property identified in the application as 306 Flanders Road, Niantic, Connecticut.

Chairman Salerno stated the applicant has requested no changes, and there have been no complaints.

Mr. Mulholland stated very recently he took the signs off the cooler.

Motion (1) Mr. Donovan moved to approve the application of Timothy O'Reilly for East Lyme Café, LLC for a renewal of a Special Permit for Outdoor Dining at property identified in the application as 306 Flanders Road, East Lyme, CT with the following conditions.

1. Entertainment will be allowed with acoustic guitar without amplification and a low level amplifier for the microphone only. Entertainment will be allowed until 10:00 p.m.;
2. Service will be from 11:00 a.m. to 11:00 p.m., the last seating will be allowed at 10:00 p.m. All service shall cease at 11:00 p.m.
3. Upon request of the East Lyme Cemetery Association, any entertainment outside will be halted for burial services;
4. There are to be 9 fixed seats around the service counter and 5 fixed seats around the tabletop and that will be serviced by wait staff.

Seconded by Mr. Dwyer.

Motion Passed 6-0.

This will be published next Thursday May 9th, and will be effective May 10th.

2. Application of Theodore A. Harris, Esq., Agent for Benchmark Senior Living for a Special Permit under Section 9.2.7 and 25.5 for an addition to an existing assisted living facility, identified in the application as 417 Main Street, Niantic, Connecticut.

Motion (2) Mr. Donovan moved to approve the application of Theodore A. Harris, Esq., Agent for Benchmark Senior Living for a Special Permit under Section 9.2.7 and 25.5 for an addition to an existing assisted living facility, identified in the application as 417 Main Street, Niantic, Connecticut.

With the Following Conditions:

1. Provide 7 on site additional parking spaces;
2. Evergreen screen along the parking lot and Lake Avenue, 4-5 feet in height.
3. Applicant has agreed to re-examine drainage along the northerly property line and improve as necessary.

Seconded by Mr. McPherson.

Motion Passed 6-0.

This will be published next Thursday May 9th, and will be effective May 10th.

3. Application of the Town of East Lyme, for a Coastal Area Management Review for sidewalk and seawall repair/improvements at property identified as 8 Atlantic Street, (aka McCook's Point Park) Niantic, Connecticut

Mr. Kane read a memo from Mr. Mulholland.

Victor Benni presented the application for the Town of East Lyme. The damage at McCook's was the result of Storm Sandy. There are 2 locations at McCook's that need repair. The Lot had some erosion and washed away. Some of the pavement needs to be re-paved. They have proposed a 75 foot walk way 6 feet wide adjacent to the seawall. Frank's wall toppled over also, they proposed to recap a section of the rail there, and perform some pavement repair there. It is designed to match what is already there. The work will be done water ward of the high tide line, and they hope to have it done by Memorial Day, Parks and Recreation wants it done before the beach opens.

Motion (3) Mr. Kane moved to approve the application of the Town of East Lyme, for a Coastal Area Management (CAM) Site Plan Review to repair and improve the sidewalk and seawall at property identified as 8 Atlantic Street, aka McCook's Park, Niantic.

Reasons:

- 1. Application is consistent with all applicable goals and conditions of the CAM Act.**
- 2. Applicant has taken all reasonable measures to mitigate any adverse impacts of the proposed activity on both coastal resources and future water dependent uses.**

Seconded by Mr. McPherson.

Motion Passed 6-0.

- 4. Application of the Town of East Lyme, for a Coastal Area Management Review for site improvements, at property identified in the application as Crescent Beach, Niantic.**

Mr. Kane read a memo from Mr. Mulholland.

Mr. Benni stated the area suffered 4 to 5 feet of erosion at Crescent Beach. The Sidewalk was washed away. They have proposed to replace 390 linear feet of sidewalk. There were also a few sections of pavement that were disturbed and they want to replace those sections. They will use erosion controls and construction fence. They are working with the Crescent Beach Association to try to get this re-established. Crescent Beach will be paying for this work, the Town does have sidewalks that connect to these sidewalks. As much as possible, the work will be done from the road.

Motion (4) Mr. McPherson moved to approve the application of the Town of East Lyme, for a Coastal Area Management (CAM) Site Plan Review to construct 390 LF of new concrete sidewalk at property identified as Crescent Beach, Niantic.

Reasons:

- 1. Application is consistent with all applicable goals and conditions of the CAM Act.**
- 2. Applicant has taken all reasonable measures to mitigate any adverse impacts of the proposed activity on both coastal resources and future water dependent uses.**

Seconded by Mr. Donovan.

Motion Passed 6-0.

5. Approval of Minutes of April 18, 2013.

Mr. Donovan stated Holly Cheeseman was present; there was no report due to the Board of Selectmen not having a meeting.

Mr. Peck stated there should be mention of the discussion they had regarding protection of the existing septic system.

Motion (5) Mr. McPherson moved the Public Hearing and Regular Meeting Minutes as Amended.

Seconded by Mr. Donovan.

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

Mr. Mulholland asked that the following CAM report application be taken off the floor. There was no objection.

6. Application of Keith Neilson, for Docko, for Donald Bowers for a Coastal Area Management Review for coastal erosion protection at property located at 25 Saunders Drive, Niantic, Connecticut.

Mr. Neilson stated the home is on a bluff 15 feet above the beach. The wall was built in 1929 and was knocked down by Storm Sandy.

They will use approximately 150 cubic yards of backfill behind the wall. It is not stable by itself. Re-creation of the wall is necessary, replanting will be necessary. This work is unavoidable and an emergency. It is very close to the house. All fill will be landside, and most of the work will be done by hand.

Motion (6) Mr. Donovan moved to approve the application of Keith Neilson, for Docko, for Donald Bowers for a Coastal Area Management Review for coastal erosion protection at property located at 25 Saunders Drive, Niantic, Connecticut.

Reasons:

- 1. Application is consistent with all applicable goals and conditions of the CAM Act.**
- 2. Applicant has taken all reasonable measures to mitigate any adverse impacts of the proposed activity on both coastal resources and future water dependent uses.**

Seconded by Mr. McPherson.

Mr. Neilson presented Exhibit 1 – Photos.

Motion Passed 6-0.

Mr. Neilson thanked Mr. Mulholland for his assistance with this application with such a short deadline.

OLD BUSINESS

1. Parking Subcommittee

There was nothing to report.

2. Sign Subcommittee

They met prior to the last meeting, and at this time have nothing to report.

3. Outdoor Dining Bars Subcommittee

Mr. Mulholland read the proposed Outdoor Dining Bars Regulation.

Mr. Mulholland stated anyone with an approved outdoor bar right now would be grandfathered in.

Mr. Donovan stated the square footage can be split. No smoking was taken out, they did address it, but they chose to remove it.

Chairman Salerno asked Mr. Mulholland to check and see if sidewalk dining was approved.

Mr. Kane asked why patrons can't bring alcoholic beverages outside to the dining area, if they are waiting for a table and get a drink at the bar.

The language, "unless being seated for food service" was added to the last sentence of number 6.

Mr. Peck asked why the Zoning Commission requires the Special Permit to be posted when the State already does that.

Mr. Mulholland stated the feeling behind that was that the staff would see the rules.

Mr. Donovan said they would strike the last sentence of number 3.

Number 4 was changed to "non-facility public spaces"

Mr. Peck thought they should take out the last line in number 6 and all of number 7. He feels there will be public backlash.

There was discussion of number 13, they will remove "or covered" and add "tents" to the last sentence.

Mr. Mulholland stated he could draft something that doesn't allow outdoor dining that fronts on Main Street.

Chairman Salerno stated service bars have to be seated and can't be on the road or sidewalk. He asked Mr. Donovan to work on this Regulation with the changes that were suggested and their discussion.

4. Poultry Subcommittee

Chairman Salerno read the proposed amendment to the Poultry Regulations.

Mr. McPherson suggested adding "without a Special Permit" to number 2.

Chairman Salerno asked Mr. Mulholland to move the amended regulation to Public Hearing.

NEW BUSINESS

- 1. Application of Theodore A. Harris, for Gateway Development East Lyme, LLC for Site Plan Approval and Storm water Review at property identified in the application as Ancient Highway, 286 Flanders Road, 284 Flanders Road, 282 Flanders Road and Flanders Road, East Lyme, Connecticut**

Chairman Salerno asked Mr. Mulholland to schedule this for a Public Hearing.

- 2. Any business on the floor, if any by the majority vote of the Commission**

Aquifer Protection Regulations were added to the floor with no objections.

Chairman Salerno stated the Town adopted the Aquifer Protection Regulations.

Mr. Mulholland stated there is some confusion as there are two systems in place; they could possibly do a Watershed Protection Zone.

Chairman Salerno stated there are two maps, one is from 1972, and the other one the Town spent a lot of money on and is based on science. Any use in the Aquifer Protection Zone has to prove to the State and the Aquifer Protection Agency they are protecting the aquifer.

Brad Kargl stated the new map is based on science, and was done at a great expense to the town. It is geared toward protecting the wells.

Attorney Harris stated there is a need for protection and economic activity. If they can exhibit that they can operate safely then they can operate. This does lead to confusion; they would be much better off relying on the new regulations and the map.

Chairman Salerno recommended moving forward with taking the aquifer regulations out of the Zoning Regulations and removing the old map.

Mr. Mulholland stated a public hearing would be necessary.

Motion (7) Mr. Donovan moved to schedule a Public Hearing on this Item.

Seconded by Mr. Kane.

Motion Passed 6-0.

3. Zoning Official

Mr. Mulholland stated they are still busy. The last month the land use department took in its most money ever. There have been a lot of applications.

4. Comments from Ex-Officio

Ms. Cheeseman stated the Board of Selectmen appointed a new Zoning Board of Appeals Alternate, and Kent Sistare to the Ledge Light Health District Board of Directors. They will have a mandatory water conservation public hearing on May 15th, the Annual Town Meeting will be May 13th, which will then go to Referendum on May 23rd. They authorized the First Selectman to enter into a lease agreement with the Commercial Fisherman, on May 17th at 2:00 p.m. the Field Services Building will be dedicated to Mike Giannattasio. June 7th is the Amtrak Beach projected opening day.

5. Comments from Zoning Board Liaison to Planning Commission

There was no meeting.

6. Comments from Chairman

He thanked everyone for showing up at the Board of Finance meeting.

7. Adjournment

Motion (8) Mr. Donovan moved to adjourn the meeting at 10:40 p.m.

Seconded by Mr. McPherson.

Motion Passed 6-0.

Respectfully Submitted,

A handwritten signature in black ink, reading "Karen Miller Galbo". The signature is written in a cursive style with a large initial 'K' and 'G'.

Karen Miller Galbo
Recording Secretary