

**PUBLIC HEARING II Thursday, APRIL 16th, 2009  
EAST LYME ZONING COMMISSION  
MINUTES**

The East Lyme Zoning Commission held a Public Hearing on the Application of Jeffrey A. McNamara for a text amendment to the East Lyme Zoning Regulations Section 4.1.3 "Nursery or Greenhouse provided they are not less than 100 feet from any lot line." Chairman Nickerson opened the Public Hearing and called it to order at 7:41 PM after the previously scheduled Public Hearing.

**PRESENT:** Mark Nickerson, Chairman, Rosanna Carabelas, Secretary,  
Marc Salerno, Ed Gada, Steve Carpenteri, Norm Peck

**ALSO PRESENT:** William Dwyer, Alternate  
William Mulholland, Zoning Official  
Rose Ann Hardy, Ex-Officio

**ABSENT:** Bob Bulmer, Alternate, Gregory Massad, Alternate

**PANEL:** Mark Nickerson, Chairman, Rosanna Carabelas, Secretary,  
Marc Salerno, Ed Gada, Steve Carpenteri, Norm Peck

**Pledge of Allegiance**

The Pledge was previously observed.

**Public Hearing I**

**1. Application of Jeffrey A. McNamara for a text amendment to the East Lyme Zoning Regulations Section 4.1.3 "Nursery or Greenhouse provided they are not less than 100 feet from any lot line."**

Mr. Nickerson said that the Legal Ad for this application had run in The Day on April 3, 2009 and April 13, 2009.

Mr. Nickerson asked Rosanna Carabelas, Secretary to read the correspondence into the record.

Ms. Carabelas read the following correspondence into the record:

- ◆ Memo dated 4/16/09 to the East Lyme Zoning Commission from Wm. Mulholland, Zoning Official – Re: Proposed Zoning Regulation Text Amendment Section 4.1.3 RU-40 zoning district – noting that the proposed reduction in the setback requirements would allow a greenhouse or nursery to be placed significantly closer to all property lines.
- ◆ Letter dated 3/31/09 to Mark Nickerson, Chairman, ELZC from Gary Goeschel, Director of Planning – Re: Referral of Jeffrey A. McNamara to amend Section 4.1.3 of the EL Zoning Regulations – finding that the EL Planning Commission unanimously found the proposed text amendment INCONSISTENT with the POCD which recommends limiting commercial development to the existing commercial centers of Niantic and Flanders.
- ◆ Letter dated 3/19/09 to Rosanna Carabelas, Secretary ELZC from Robert Baron, Chairman, SECCOG Reference Committee – Re: Proposed amendment to Zoning Regulations – finding that since the use is allowed in any residential zone, there is a high likelihood of adverse impact to abutting municipalities and therefore recommend against its adoption.
- ◆ Email dated 3/31/09 to Bill Mulholland from Marcy Balint, OSLIP – Re: zone text change referral – Section 4.1.3 Nursery or Greenhouse – finding that the proposed amendment is consistent with the goals and policies of the CT Coastal Management Act.

Mr. Nickerson called upon Jeffrey McNamara, applicant for his presentation.

Jeffrey McNamara, 100 Pennsylvania Ave., submitted a paper with the existing language and the language that he was requesting the text be changed to. He recalled to them that he had brought forth a similar request last year which was continued until the time ran out on the application due to the other hearings that they had and that he had agreed to bring it back to them at a later time. He also noted that the Planning Commission, in a letter dated 6/9/2008 to Zoning stated that they felt that the text change request was consistent with the POCD and that this time they felt that he was requesting a commercial greenhouse and he is not. He said that what he is attempting here is that the current regulations are more restrictive with regard to a greenhouse or nursery than with other buildings. He is seeking to assist agriculture here and said that under CT General Statute – a greenhouse is a farm venue. Local farmers are using greenhouses to house plants from January to May for crops that will be sold at a different location. He said that he thinks that they need to look at their current regulations.

Mr. Peck asked about the farming statute for the State of CT – for nursery and greenhouse but not a commercial greenhouse – he asked if he was talking about selling products.

Mr. McNamara said that his interpretation of nursery or greenhouse is the idea of having one but not for commercial use. They could however, sell to a Stop & Shop (off-site use) or that type of operation.

Mr. Peck said that he was then interpreting commercial as having people come to the site of the greenhouse to purchase the products and take them away or to deliver them off site.

Mr. Nickerson said that he personally has trouble with that as driving the products to the store does constitute commercial and commercial does not necessarily mean just a retail operation – he said that this would all need to be defined.

Mr. McNamara agreed that perhaps they would need a definition.

Mr. Salerno asked Mr. Mulholland for his interpretation.

Mr. Mulholland said that a commercial operation is by special permit and site plan so the current regulation Section 4.1.3 would need some work to get to what Mr. McNamara is discussing.

Ms. Carabelas said that it sounds like what he is presenting is lessening the lot line for a greenhouse, etc.

Mr. Mulholland noted that in considering that commercial was not used in Section 4.1.3 that he feels that it is more of an accessory item in a residential zone and not meant to be commercial.

Mr. McNamara said that no matter how they define greenhouse that he would like it to not be more restrictive.

Mr. Salerno asked why such specific setback numbers and why not follow the regulations.

Mr. McNamara said that it could be any number.

(Note: 7:50 PM – Ms. Hardy arrived.)

Mr. Salerno asked if he knew the difference between nursery and greenhouse or if they are to be considered one and the same.

Mr. McNamara said no, he did not know the difference and – no, it would not appear that they are to be considered the same.

Mr. Gada asked Mr. McNamara if he was here to change the lot line numbers and what he would like to see come out of this application.

Mr. McNamara said that it was brought to his attention by some people who are interested in it and who may currently be engaging in something similar. He said that he thinks that there needs to be a review of the regulations regarding nursery/greenhouses.

Mr. Nickerson noted that a commercial operation was clearly defined to be by special permit.

Mr. Mulholland noted that in the RU-40 zone that there are a lot of one-acre subdivisions and that there may be some issues of chemicals, etc which would require the 100' off the property line (ie. fertilizer, manure, etc.) He also noted that in the RU-80 regulations that it states that they can have animals / farming 100' from the property line however animals can graze near the property / fence line.

Mr. Peck said that Section 25.5 defines agricultural or farm use as a lot of not less than 2 acres with animals kept not less than 100' from the property line. He said that he noted this as it shows that a nursery/greenhouse is not alone with the setback. He said that they may have to better define a farm.

Mr. Mulholland asked Mr. McNamara if it would be his view that a farm should be 10 acres or more, and that they may not be contiguous acres, meaning that they could be across the street from each other.

Mr. Nickerson said that while he appreciates the discussion on farming that it has nothing to do with this application and that he would like them to stay focused.

Mr. McNamara said that he is just trying to get a dialogue going on this and that was his purpose in filing the application.

Mr. Nickerson then called for anyone from the public who wished to speak for, against or neutrally on this application –

Hearing no one –

Mr. Nickerson asked if there were any questions or comments from the Commission –

Mr. Mulholland noted that they would need to focus on the application and what that language is and what is being requested.

Mr. Nickerson said that he feels that it is pretty clear what is being asked here. He then asked if they had any further questions –

Hearing none –

Mr. Nickerson called for a motion to close this Public Hearing.

**\*\*MOTION (1)**

**Mr. Gada moved that this Public Hearing be closed.**

**Mr. Carabelas seconded the motion.**

**Vote: 6 – 0 – 0. Motion passed.**

Mr. Nickerson closed this Public Hearing at 8:22 PM.

Respectfully submitted,

Karen Zmitruk,  
Recording Secretary