

TOWN OF EAST LYME
ZONING COMMISSION

MAY 7, 2015

REGULAR MEETING MINUTES

Members Present:

Matthew Walker, Chairman
William Dwyer
Terence Donovan
George McPherson
Norm Peck
James Liska, Alternate (Sat for Regular Meeting)
Shawn Singer, Alternate
Peter Lukas, Alternate

FILED IN EAST LYME
CONNECTICUT
May 13, 2015 AT 8:15 AM/PM
[Signature]
EAST LYME TOWN CLERK

Members Absent:

Matthew Kane

Also Present:

Bill Mulholland, Zoning Officer
Holly Cheeseman, Ex-Officio
Rita Franco-Palazzo, Planning Representative
Attorney Mark Zamarka

1. TOWN ATTORNEY REVIEW OF 8-30G AFFORDABLE HOUSING STATUTES

Attorney Zamarka of Waller, Smith and Palmer stated Landmark Development LLC filed an affordable housing application for the Oswegatchie Hills related to one filed in 2005, which was denied. Landmark appealed that denial. In 2011 Judge Frazzini issued a memorandum of understanding that remanded the application back to this Commission. The current application was filed pursuant to that remand. There will be a public hearing on May 21st.

It is not proper to discuss the application or the Judge's decision now. He encouraged all members of this Commission to read that decision. With affordable housing applications the burden is on the Commission to substantiate their decision on appeal. He handed out Section 32 of the Zoning Regulations and urged all members to read and become familiar with that section. They can approve, approve with conditions, or deny. If it is denied or if there are conditions the Commission must state their reasons why. The decision should be supported by evidence in the record. The Commission can't rely on the court looking through the record; they must state the reasons for the decision on the record. This applied to Towns who have less than 10% of land devoted to affordable housing. East Lyme is not exempt as they only have approximately 6%.

Mr. Dwyer asked how water and sewer falls under this.

Attorney Zamarka stated that affordable housing statutes don't apply to water and sewer.

Mr. Donovan asked if they are going to be revamping 8-30g regarding the 10%.

Attorney Zamarka stated he has seen articles on that.

2. CONTINUATION OF APPLICATION OF THE EAST LYME PARKS & RECREATION DEPARTMENT FOR PLACEMENT OF A 32'X32' GAZEBO AT BRIDE BROOK PARK, NIAN TIC

Mr. Mulholland stated this was continued due to concerns about wind loads. That is the purview of the building official. He will review the design and anchoring.

Mr. Peck stated there was a feeling that public safety could be at risk.

Mr. Mulholland state those may be genuine concerns. The building official with review it and make sure it is built according to code or they won't get their Certificate of Occupancy. There is no standard in the Zoning Regulations for this.

Mr. Donovan stated the wind data is on the drawing.

Mr. Mulholland stated there are specific standards per the building code.

Motion (1) Mr. McPherson moved to approve the application of the East Lyme Parks and Recreation Department for placement of a 32'x32' gazebo at Bride Brook Park, Niantic.

Seconded by Mr. Liska.

Motion Passed 6-0.

3. APPLICATION OF LEO ROCHE, FOR STRIVE LLC FOR A RENEWAL OF A SPECIAL PERMIT FOR OUTDOOR DINING AT PROPERTY IDENTIFIED IN THE APPLICATION AS 247-2 MAIN STREET, NIAN TIC

Motion (2) Mr. Donovan moved to approve the application of Leo Roche, for Strive LLC for a renewal of a special permit for outdoor dining at property identified in the application as 247-2 Main Street, Niantic with the previously approved conditions.

Seconded by Mr. McPherson.

Motion Passed 6-0.

4. APPLICATION OF RITA FOKAIDIS, FOR VILLAGE PIZZA, FOR A RENEWAL OF A SPECIAL PERMIT FOR OUTDOOR DINING AT PROPERTY IDENTIFIED IN THE APPLICATION AS 53 WEST MAIN STREET, NIAN TIC

Motion (3) Mr. McPherson moved to approve the application of Rita Fokaidis, for Village Pizza, for a renewal of a special permit for outdoor dining at property identified in the application as 53 West Main Street, Niantic with the previously approved conditions.

Seconded by Mr. Donovan.

Motion Passed 6-0.

5. APPLICATION OF CRAIG TAFT, FOR CTRP ENTERPRISES, LLC (AKA BURKE'S TAVERN) FOR A RENEWAL OF A SPECIAL PERMIT FOR OUTDOOR DINING AT PROPERTY IDENTIFIED IN THE APPLICATION AS 267-283 MAIN STREET (AKA 13 HOPE STREET, NIAN TIC)

Motion (4) Mr. McPherson moved to approve the application of Craig Taft, for CTRP Enterprises, LLC (aka Burke's Tavern) for a renewal of a special permit for outdoor dining at property identified in the application as 267-283 Main Street (aka 13 Hope Street, Niantic) with the previously approved conditions.

Seconded by Mr. Dwyer.

Motion Passed 6-0.

6. APPLICATION OF TIMOTHY O'REILLY, OWNER, 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, NIAN TIC

Motion (5) Mr. Donovan moved to approve the application of Timothy O'Reilly, owner, 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 with the previously approved conditions.

Seconded by Mr. Liska.

Motion Passed 6-0.

7. APPLICATION OF DAVID MCILHENNEY, FOR DAVID MCILHENNEY FITNESS STUDIO, FOR A SPECIAL PERMIT FOR OUTDOOR RECREATION AT PROPERTY IDENTIFIED IN THE APPLICATION AS 323 FLANDERS ROAD, EAST LYME

Mr. McPherson stated he feels there is adequate parking.

Motion (6) Mr. Liska moved to approve the application of David McIlhenney for David McIlhenney Fitness Studio for a Special Permit for Indoor Recreation at property identified in the application as 323 Flanders Road, East Lyme with the 25 parking spaces assigned.

Seconded by Mr. Donovan.

Motion Passed 6-0.

8. APPROVAL OF MINUTES OF APRIL 16, 2015

Mr. Donovan stated the second paragraph should state Mr. Donovan, and not Mr. Terrance.

Motion (7) Mr. McPherson moved to approve the Public Hearing and Regular Meeting Minutes for April 16, 2015 as amended.

Seconded by Mr. Dwyer.

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

OLD BUSINESS

1. SUB-COMMITTEE MIXED USE IN CB ZONE

There was nothing to report.

NEW BUSINESS

1. APPLICATION OF TODD SAKOWSKI TO AMEND THE EAST LYME ZONING REGULATIONS SECTIONS 1.79, 9.2.10, 20.20.8 AND 25.5 TO PERMIT THE OPERATION OF A TAPROOM BREWERY

Chairman Walker stated this is tentatively scheduled for a Public Hearing on June 4, 2015.

2. REQUEST OF WAYNE & PATRICIA FRASER FOR A WAIVER OF SECTION 20.8 OF THE EAST LYME ZONING REGULATIONS FOR PROPERTY IDENTIFIED IN THE REQUEST AS 22 GURLEY ROAD.

Mr. Mulholland stated this is routine, and they can take it off the floor if there is no objection.

Motion (8) Mr. McPherson moved to take this item off the floor.

Seconded by Mr. Peck.

Motion Passed 6-0.

Mr. McPherson read a letter from Mr. Fraser.

Mr. Mulholland stated this waiver can be granted with a 2/3 vote of the Commission.

Wayne Fraser of 22 Gurley Road, East Lyme thanked the members for taking this off the floor. They realize this Commission has a very heavy schedule in the future. He has owned this parcel for many years. He would like to sell a portion to his daughter. There are many ways to get into the property. They have already done the perc testing.

Motion (8) Mr. McPherson moved to approve the waiver of Section 20.8 of the East Lyme Zoning Regulations for property identified in the request as 22 Gurley Road.

Seconded by Mr. Dwyer.

Motion Passed 6-0.

Mr. Fraser thanked the members for the work they do, he knows it is a tough job.

3. ANY BUSINESS ON THE FLOOR, IF ANY BY THE MAJORITY VOTE OF THE COMMISSION

There was no business on the floor.

4. ZONING OFFICIAL

Mr. Mulholland thanked the members for their support. The Public Hearing on Landmark will be at Camp Niantic as they anticipate a large crowd. Gateway has occupied approximately 60 units and they are moving along.

Mr. Dwyer asked if the big box has withdrawn their application.

Mr. Mulholland stated there is no application to withdraw; he has discussed architectural design with them.

5. COMMENTS FROM EX-OFFICIO

Ms. Cheeseman stated the Board of Selectmen met in Executive Session regarding a personnel matter. They had a public hearing regarding the building ordinance. There was a large turnout due to the temporary cell tower on Ancient Highway. They authorized the First Selectmen to sign the JLUS agreement, they approved a historic preservation grant for the Town Clerk, they approved an appointment to the Smith Harris House Commission, there was discussion regarding the cell tower, and they authorized the First Selectmen to apply for intervener status. Crescent Beach wants to withdraw from the Golf Cart Regulation. They urged everyone to speak to their elected official regarding the Siting Council.

Mr. Mulholland stated the Zoning Commission has no jurisdiction regarding the cell tower.

Ms. Cheeseman stated Mr. Nickerson has presented 6 or 7 alternate sites for the cell tower.

6. COMMENTS FROM ZONING BOARD LIAISON TO PLANNING COMMISSION

Mr. Singer attended the meeting. They discussed Landmark, the brewery and re-subdivision of a lot on Walnut Hill Road.

7. COMMENTS FROM CHAIRMAN

Chairman Walker stated Mr. Mulholland and his wife are in their thoughts and we are all hopeful for a speedy recovery.

Motion (9) Mr. McPherson moved to adjourn the meeting at 8:40 p.m.

Seconded by Mr. Peck.

Motion Passed 6-0.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "Karen Miller Galbo". The signature is written in a cursive, flowing style.

**Karen Miller Galbo
Recording Secretary**