

**MEETING MINUTES
OLD LYME ZONING COMMISSION
REGULAR MEETING
MONDAY February 13, 2023, 6:30 P.M.
MEETING HALL, MEMORIAL TOWN HALL
52 Lyme Street, Old Lyme, CT**

Present: Paul Orzel (Chair), Mike Miller, Jane Marsh (Secretary), Michael Peter Barnes, Mary Jo Nosal, Alternate Sloan Danenhower

Absent: Tammy Tinnerello,

Also present: Eric Knapp, Zoning Enforcement Officer/Land Use Coordinator; Amy Huot, ZC Clerk

Chair Orzel started the meeting at 6:31 PM.

CONTINUED PUBLIC HEARING:

Special Permit Application to allow applicants to replace existing non-conforming Accessory Structure with a new Accessory Structure which will be built in a conforming location and will also be built to FEMA standards on property located at 47 Seaside Lane, Frank and Jessica Antonacci, applicants – **Email dated February 6th from Attorney Fran Sablone requesting a continuance to the March 13, 2023 Zoning Meeting.** The Chair indicated that the Commission would table this matter until the March meeting, per the Applicant’s request.

REGULAR MEETING:

The Chair requested that the Commission move agenda item number 4 (Special Permit Application – 26 Town Woods Road, (Senior Center) Town of Lyme and Old Lyme, applicants) to the first item on the agenda. By consensus, the Commission concurred on the re-ordering of the agenda items.

1. Special Permit Application – 26 Town Woods Road, (Senior Center) Town of Lyme and Old Lyme, applicants.

After brief discussion, a motion was made to approve the Special Permit Application. See Record of Votes document from this meeting for more information.

2. Petition by the Lyme Academy, College of Fine Arts, Inc., to amend the Zoning Regulations to include a new overlay zone, Section 5.14, for the purposes of creating a more flexible arts and social district or districts.

The Commission members briefly reviewed previous discussions about the petition from the previous Zoning Commission meetings. Ms. Marsh noted that she does not like qualifying the use of the overlay zone by for profit or non-profit. She stated from a land use perspective, it should either be allowed or not allowed and she would rather tackle the issue as a direct change to the regulations. Ms. Marsh also noted that the use of the term “existing” could be problematic as the Commission would need to know what allowances currently exist for these properties.

Ms. Marsh suggested Zoning Commission Attorney Matthew Willis help draft the language of a direct zoning regulation to accomplish, at least in part, what the four non-profits are attempting to accomplish with an overlay zone.

Ms. Nosal was in favor of the petition but suggested a 15-acre minimum condition to the overlay be considered.

Mr. Miller agreed with Ms. Marsh and suggested the Commission get input from other town committees and commissions, as well as Attorney Willis.

Chair Orzel suggested that a small subgroup be created with no more than two people from the Zoning Commission and representatives from the groups affected by the proposed overlay zone. The Chair suggested the group start with a common statement of purpose and understand all the perspectives, including the Old Lyme Historic District Commission. He then asked if the Zoning Commission takes on an advisory role versus a more active role in the discussions. Ms. Marsh noted the Commission would need to do the work required in these discussions with Attorney Willis to help craft a regulation that would immediately become a zoning regulation instead of creating an overlay zone.

A motion was made to approve the petition by Lyme Academy and failed. See the Record of Votes document from this meeting for more information.

Chair Orzel said a special meeting will be scheduled. Ms. Marsh offered to represent the Zoning Commission in the discussions with the parties involved with the petition.

3. Petition for Application to create the Halls Road Overlay District Proposal (HROC), Town of Old Lyme applicant.

The Commission started the discussion and ZEO/LUC Knapp recommended the Commission start with a motion to approve and then proceed from there. He also noted that a super majority of four votes are required to advance the petition, given the Planning Commission's negative referral of the application. Ms. Nosal and Mr. Miller made motions to approve the petition. See the Record of Votes document from this meeting for more information.

Ms. Marsh applauded the document but was concerned about the potential for the structures on Halls Rd. to be massive. Ms. Marsh suggested the buildings be separated (as opposed to one massive structure) with pathways for pedestrians to pass through without needing to go through a building. She further noted she would not approve the petition with the proposed design due to the bulk. Ms. Marsh also commented that to impose a new scheme on an already developed area could have unintended consequences and she is concerned that Zoning officials will not have control over the density of the area based on the regulation itself.

Ms. Marsh expressed concern that certain uses that are not currently allowed on Halls Rd are not accidentally allowed through the proposed overlay zone. ZEO/LUC Knapp noted that if the current regulations prohibit a specific use, then the overlay generally cannot overrule the previous regulations.

Ms. Nosal stated the proposal been extensively reviewed with several groups making significant effort to create the proposal. She further stated that if there is a concern about the size of the buildings, the size can be made a condition of approval and it is time to give the community what the people have requested. Mr. Miller asked if the Zoning Commission will have the ability to dictate how the buildings look in the future. ZEO/LUC Knapp noted that a special permit is required and the Zoning Commission will have the ability to use the special permit criteria to evaluate each one that goes before the Commission.

ZEO/LUC Knapp noted Attorney Willis reviewed the petition and suggested updates which were incorporated into the proposal. When questioned about regulation updates pertaining to the petition, ZEO/LUC Knapp noted that the Commission could rewrite the regulations to accommodate mixed residential use, for example, in any zone and it is up to the commission to make the updates. Commission

members inquired whether they had to take action that evening. ZEO/LUC Knapp indicated that the Commission has 65 days to act on this petition.

Mr. Miller and Ms. Marsh expressed concern about voting on the petition and reconfirmed that the petition could tolerate minor updates. By consensus, the Commission agreed to table agenda items 3 and 4 at the next Zoning Commission Regular Meeting scheduled for **March 13, 2023**.

4. Rezoning of 23 parcels running the length of Halls Road from C-30S to the Halls Road Overlay District.

This item will be on the **March 13, 2023** Zoning Commission Regular Meeting Agenda.

5. Special Permit Application to allow applicants to replace existing non-conforming Accessory Structure with a new Accessory Structure which will be built in a conforming location and will also be built to FEMA standards on property located at 47 Seaside Lane, Frank and Jessica Antonacci, applicants – Email from Fran Sablone dated February 6th requesting a continuance to the March 13th Regular meeting.

This has been tabled per the applicant's request.

6. Receipt of new applications – **Receive and Set a Public Hearing: Special Permit Application – 58 Hartford Avenue, Old Lyme Properties LLC applicants.

The subject property is in the Sound View District and is currently vacant. Applicant would like to create a parking lot for Kokomo's in this area, however per ZEO/LUC Knapp is not allowed per the Soundview District regulations. Mr. Frank Noe, representing Kokomo's, stated they (Kokomo's) would like to create a structure in the lot to sell Kokomo's merchandise leaving the rest of the parking lot for exclusive use by Kokomo's customers.

The Commission voted to receive and set the public hearing for the **April 10, 2023** Zoning Commission Regular Meeting. See Record of Votes document from this meeting for more information.

ZEO/LUC noted that a commercial parking lot can never be created in that zone. Only Kokomo's can use this site for the use of parking.

Mr. Noe spoke after the motion and requested to meet in March instead of April to have enough time to get the structure built and merchandise ordered. The Commission determined that there will not be enough time for discussion during the March Regular Zoning Commission meeting. Chair Orzel stated it will be made first item on the agenda for the Regular April Zoning Commission meeting.

7. Special Permit Application – 250 Shore Road, Kids Realty LLC & Pond Road LLC (TIC), applicants- Public Hearing scheduled for **March 13, 2023**.

Prior to discussing Zoning Enforcement, the Commission heard from CT River Gateway Commission (CRGC) Chair Suzanne Thompson. Chair Thompson stated the CRGC would like to update their standards and are formally requesting that the 8 towns in the CRGC adopt the modifications and/or updates to bring statutes up to date. The CRGC is requesting the Zoning Commission add these updates to their zoning standards. The application for Zoning Regulation text amendment submitted by CRGC was received and set for a public hearing on April 13, 2023.

Pause at 8:13 PM for brief break. Meeting resumed at 8:15 PM.

When the meeting resumed, the Commission voted to waive their fee for the CRGC petition. See Record of Votes document from this meeting for more information.

8. Zoning Enforcement

146 Neck Rd: A neighbor is contesting the use of this property claiming the activity at the site is not in line with current zoning regulations. ZEO/LUC Knapp noted that the neighbor thinks a special permit is required but the owner believes they are operating within their permitted uses on the site and the ZEO may review and approve the continued use. ZEO/LUC Knapp has been asked by the neighbor to issue a cease and desist order. Per ZEO/LUC Knapp, permitted uses do not come to the Zoning Commission for review and approval, permitted uses only go to the ZEO for review and approval. ZEO/LUC Knapp noted that the challenge is the underlying use has been there for 10 years or more. The Commission suggested a site walk and ZEO/LUC Knapp stated he would schedule one with the owner.

21 Lyme St: An unapproved accessory apartment was built on the property and the Old Lyme HDC had not approved the HVAC installation location. ZEO/LUC Knapp will be visiting to ensure those items that make up an accessory apartment are removed. The septic will also need approval from the Ledge Light Health District.

2 Lyme St: Property owner would like to allow weddings on the property. The present approval is for a four-bedroom Bed and Breakfast with no allowance for weddings. The property owner will need to get approval for a hotel-type use per ZEO/LUC Knapp. ZEO/LUC Knapp also stated the owner cannot proceed with hosting weddings without going to the Zoning Board of Appeals for a use variance. ZEO/LUC Knapp has notified the Old Lyme HDC to be aware weddings are not allowed on this property. ZEO/LUC Knapp stated he is not opposed to that specific use of the property, but the correct permits must be in place.

12 Tantummaheag Rd: Property has approval for an accessory structure. ZEO/LUC Knapp was made aware that the accessory structure appears to show evidence of occupancy and the neighbor complained it is not the proper use of the site.

No other Zoning Enforcement Issues.

9. New Business – Petition for amendment of Zoning Regulations to include updated outdoor lighting standards, Petitioner, Connecticut River Gateway Commission Receipt and setting of Public Hearing discussion regarding waiving the fee.

10. Approval of Minutes – Minutes of the December 12, 2022 and
– Minutes of the January 9, 2023 Public Hearing and Regular Meeting

Ms. Nosal requested the December 12th, 2022 Regular Meeting minutes be updated to include Ms. Jeri Baker's full title in section 5. The meeting minutes were approved with updates.

The January 9th, 2023 Regular Meeting Minutes were approved.
See Record of Votes document from this meeting for more information on both Meeting Minute votes.

11. Correspondence – None.

12. Miscellaneous/Adjournment:

The Commission discussed creating a permanent meeting cut off time for regular meetings. Chair Orzel was concerned about the effectiveness of the Commission if the meetings go too late. Ms. Marsh suggested the Commission set 11:00 PM as the official meeting end time. Chair Orzel agreed with ZEO/LUC Knapp to check on the agenda at 9:30 PM but no official meeting end time was established.

Ms. Nosal commented on the desire to have an option for the public to be able to listen to a Zoning Commission meeting by some method other than in person (on the phone, for example). Ms. Marsh noted that multiple members of the public speaking at once would be chaotic. ZEO/LUC Knapp noted it will be challenging to coordinate phone and public hearing attendees. Ms. Marsh also added that during the Covid pandemic shutdown, Zoom was not an ideal tool to use because the Commission was not able to see plans and documents shown at a public hearing, among other issues. Ms. Marsh commented it is not a substitute for in person hearings however if people would like to watch without participating, that might be a viable option. Ms. Nosal noted that other Commissions have been able to use Zoom.

Ms. Marsh stated if members of the public would like to view and listen only, then a camera in the back of the Old Lyme Town Meeting Hall would be beneficial. ZEO/LUC Knapp would like to ensure the effort is done correctly. He believes if someone can operate the technology, then the Commission might be able to make virtual attendance, for viewing only, a possibility. ZEO/LUC Knapp further noted that the budget will need to be addressed to allow for someone who can operate the technology.

After discussion about possible documentation difficulties, such as receiving the documentation 24 hours in advance, ZEO/LUC Knapp committed to work with Mr. Tom Meyer to get the technology in place to help avoid documentation issues for the virtual meetings.

ZEO/LUC informed Commission members that a new Town of Old Lyme Government website will go live the next day. He stated as new Zoning Commission applications arrive, all materials will be uploaded to the new site enabling Commission members to get the information independently. ZEO/LUC Knapp noted the goal is to consolidate the areas people are required to look for information on the town government website.

Meeting adjourned at 9:05 PM.

Respectfully submitted,

Amy Huot, ZC Clerk

**THE NEXT REGULAR MEETING OF THE ZONING COMMISSION IS MONDAY, MARCH
13, 2023
AT 6:30 P.M. IN THE MEETING HALL, 52 LYME STREET, OLD LYME, CT**