

MEETING MINUTES
OLD LYME ZONING COMMISSION
REGULAR MEETING
MONDAY, APRIL 10, 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), Tammy Tinnerello, Mary Jo Nosal, Alternate Michael Peter Barnes, Alternate Sloan Danenhowe, Alternate Gil Soucie

Also Present: Zoning Commission Attorney Matthew Willis

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

Chair Orzel started the meeting at 6:30 PM.

PUBLIC HEARINGS:

1. Special Permit for 58 Hartford Avenue to place a structure on site for sale of merchandise. Determination of suitability for possible off-site parking exclusive to 88 Hartford Avenue.

Attorney Frank Noe presented the permit application. Mr. Noe submitted **Exhibit 7**, a photo of the parcel. Mr. Noe and the Commission briefly discussed the structure history of the site. The Commission questioned as to whether the applicants should submit a variance request to the Zoning Board of Appeals.

Mr. Noe said Sound View District regulations clearly state offsite parking is permissible. The Commission noted that access into the parking lot has not been approved by public works and the Fire Marshal must approve the layout of the building. Chair Orzel thought the plan needs to be augmented to show how the lot will be secured after hours of operation to deter overnight parking. Chair Orzel noted that fencing and lighting will also need to be shown on the plan and further stated the site plan is very weak and does not give the Commission enough to go on to decide. Mr. Noe suggested the Commission make fencing a condition of approval.

Mr. Noe and the Commission discussed the planned structure to be placed in the lot. Ms. Marsh noted that the structure is not an accessory building, it is a primary structure and not an accessory to another building. Mr. Noe reiterated that the purpose of the lot is for Kokomo's patrons to be able to park and dine at the restaurant without needing to pay a parking fee. Ms. Marsh noted the Commission does not want to set a precedent that a small building in a parking lot will be allowed to hold parking in the future.

Ms. Marsh suggested Mr. Noe discuss with his counsel and come back with a different application since Mr. Noe has an interest in both Kokomo's and the parking lot. Commissioners suggested linking the two properties in another application and potentially abandon the retail use depending on advice from Mr. Noe's council and advice from Zoning Commission Attorney Willis. Ms. Marsh suggested keeping the application in place and continue public hearing, discuss further and possibly modify the application. The public hearing is continued to the May 8th 2023 Regular Zoning Commission meeting at Mr. Noe's request.

Public hearing opened for public comment.

Ms. Carolyn Miranda of 2 Biscayne Drive spoke against the application.

Mr. Robert Carlson of 53 Swan Avenue spoke against the application.

Mr. Frank Maratta of 13 Hartford Place spoke in favor of the application.

Mr. Frank Pappalardo, Chair of the Sound View Commission stated the applicant did not go to Sound View Commission for advice on the application. Mr. Pappalardo noted that it was not advertised as a special permit application. Mr. Pappalardo stated that the Sound View Commission unanimously voted not to support the application and asked the Zoning Commission to deny the application.

Ms. Marsh asked how Mr. Pappalardo interprets the Sound View regulations regarding this lot. Mr. Pappalardo noted that the Sound View Commission views this as a total change of use and this parcel is not permitted as a lot. Mr. Pappalardo suggests a change of use application be submitted.

Ms. Stephanie Livesey of 63 Columbus Ave spoke in favor of the application. She noted since 2009 the area has lost over 70 parking spaces.

Chair Orzel stated that they will continue the public hearing and that Mr. Noe should focus on the items the Commission is looking to see for the next public hearing.

Ms. Mary Daley of 9 Portland Avenue spoke against the application and informed the Commission that she did not receive notice about the special permit application. Ms. Daley noted that other residents in proximity of the proposed lot should be notified and allowed to speak.

A **motion** was made by J. Marsh, seconded by M. Miller to **continue** the public hearing for Special Permit for 58 Hartford Avenue to place a structure on site for sale of merchandise. Determination of suitability for possible off-site parking exclusive to 88 Hartford Avenue to the **May 8, 2023 Regular Zoning Commission Meeting**.

Voting in favor: P. Orzel, M. Miller, J. Marsh, M. Nosal, T. Tinnerello; **Opposed:** None; **Abstaining:** None. The motion **passed** unanimously, 5-0-0.

2. A Petition to Amend the text of the Old Lyme Zoning Regulations to update Section 4.10, the Gateway Conservation Zone, incorporating new language proposed by applicant.

Chair Suzanne Thompson of the CT River Gateway Commission, Old Lyme appointee, presented the application with Mr. Greg Futoma, Alternate appointee of the Commission. Chair Thompson reviewed copy of the CRGC standards that appear in the Old Lyme Zoning Regulations. Chair Thompson noted that the regulatory standards have been updated to make the language standard throughout the CRGC eight member towns. Chair Thompson further stated there is one new standard that the CRGC are proposing to the towns. The standard added concerns night light pollution in addition to the CRGC nine criteria used to protect and build within the natural topography of each town.

Chair Thompson noted that light pollution causes problems for migratory birds, amphibians, plankton in the water, among other issues. Chair Thompson noted the language would be added as a 10th criterion when larger homes come before the CRGC for review and are not retroactive.

Chair Thompson asked that the Zoning Commission review the updated language and the 10th criterion and return comments to the CRGC before their May 25th meeting. Chair Thompson also noted that Ms. Balint from DEEP sent the CRGC a letter with no objections to the updated language and the new lighting standard.

Chair Orzel opened the hearing for public comment. No public comments.

A **motion** was made by M. Nosal, seconded by T. Tinnerello to **continue** the public hearing for the Petition to Amend the text of the Old Lyme Zoning Regulations to update Section 4.10, the Gateway Conservation Zone, incorporating new language proposed by applicant to the **May 8, 2023 Regular Zoning Commission Meeting**.

Voting in favor: P. Orzel, M. Miller, J. Marsh, M. Nosal, T. Tinnerello; **Opposed:** None; **Abstaining:** None. The motion **passed** unanimously, 5-0-0.

REGULAR MEETING:

1. 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.

Chair Orzel stated it was consensus that a non-habitable structure must meet the FEMA requirement. Chair Orzel further noted the Commission asked for the actual FEMA language about accessory structure requirements but have not received it yet. Mr. Barnes noted that the design meets all other zoning requirements. The Commission agreed that the

structure is also FEMA compliant. Ms. Marsh noted it is a policy decision because the structure must be FEMA compliant, making the structure higher. Ms. Marsh noted that it will bother people that do not have raised structures, but the Commission must choose the priority (compliance versus objections from neighbors). Chair Orzel noted that in lieu of the fact that the accessory structure is being built on the side of caution, the Commission does not need the documents requested in the last hearing.

A **motion** was made by T. Tinnerello, seconded by M. Miller, to **approve** the 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.

Voting in favor: P. Orzel, M. Miller, J. Marsh, T. Tinnerello; **Opposed:** M. Nosal; **Abstaining:** None. The motion **passed**, 4-1-0.

2. Special Permit Application with associated Coastal Area Management Application to allow applicants to develop a 3.77 acre parcel for the purpose of constructing three buildings to be used for the renting of units on property located at 250 Shore Road, Kids Realty LLC & Pond Road LLC applicant.

Chair Orzel stated the Fire Marshal has not reviewed the application. Chair Orzel further noted that there might be a West side setback of 15 FT because of the driveway currently located on the property. Chair Orzel asked Attorney Willis if he had reviewed the application and Attorney Willis noted it is up to the Commission to determine if the landscape buffer is sufficient.

Ms. Nosal noted there were conditions that were discussed in the previous Zoning Commission meeting. The Commission listed the potential conditions and concerns discussed in the last meeting. Chair Orzel stated the Commission needed to determine if the design meets Zoning Regulations Section 13b.4.12: Architectural Character, Historic Preservation, Site Design. The Commission decided to continue the meeting so that they may discuss Section 13B.4.12 in more detail and receive input from ZEO/LUC Knapp.

A **motion** was made by J. Marsh, seconded by M. Nosal to **continue** the public hearing for Special Permit Application with associated Coastal Area Management Application to allow applicants to develop a 3.77 acre parcel for the purpose of constructing three buildings to be used for the renting of units on property located at 250 Shore Road, Kids Realty LLC & Pond Road LLC applicant to the **May 8, 2023 Zoning Commission Regular Meeting**.

Voting in favor: P. Orzel, M. Miller, J. Marsh, M. Nosal, T. Tinnerello; **Opposed:** None; **Abstaining:** None. The motion **passed** unanimously, 5-0-0.

3. Special Permit for 58 Hartford Avenue to place a structure on site for sale of merchandise. Determination of suitability for possible off-site parking exclusive to 88 Hartford Avenue.

This application will be further discussed in the **May 8, 2023 Zoning Commission Regular Meeting**.

4. A Petition to Amend the text of the Old Lyme Zoning Regulations to update Section 4.10, the Gateway Conservation Zone, incorporating new language proposed by applicant.

This application will be further discussed in the **May 8, 2023 Zoning Commission Regular Meeting**.

5. Continued Matters: Old Lyme Country Club, Inc. Pickle Ball Court 35 McCurdy Court - Public Hearing scheduled for **May 8th, 2023 Zoning Commission Regular Meeting**.

6. Receipt of new applications – ****Receive and Set a Public Hearing:**

A new application, which was not included in the Zoning Commission agenda: Receive and set a public hearing by CT Audubon Society to allow the amending of a special permit application to allow accommodations for visiting scientists. Four 1-bedroom guestrooms and one bedroom studio apartment.

The Commission discussed when they would be able to review the special permit application request. Attorney Cronin, representing the applicant, noted that the changes requested are relatively minor. Ms. Claudia Weicker with the CT Audubon Society noted they have detail drawings of the update and would like to place bids for the work as soon as possible. Chair Orzel stated the Commission will attempt to review the application during the May 8, 2023 Regular Zoning Commission meeting.

A **motion** was made by T. Tinnerello, seconded by M. Nosal, to receive and set the special permit application by the CT Audubon Society to allow guest accommodations for visiting scientists for the **May 8, 2023 Zoning Commission Regular Meeting**.

Voting in favor: P. Orzel, M. Miller, J. Marsh, M. Nosal, T. Tinnerello; **Opposed:** None; **Abstaining:** None. The motion **passed** unanimously, 5-0-0.

7. Zoning Enforcement - Update on 146 Neck Road

ZEO/LUC Knapp was absent, there were no updates.

8. Approval of Minutes – Minutes of the March 13, 2023 Public Hearing and Regular Meeting and March 27, 2023 Special Meeting Minutes.

A **motion** was made by M. Nosal, seconded by J. Marsh, to **approve** the March 13, 2023 Zoning Commission Regular Meeting Minutes.

Voting in favor: P. Orzel, M. Miller, J. Marsh, M. Nosal, T. Tinnerello; **Opposed:** None; **Abstaining:** None. The motion **passed** unanimously, 5-0-0.

A motion was made by M. Nosal, seconded by J. Marsh, to **approve** the March 27, 2023 Zoning Commission Special Meeting Minutes.

Voting in favor: P. Orzel, J. Marsh, M. Nosal, T. Tinnerello; **Opposed:** None; **Abstaining:** M. Miller. The motion **passed**, 4-0-1.

9. Correspondence –

Chair Orzel and Ms. Nosal created a draft plan to formally regulate the Zoning Commission meetings to minimize or deter lengthy meetings. The Commission discussed changing the format of the meeting to better accommodate the public and to potentially improve efficiency of the review. Attorney Willis noted there is no legal requirement as to the Zoning Commission’s format of the meeting. Attorney Willis also noted that some Commissions meet twice per month, and it is up to the Commission’s judgement.

Ms. Marsh noted that the Commission does not have the same support that they have had in years past, making it harder for the members to do their reviews. Mr. Barnes noted there is a breakdown in the process of collecting documentation for the applications to the Zoning Commission. Ms. Marsh suggested that conflicts within the application identified ahead of the Commission review would be helpful.

Chair Orzel stated the discussion about support for the Commission will be added to the May 8, 2023 Zoning Commission Regular Meeting agenda.

Ms. Marsh noted that she will work on a draft rewrite of a direct regulation regarding non-profits (in response to the non-profit petition that was reviewed earlier this year) and would like to review it with Attorney Willis.

10. Informal discussion- proposal from Monica Santos to provide special education outpatient services on property located at 4 Davis Road West

The potential applicant is unsure where this request fits in the Zoning Commission Regulations as a for-profit educational facility. Applicant said she has reached out to the Health Department and the Fire Marshal. The applicant also stated that ZEO/LUC Knapp advised the applicant to discuss with the Commission to determine how to proceed. Attorney Willis noted that this is a gray area, and it is up to the Commission to interpret their regulations. After further discussion, Chair Orzel stated the Commission will discuss

with ZEO/LUC Knapp to sort out if the application comes before the Zoning Commission for review.

Mr. Barnes left the meeting at 8:52 PM.

11. Miscellaneous/Adjournment

A motion was made by M. Nosal, seconded by T. Tinnerello, to adjourn the meeting.

Voting in favor: P. Orzel, M. Miller, J. Marsh, M. Nosal, T. Tinnerello; **Opposed:** None; **Abstaining:** None. The motion **passed** unanimously, 5-0-0.

Meeting adjourned at 9:34 PM.

Respectfully submitted,
Amy Huot, ZC Clerk

**THE NEXT REGULAR MEETING OF THE ZONING COMMISSION IS
MONDAY, MAY 8, 2023
AT 6:30 P.M. IN THE MEETING HALL, 52 LYME STREET, OLD LYME, CT**