

FILED IN EAST LYME
Mar 10, 2010 AT 10:00 M

EAST LYME PLANNING COMMISSION
PUBLIC HEARING I
Tuesday, MARCH 2nd, 2010
MINUTES

R. Blais, etc.
EAST LYME TOWN CLERK

The East Lyme Planning Commission held a Public Hearing on the Application of New England National, LLC for a proposed re-subdivision of 3.5 acres located at 70 Mostoway Road, East Lyme, CT aka Darrow's Ridge Subdivision – Lot 25 and a request of waiver of Section 6-16, Assessor's Map 44, Lot 8 on March 2, 2010 at Town Hall, 108 Pennsylvania Ave., Niantic, CT. Chairman Bowers opened the continued Public Hearing and called it to order at 7:10 PM.

PRESENT: Mike Bowers, Chairman, George McPherson, Secretary, Christopher Sandford, Francine Schwartz, Brian Schuch, Joan Bengtson, Alternate

ALSO PRESENT: Attorney Mark Block, Town Counsel
Jeff Torrance, representing the Applicant
Gary Goeschel, Planning Director
Steve Carpenteri, Zoning Commission Liaison
Bill Scheer, Town Engineer

ABSENT: Mike Mangelinkx, Greg Jackson, Alternate, Drew Kenny, Alternate

Pledge of Allegiance
The Pledge was observed.

Public Hearing I

1. Application of New England National, LLC for a proposed re-subdivision of 3.5 acres located at 70 Mostoway Road, East Lyme, CT aka Darrow's Ridge Subdivision – Lot 25 and a request of waiver of Section 6-16, and application fee, Assessor's Map 44, Lot 8.

Chairman Bowers seated Ms. Bengtson, Alternate at the table for this hearing.

Mr. Goeschel noted that the legal ad had run in the New London Day on February 19, 2010 and February 26, 2010. He added that up until this last hour that the application fee had not been paid however, it has now been paid and he has the check in his possession along with a letter from the applicant to Mr. Bowers, Chairman regarding the check. He then read the list of Exhibits (#1-10) into the record.

Mr. Bowers called upon the applicant or their representative to present this application.

Jeff Torrance said that he was presenting on behalf of New England National and that he had some additional items to submit as Exhibits for the record. He submitted the following:

Exhibit 11 – Certificates of mailing to abutters as required with copies dated February 25, 2010

Exhibit 12 – Pictures of sign posted on the site on February 14, 2010

Exhibit 13 – Letter dated March 2, 2010 to Mike Bowers Chairman Planning Commission from Robert Blatt of New England National LLC authorizing Jeffrey Torrance to act as his agent in any and all matters regarding the 70 Mostoway Road re-subdivision application submitted 3/2/2010

Exhibit 14 – Copy of East Lyme Wetlands Agency Permit #06-05M dated 12/1/2008 and expiring 3/6/2011 regarding Mostoway Road lot line Modification & Wetland Mitigation for Lot 25

Exhibit 15 – Copy of letter to Clint Webb, Environmental Consulting Services from Nancy Murray, DEP Environmental Analyst III dated November 21, 2003 regarding no known Federal or State endangered, threatened or of Special concern species at the Darrow Ridge site

Exhibit 16 – Copy of pages 2-20 U.S. Bankruptcy Court district of CT (New Haven) compromise Agreement Case 02-33699 (NE National LLC) Files and Entered 12/3/2008

Exhibit 17 – Copy of Cover sheet of U.S. Bankruptcy Court District of CT Order Approving compromise & Settlement Case No. 02-33699 LMW, Doc ID #472 dated December 4, 2008

Mr. Torrance offered as background on this property that is it the last piece of what is the Darrow's Ridge subdivision and that it became ensnared in the Mostowy Road re-alignment fiasco. It is what was originally agreed to as the triangle between Mostowy Road and Rte. 161. A Mylar was to be prepared and executed by the Town Planner prior to Mr. Goeschel's time. As it was not done, Mr. Goeschel who inherited this has been uncomfortable with signing the Mylar on this land as he was not here originally. The Town has public access and the property is owned to the center of the road by the landowners. The Compromise Agreement stated that the Planner would sign the Mylar and did not allow for anyone else to do it. Here, they have created a way to divide the property by subdivision rather than by lot line revision. Both of the lots, even with the re-configuration of Mostowy Road will remain conforming lots. The southern piece is being deeded to the Town.

Mr. Goeschel noted that the plans submitted on March 1, 2010 were just sent to Town Staff and that they have not had the chance to comment on them. It is up for discussion on if the Town would want the whole triangle or not. He noted that there are a lot of things going on here and that the Town has submitted to the Army Corps of Engineers for the relocation of Mostowy Road.

Mr. Torrance noted that in the meantime that they have shown that the two lots conform to the subdivision regulations and that they would not be creating a non-conforming lot by virtue of the road relocation. They essentially end up with two lots, one created with 1.38 acres and a new lot of 2 acres in size. This property division has been pending since 2006 and was held up by a complaint to the Army Corps of Engineers by a disgruntled member of Conservation who did not like the intersection relocation. He said that they are awaiting the Town Engineer comments and that he has briefly spoken with Mr. Mulholland on this and will speak further with him on it.

Mr. Goeschel said that they sent the plans to Ledge Light, the Zoning Official, Municipal Utility Engineer and the Town Engineer for review and comment.

Attorney Block noted that this stands apart and alone from anything with regard to the signing of the Mylar.

Mr. Bowers said that while he understands that, he thinks that the Mostowy Road relocation is part of it. Mr. Torrance explained the Mostowy Road relocation and showed them what it would look like and said that they have to demonstrate that they have legal frontage as they do today and second that as a result of the relocation they will not create a non-conformity and they will not as the lots have been devised to not create a non-conformity. He also pointed out the area that would be deeded to the Town.

Ms. Bengtson said that she is familiar with this piece of property as she was interested in purchasing it when she saw the sign posted. She asked if it was part of the original plan dated 2003 and if it was separated from that original plan as the agent did not seem to know that information.

Mr. Torrance said that the 3.5 acre parcel was part of the rest of the property on that side of the street (Darrow's Ridge Phase III) and was known as Lot 25, part of the subdivision.

Mr. Sandford asked if the new lot would have access from the new road or from Route 161.

Mr. Torrance said that it could have access from either the new Mostowy Road or Route 161 as it would have frontage on both of them. He continued that they are waiting for a couple of letters on this application. One, from Ledge Light who is objecting to this subdivision as there is a dug well on the site that has not been abandoned and while he feels that they have the authority to say that it has to be abandoned; it should be noted that this lot was part of the other subdivision plans that were approved with the well. He noted that the same well existed in 2004 and was part of the septic plans that were contemplated at that time and it was okay then and now they are saying that it is not. He noted that he has not yet seen a copy of the letter as it came very late this evening.

Jason Pazzaglia, builder indicated that he received a copy of the letter by email.

Mr. Bowers asked what they would be waiting on.

Mr. Goeschel said that he asked staff to reply back by March 16, 2010 with comments on the new plans.

Mr. Sandford asked about the size of the house and if there was an advantage to the driveway being in one place of the other.

Mr. Torrance said that the wetlands permit anticipates a driveway off Mostowy Road and that is what is being planned.

Jason Pazzaglia of Pazzaglia Builders said that he would be building a house approximately 24' x 36' in size.

Ms. Schwartz asked what is involved with closing the well.

Mr. Torrance said that it would have to be filled in with the proper materials (not sand). He noted that he has water service on the property and submitted Exhibit 18 – picture of the existing service in the existing house. (Complete list of Exhibits attached at end of Minutes) He said that he believes that the proposed lots conform to the subdivision regulations and feels that the application is complete other than the comments that they are waiting on.

Mr. Goeschel recommended continuing the Public Hearing until the April 6, 2010 meeting of the Commission. He noted that would be the 35 day limit and that they would have to close the Public Hearing then unless the applicant granted an extension of time.

Mr. Torrance said that he would work on getting comments back from Staff as soon as possible to address any concerns that they might have.

Mr. Bowers asked if there were any other questions from the Commissioners –
Hearing none –
He called for any comments from the public regarding this application –
Hearing none -

Mr. Bowers adjourned this Public Hearing at 8:15 PM and continued it to the April 6, 2010 meeting of the Commission.

Respectfully submitted,

Karen Zmitruk,
Recording Secretary

List of Exhibits
Darrow's Ridge Re-Subdivision - 70 Mostoway Road
Public Hearing Exhibit List
March 2, 2010

1. Application – Received January 28, 2010 (w/request for waiver of Section 6-16)
2. Certified Letter dated February 9, 2010 requesting fee amount of \$2160.00 to conduct Public Hearing on application
3. Confirmation from The Day of ad submission for the Public Hearing
4. Copy of letter dated February 16, 2010 from Attorney Block regarding application fee
5. Memo dated February 22, 2010 to First Selectman Paul Formica from Gary Goeschel Planning Director with copy of the letter from Attorney Block
6. Letter dated February 22, 2010 to New England National, LLC from Gary Goeschel Planning Director requesting 10 and 12 copies of items necessary to complete the application
7. Design Report Letter dated February 26, 2010 Hand Delivered from Attorney Theodore Harris
8. Boundary Survey & Natural & Cultural Resources Map dated January 28, 2010 with revisions dated March 1, 2010
9. Check #2953 dated March 2, 2010 for \$2160.00 – application fee in full submitted 3/2/2010
10. Letter dated March 2, 2010 to Mike Bowers, Chairman EL Planning Commission regarding the fees tendered as a result of communication received from the Attorneys
11. Certificates of mailing to abutters as required with copies dated February 25, 2010
12. Pictures of sign posted on the site on February 14, 2010
13. Letter dated March 2, 2010 to Mike Bowers, Chairman Planning Commission from Robert Blatt of New England National LLC authorizing Jeffrey Torrance to act as his agent in any and all matters regarding the 70 Mostoway Road re-subdivision application submitted 3/2/2010
14. Copy of East Lyme Wetlands Agency Permit #06-05M dated 12/1/2008 and expiring 3/6/2011 regarding Mostoway Road lot line Modification & Wetland Mitigation for Lot 25
15. Copy of letter to Clint Webb, Environmental Consulting Services from Nancy Murray, DEP Environmental Analyst III dated November 21, 2003 regarding no known Federal or State endangered, threatened or of Special Concern species at the Darrow Ridge site
16. Copy of pages 2 – 20 U.S. Bankruptcy Court District of CT (New Haven) Compromise Agreement Case 02-33699 (NE National LLC) Filed and Entered 12/4/2008
17. Copy of Cover sheet of U.S. Bankruptcy Court District of CT Order Approving Compromise & Settlement Case No. 02-33699 LMW, Doc ID #472 dated December 4, 2008

18. Picture of existing services in the existing house submitted 3/2/2010
19. Letter dated 3/2/2010 from Ryan McCammon of Ledge Light Health District regarding suitability of Lots 25 & 31

