

FILED IN EAST LYME  
*June 28*, 2006 AT *11:15* M

EAST LYME ZONING COMMISSION  
PUBLIC HEARING I  
JUNE 15, 2006  
MINUTES

*L. Blair*  
EAST LYME TOWN CLERK

The East Lyme Zoning Commission held the Application of Steven J. Carpenteri for a Special Permit to operate a fast food establishment at property identified in the application as 297-3 Flanders Road, East Lyme, Connecticut. The property is further identified in the application as East Lyme Assessor's Map 31.3, Lot 18, on June 15, 2006 at Town Hall, 108 Pennsylvania Avenue, Niantic, CT. Chairman Nickerson called the meeting to order at 7:35 P.M.

PRESENT Mark Nickerson, Chairman, Ed Gada, Rosanna Carabelas, Secretary, Marc Salerno, Pamela Byrnes, Norman Peck III, William Dwyer (Alternate), Joseph Barry (Alternate)

ALSO PRESENT William Mulholland, Zoning Official  
Mathew H. Greene, Attorney for Applicant

ABSENT Robert Bulmer (Alternate), Rose Ann Hardy, Ex-Officio,  
Board of Selectmen

PANEL Mark Nickerson, Rosanna Carabelas, Marc Salerno, Ed Gada, Pamela Byrnes and Norman Peck III

**Public Delegations - Ms. Catherine Pablonia** of 5 Joyce Street, East Lyme, CT stated she was disgusted with the Commission's decision at 38 Hope Street. She attended all meetings, but was not at this one and was very disappointed with the Commission. A second traffic study was requested, but was ignored and the hearing closed. The developer was receiving letters from the US Dept of the Navy re sediment runoff, and there were issues with building heights, but all were ignored. She feels the public deserves more respect. She noted that 2 zoning officials were seen congratulating each other and the developer after approval.

**Mr. Robert Gadbois** of 358 Boston Post Road, East Lyme, CT agreed with the comments of the previous speaker and was shocked that our most precious resource (water) was not protected. The State has been fining other towns \$5000/day until issues are fixed and he believes the Town is going in that same direction. He also saw the handshake referred to by Ms. Pablonia.

**Public Hearing - Application of Steven J. Carpenteri for a Special Permit to operate a fast food establishment at property identified in the application as 297-3 Flanders Road, East Lyme, Connecticut. The property is further identified in the application as East Lyme Assessor's Map 31.3, Lot 18.**

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Mr. Nickerson commented that no staff reports were needed or required. Mr. Mulholland stated he had asked the town attorney how to handle and was advised a special permit is needed because of the use of the cart and that it might be considered a structure.

Mr. Nickerson noted that the Public Notice has been properly run for this hearing.

Mr. Nickerson invited Attorney Greene to address the commission.

Mathew Greene, Esq., P. O. Box 37, New London, CT, representing Mr. Carpenteri, stated the application is for use of a hot dog cart in the parking lot at 297.3 Flanders Road and that a site plan has been submitted. He stated the town attorney advised him that because it would be located on private property and might be considered a structure, it would fall under the regulations. The request is for a special permit under Sec. 8.2.7 of the Regulations. The use would be allowed in the CA zone pursuant to a special use permit. The cart is smaller than a standard parking space. The proposed location is as indicated on the site plan. The meat market requires 13 spaces and there are 16 spaces along Flanders Road. There are commercial and residential units in the area. The premises are a conforming lot and the proposed use would not devalue other properties. It meets all requirements of a special use permit. There would be no significant traffic impact.

Mr. Peck questioned whether the cart would be on wheels and the hours of operation. Attorney Greene said it would be considered a structure only because it is "on" the ground. Hours of operation would be from 10:00 A.M. to 8:00 or 9:00 P.M. No exact times have been set. Plans are for lunch and early dinners. The applicant would be agreeable to the Commission setting hours of operation.

Mr. Gada questioned sales of associated foods and Attorney Greene replied that no burgers or other hot foods would be sold, but chips and other accessory items would be included.

Mr. Nickerson questioned crowd and traffic control. Attorney Greene noted the parking lot is not lined at this time, but Mr. Carpenteri would be willing to line for parking control. The cart area could have cross lines. Mr. Nickerson stated he is not comfortable with the rear spaces, as they now exist. Mr. Mulholland noted that the last paragraph of Section 22 allows for the Commission to make parking decisions. Mr. Mulholland noted the dumpsters in the area of the 4 parking spaces could be moved to the rear, but there is no requirement for such action at this time. Ms. Carabelas expressed concern that moving the dumpsters might present problems for the trucks that pick them up.

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Attorney Greene stated there would be no seats or benches. There is 147' along the front of the building near the curb. There is room for 16 nine feet wide parking spaces, which could be cut back to ten to address entrance and exit concerns. Twenty spaces would still be available. There is sufficient parking based on square footage. The regulations require 13 spaces for the market and apartment and 3 for the commercial property, 14 for the apartments and 2 for the house. This is a total of 29 spaces. Apartment parking is sufficient. Thirteen spaces would remain for retailers and there would still be 10 spaces for the cart. There would never be a line of people or cars backed up for service.

Mr. Nickerson questioned the topographical issue and traffic patterns. He would like to see traffic controlled with a lighted area. There are several safety issues with the parking lot. Mr. Greene stated the 147 lineal feet would allow for 16 spaces on the curb. If 18' were taken from each side, there would be sufficient room for 10 spaces to be lined. There would be cross mark lines for the cart. Ms. Carabelas noted the entrance and exit would be near the highway ramps that are heavily traveled. She has several times noticed children in the area and expressed concerns for their safety. Attorney Greene stated they want the business to be visible to prospective customers. He continued, there is a 23' entrance on both sides and 2 center parking spaces could be eliminated. They could use bollards with a chain to block use when not operational. The Commission could set the standard that they are out by dark.

Mr. Salerno stated he would like to see the spaces delineated and use of bollards.

Mr. Nickerson questioned whether any thought had been given to using a permanent wall. He mentioned that several "backing up" accidents have occurred because of the down slope and this situation could become worse. Attorney Greene pointed out that the meat market is at a lower elevation.

Ms. Byrnes noted there is one way in and one way out and there would be too much traffic flow. Attorney Greene did not see this as a problem, but will leave it to the commission to decide. Ms Byrnes stated a good traffic flow is important and would need to be studied.

Ms. Carabelas asked whether the special permit would carry a time limit for review. Mr. Mulholland replied there is no time frame within the regulations, but the Commission could set conditions, such as 6 months to one year.

Mr. Nickerson asked is there was anyone who would like to speak in favor of the application. - **Robert Gadbois**, 358 Boston Post Road, East Lyme, stated he feels Mr. Carpenteri is a good businessman and recommends approval for a 6-month trial period.

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**Ms. Lynn Marocola**, 88 South Edgewood Road, East Lyme, is in favor of approval. She commented she at one time owned and used the cart near Main Brace and never had a traffic issue.

Mr. Nickerson asked if there was anyone who would like to speak in opposition to the application - None.

Mr. Nickerson asked if there was anyone who would like to speak neutral to the application. - None

Mr. Nickerson asked for comments from the Commission. - Mr. Nickerson commented on the dining regulations passed last week and questioned Mr. Carpenteri's use of umbrellas, tents, awnings and signs. Attorney Greene stated they would comply with the regulations. There will be a cart overhead to provide for shade. There would be no tents, but there may be a plain umbrella and a sign with prices. Ms. Marocola replied that the umbrella is in the middle of the cart and is similar to the type used at Dad's. The town already certifies the cart. Attorney Greene would like to see a sign offering the sale of hot dogs and prices.

Mr. Mulholland reported that the regulations allow for one freestanding sign and wall signs. "Hot Dogs" could be on the umbrella and be considered incidental. No sandwich boards would be permitted.

Ms. Marocola stated there is a plastic laminated sign and outline of a hot dog already on the cart.

Mr. Mulholland stated the applicant could come to his office to address signage.

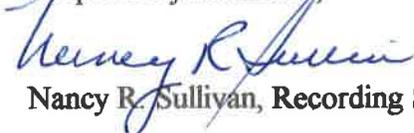
Ms. Carabelas made clear there would be no seating allowed.

Mr. Nickerson called for a motion to adjourn the Public Hearing

**\*\*MOTION (1)** Mr. Salerno made motion to adjourn the public hearing. Second by Ms. Carabelas. Voice Vote: 6-0-0 Favor. Motion passed.

Mr. Nickerson adjourned this public hearing at 8:13 P.M.

Respectfully submitted,



Nancy R. Sullivan, Recording Secretary