

June 10 20 08 at 9:50 AM PM

**EAST LYME ZONING COMMISSION
PUBLIC HEARING IV
Thursday, JUNE 5th, 2008
MINUTES**

Esther B. Williams

EAST LYME TOWN CLERK

The East Lyme Zoning Commission held a Public Hearing on the Application of Bobby DeMarinis for a Special Permit to operate an outdoor dining facility at 11 East Pattagansett Road, Niantic, CT on Thursday, June 5, 2008 at the East Lyme Town Hall, 108 Pennsylvania Avenue, Niantic, CT. Chairman Nickerson opened the Public Hearing and called it to order at 11:45 PM after the three previously scheduled public hearings.

PRESENT: Mark Nickerson, Chairman, Marc Salerno, Acting Secretary, Steve Carpenteri, Norm Peck, Ed Gada, Gregory Massad, Alternate

ALSO PRESENT: William Dwyer, Alternate
Bob Bulmer, Alternate
Rose Ann Hardy, Board of Selectmen Ex-Officio
William Mulholland, Zoning Official

ABSENT: Rosanna Carabelas, Secretary

PANEL: Mark Nickerson, Chairman, William Dwyer, Alternate, Steve Carpenteri, Norm Peck, Ed Gada, Gregory Massad, Alternate

Pledge of Allegiance

The Pledge was previously observed.

Public Hearing I

1. Application of Bobby DeMarinis for a Special Permit to operate an outdoor dining facility at 11 East Pattagansett Road, Niantic, CT.

Chairman Nickerson noted that the Legal Ad for this application had run in The Day on 5/23/08 and 6/2/08.

Mr. Salerno recused himself from this Public Hearing and was seated in the audience.

Mr. Nickerson seated William Dwyer, Alternate at the table for this Public Hearing.

He then read the correspondence into the following correspondence into the record.

- ◆ Letter dated 6/5/08 to EL Zoning Commission from William Mulholland, Zoning Official – Re: Special Permit Application Outdoor Dining Bobby D's Restaurant, 11 East Pattagansett Road, CB Zone – noting that Mr. DeMarinis is proposing to construct a 24' x 25', 600 sf concrete patio adjacent to the west side of his building along East Pattagansett Road enclosed by a 36" picket fence and set up with tables and umbrellas. The Regulations permit the use under Section 20.27 and this section requires the applicant to comply with standards 1-14. Also noted is that outdoor dining facilities in CB zones are exempt from parking requirements. It was suggested that the Commission carefully review the standards of 20.26.6.

Mr. Nickerson called upon the applicant or their representative for a presentation of this application.

Bobby DeMarinis, owner and applicant said that regarding his location near the school that he is proposing outdoor hours when the school is closed. He said that they close on June 20th for the summer, so his seasonal hours can be different. He is known as a take-out type of dining facility and said that he is looking to increase his inside dining business. The 24' x 25' concrete patio is on the East Pattagansett Road side and he said that he needs it to get through the winter months. He sees the restaurants on Main Street with outdoor dining and there are also people in the neighborhood with decks who routinely have cookouts and people outside and he does not see his request as different from that. He said that he may have an acoustic

guitar player as it is a family business. He is open until 10 PM Sunday thru Thursday and until midnight on Fridays and Saturdays. He would like to have some entertainment as this is a neighborhood pizzeria.

Mr. Mulholland asked if he has a bar in the restaurant.

Mr. DeMarinis said that he does and that he serves beer and wine and has a waitress who serves the people at their tables.

Mr. Mulholland said that he would have to apply for outside dining on a yearly basis and asked for more information regarding the entertainment.

Mr. DeMarinis said that he would like to have a one-piece acoustic guitar player or maybe a comedian to get the people to come in to his restaurant.

Mr. Mulholland noted that he is in a CB zone and that across the street is an R-10 residential mixed neighborhood and that they might want to put a time on when music would have to cease outside.

Mr. Nickerson said that they have set this up as a Town that is focusing on downtown and they have encouraged a restaurant row and outdoor dining and so far three have applied and been approved – and all are downtown.

Mr. Mulholland said that they did allow for an acoustical, non-amplified guitar downtown until 8 PM for one of the restaurants in trying to balance the various needs.

Mr. Nickerson said that it cannot be a Sunset Ribs where the music is heard everywhere.

Mr. DeMarinis said that he understands that.

Mr. Nickerson said that he thinks that this outdoor area would be taking place at a different time than the school session –

Mr. Mulholland suggested that they may want some plantings along the fence to make it look better.

Mr. DeMarinis said that they have placed some perennials in the bed near the road so that it will look attractive and that he would not be adverse to putting in some plantings along the fence.

Mr. Peck asked if there would be any problem with shutting down all the outdoor activities at 9 PM as this is located so close to the neighbors.

Mr. DeMarinis said that he would prefer 10 PM but that he would do 9 PM.

Mr. Massad noted that he would have to reapply each year for this outdoor dining permit and that if there were any problems that they could just not renew it.

Mr. Nickerson and Mr. Mulholland said that the renewal would be based on complaints that had been received during the prior year. They also said that they would prefer that outdoor activity ceased at 8 PM.

Mr. Mulholland asked Mr. DeMarinis what he envisions serving on the deck – pizza and beer or what –

Mr. DeMarinis said that he is a pizza place and that he sees pizza and beer as dining on the deck.

Mr. Nickerson called for anyone from the public who wished to speak in favor of this application –

Hearing no one –

Mr. Nickerson called for anyone who wished to speak in opposition to this application –

David Schmidt, 97 Hope Street said that he is not directly across from this but is adjacent to it and that he is not supportive of this application. He said that he is concerned with the parking as he has about 12 spots with one for handicap parking. He also has about four spots that are used by staff which only leaves eight spots for the patrons and if they increase the seating then there will be more traffic and this will cause safety issues and he does not feel that it fits here. He cited the neon signs in the windows which are obnoxious. He asked that they think this through and do right for the neighborhood.

Miles Berg, 101 Hope Street said that there were no alcohol permits – they were transferred here. He said that his property is next to this parking lot and he thinks that his property would be devalued with alcohol

being served. The sign posted said live bands and alcohol. He is concerned that this pizza business is a bar. He requested that a fence wall be placed between his property and that of Bobby D's all the way to the roadway.

Donna Laughlin, 15 east Pattagansett Road said that she is directly across the street from Bobby D's. She has lived here for three years and finds it offensive and is afraid of her property value dropping. During the weekends when he is proposing to be the busiest is when she goes in her yard to work there. There are motorcycles that roar out of there now. She asked that they not allow a patio.

Joseph Baribeau, 96 Hope Street said that he is located at an angle to Bobby D's and that he opposed the full liquor bar and outside dining as it would get loud and the crowd would be a detriment to the community.

Mr. Nickerson asked Mr. DeMarinis about the neon signs and the sign with the notice.
Mr. Mulholland asked about the drink specials and live bands.

Mr. DeMarinis said that the liquor permit application did say entertainment however he does not plan to have live bands. This is the permit type and that is what it states. He said that he wants to get along and that he is just trying to get his business to work. He said that he has children of his own and that he would not put them in jeopardy. The neon signs have been removed from the property. He said that they were there when he got the property and were left by the previous tenant and he only turned them on. He said that he does not have the finances to purchase a fence and that if that neighbor wants a fence to the street that he can put it there himself.

Mr. Mulholland noted that the State permit does not supercede local zoning and that this has typically been a pizza parlor.

Mr. DeMarinis noted that in Italy they have bistros with guitar and violin players that serenade people at their tables and that this is what he is looking to do.

Mr. Peck noted that if they should start doing really well – what would they do about the parking.
Mr. DeMarinis said that he could have the staff bike in and those spaces would be for the public. He added that there are lights in the parking lot and that they provide enough lighting. There are also safety lights on the building and he does not foresee adding extra lighting so that the neighbors would not be bothered by it. He would like to be a good neighbor and run a good business.

Mr. Nickerson asked if the Commissioners had any other questions –
Hearing none –
Mr. Nickerson called for a motion to close this public hearing.

****MOTION (1)**

Mr. Carpenteri moved that this Public Hearing be closed.

Mr. Gada seconded the motion.

Vote: 6 – 0 – 0. Motion passed.

Mr. Nickerson closed this Public Hearing at 12:25 AM.
Mr. Dwyer returned to the audience and Mr. Salerno was seated at the table.

Respectfully submitted,

Karen Zmitruk,
Recording Secretary