

EAST LYME ZONING COMMISSION  
PUBLIC HEARING I  
Thursday, November 20th, 2003  
MINUTES

*L. Ablain, Jr.*  
EAST LYME TOWN CLERK

The East Lyme Zoning Commission held the Herb Chambers Companies Public Hearing for a Special Permit to erect a second freestanding sign in accordance with Section 18.1.8.5 of the zoning regulations at 51 Boston Post Road on November 20, 2003 at Town Hall, 108 Pennsylvania Avenue, Niantic, CT.

Chairman Nickerson opened the Public Hearing and called it to order at 7:30 PM.

**PRESENT:** Mark Nickerson, Chairman, Shawn McLaughlin,  
Ed Gada, Norman Peck, Marc Salerno, Alternate  
William Dwyer, Alternate,

**ALSO PRESENT:** William Mulholland, Zoning Official,  
Rose Ann Hardy, Ex-Officio, Board of Selectmen  
Attorney Theodore Harris, representing the Applicant  
James Xaros, Vice-President Herb Chambers Cos.

**ABSENT:** Bob Bulmer, Secretary, David Chamberlain,  
Andrew Manter, Alternate

**PANEL:** Mark Nickerson, Chairman, Shawn McLaughlin,  
Ed Gada, Norman Peck, Marc Salerno, Alternate,  
William Dwyer, Alternate

**Pledge of Allegiance**  
The Pledge was observed.

**Public Hearing I**

- 1. Application of "The Herb Chambers Companies" for a Special Permit to erect a second freestanding sign in accordance with Section 18.1.8.5 of the Zoning Regulations at 51 Boston Post Road, East Lyme, Connecticut, property further identified as Lot 61, East Lyme Assessor Map 36.0.**

Mr. Nickerson noted for the record that he had seated Alternates Marc Salerno and William Dwyer at the table. Mr. Mulholland said that the Legal Ads had run on October 24, 2003 and November 3, 2003 in the New London Day. He also said that the sign was posted at the site as required and that proof had been submitted.

Attorney Harris, place of business 351 Main Street, Niantic said that he was representing the applicant. This application is to allow the addition of a free-standing sign at this site. This is not an application for any additional sign area. This is the former Lulu's site and they are looking to have it become a Saturn car dealership. A sales car agency is a permitted use within this zone. The reason why they are here for a second free-standing sign is that it is a very critical element of the overall potential success of the dealership on this site. The location and visibility of this area makes it a challenged site and the sign is critical for Saturn to utilize it for its dealership. Saturn has critical requirements for their signage.

He presented **Exhibit 1** – A color copy of the required Saturn dealership sign and –  
**Exhibit 2** – The Critical elements required for Saturn dealership signage.

He continued that the sign is brand identity, it is simple and in close proximity to the building itself. The sign is critical to the future and possible success of this dealership. This falls under Section 18.1.8.5 of the Zoning regulations and the following items are listed there – the first is hardship. He looks at why this property is different from other commercial property. This property is isolated from other commercial areas by I-95 and it sits at the end of Boston Post Road where no other retailers are located. Other retailers drive business for each other and they do not have this benefit so they need to let people know that they are there by the use of

this sign. The primary access to this site will be off of I-95. This different location is a significant factor – if driving north you cannot see the sign and they are trying to give people the ability to see a sign so that they will be able to get off before going by it. Another issue here is the topography as they are isolated and they need to give some ability of how to get to them. Also an issue, is access and it is almost a case of 'you can't get there from here'. They will need to use a portion of the free-standing sign that is already there for exit directions. The past history of this site is also a reason that they need this sign as a motel and restaurants have all failed at this area before, probably due to the difficulty of getting to this area. They need the brand recognition that this sign brings plus the sign is a part of the overall presentation of Saturn and their marketing design. They will also utilize a small portion of the existing billboard sign for directions. The second standard is that a sign committee must review the sign design – he does not know of one except for Mr. Mulholland who reviews them and of course he would review this one. He added that the sign would not be illuminated, as it is not allowed by the regulations. The third standard is that a special permit must be granted and that is the reason why they are here. The last standard is that there is a 30' height restriction on the sign. While they could utilize a higher one, the 30' gives some ability for brand recognition.

Mr. Nickerson said that they have the old Foxwoods and Lulu's sign there now. He asked where this one would be located.

Attorney Harris said that it would be 75' north of the existing sign.

Mr. Nickerson asked if it would be the slick logo sign with the Saturn name and also why not use the existing sign.

Attorney Harris said that it would be the Saturn logo sign and that the other sign is needed for other purposes and the part they would use is for directions to get to the Saturn dealership. He also referred them back to the critical elements required for Saturn dealership signage as the reason why they could not utilize the existing sign.

Mr. Nickerson said that it does not say that it has to be on the highway, could they put it on Rte. 1.

Attorney Harris said that for visibility purposes that I-95 is where they need to have it as their patrons will come primarily from I-95.

Mr. Nickerson asked Mr. Mulholland about the old Lulu's sign and if it was allowed.

Mr. Mulholland said that yes, that sign is allowed and that this application is for a second free-standing sign.

Attorney Harris commented that there may have been a second free-standing sign there before however it is not there now –if it were then they would not have had to come here now.

Mr. Nickerson asked if the application is specific on the location of the sign.

Attorney Harris said the application does not specify however the site plan does – the sign would be roughly 75' east of the property line.

Mr. Nickerson asked how high the existing Foxwoods/Lulu's sign is.

Mr. Mulholland said it was approximately 80'-90' high.

Mr. Nickerson asked if the pine trees are about 30' high at that location.

Mr. Mulholland said that they probably were.

Attorney Harris said that they would trim the vegetation there so that the 30' Saturn sign could be seen.

Mr. Gada asked who owns the current sign that is there.

Attorney Harris said that the owner of the site also owns the sign.

Mr. Salerno asked if it would be lit at night.

Attorney Harris said externally only.

Mr. Dwyer commented that he would think that the State would complain about the signs.

Attorney Harris said that it is not within the State right-of-way, it is on private property. He added that they would have to comply with any State regulations.

Mr. Peck asked where the nearest Saturn dealership is located.

Mr. Xaros and Mr. Mulholland said Warwick, RI and Branford, CT respectively.

Mr. Peck commented that this would be a destination point. He also noted that he personally has not noticed the sign that is there now. He also acknowledged that there is horrible access to this site. He wondered if the people frequenting the dealership would be those that drove by the sign all the time.

Attorney Harris said that he does not think that is so as there are so few Saturn dealerships so there will be a lot of first time people looking for a Saturn.

Mr. Peck said that he would be in favor of this sign if the other one came down although he does not know if that can be done.

Attorney Harris said that the existing sign would not be much different than it is however it would be cleaned up and maintained. He added that he thinks that there is a need for both purposes.

Mr. Nickerson said that the Foxwoods sign is the issue here and that this Commission allowed that off-site sign. Maybe they could allow a big Saturn sign and not the Foxwoods one.

Mr. Mulholland said that on December 14, 2001 they voted to allow that sign to remain there and to be used. Mr. McLaughlin said that he is trying to understand what the hardship is and where it is. They are proposing a 30' sign and there is an existing 80' one there.

Attorney Harris said that the existing sign is primarily for other uses. The lower sign will be able to be seen from the south much better as the other sign is too high to see. People do drive a long way to get to a Saturn dealership because there are so few of them.

Mr. McLaughlin said that he would like to see the current sign used for the dealership and maybe have something on the side of the building.

Mr. Nickerson said that there is no doubt that this is a tough piece of property and that it may call for some bending of the sign rules. However, there is a reason that there is a tall sign there. They are encouraging tax-base growth and this property to be developed however he would like them to consider using the tall sign that is presently there.

Attorney Harris asked for a two-minute recess to consult with his client.

Attorney Harris said that he had some answers regarding the sign that is there. First, they cannot put the Saturn sign on top of the 85' sign – they have to follow the Saturn requirements and design, as this is the brand. The high sign must also be used for directional purposes and they do see the need for the both signs on this site, as this is the hardship of the area. I-95 blocks this area from view.

Mr. Mulholland asked Attorney Harris if there was some way that it would be acceptable to Saturn to build and incorporate a sign to marry it to the top of the building. You would not see it from the north or south however as you drive by you would be able to see it.

Attorney Harris said that as he reads the Saturn sign requirements that it says that it has to be a separate sign and he also feels that they would have the same issue of visibility with that suggestion. Their anticipation is that the predominant traffic will come from I-95 and this is also part of the whole brand identification.

Mr. Mulholland asked if his suggestion was an option.

Attorney Harris said that he was not sure that it is an option that can be used.

Mr. Dwyer asked about a free-standing sign on Rte. 1.

Attorney Harris said that there would not be one there – only directionals to get in and out.

Mr. Nickerson called for anyone from the public who wished to speak in favor of this application –  
Hearing no one –

He called for anyone who wished to speak against this application –

Karen Kari, 6 Boston Post Road, East Lyme said that she thinks that there are misconceptions about the reasons for the business failures at that site. They failed because there is no water or sewer to that area. The restaurant ran out of water. The Foxwoods sign is a horrible one and she does not want to see it return.

People who live there have to put up with people asking them where Foxwoods is and turning around in their driveways because they thought they were at Foxwoods.

Ron Fitzpatrick, 7 River Road, East Lyme said that he is not anti-Herb Chambers but he does agree that the Foxwoods sign should take a hike. He also said that if someone is going to spend \$18,000 on a vehicle then they would go on the internet and use MapQuest to get directions to the dealership on Boston Post Road. He does not think that they are going to get very many walk-in customers. He also agrees with Mr. Mulholland that they should incorporate a plan with Saturn's criteria by using a tower type sign on the top of the building. An architect could help to design this utilizing the Saturn criteria.

Bob Gadbois, 358 Boston Post Road, East Lyme said that he is not for or against the sign. He is just wondering how Rte. 11 and its interchanges would affect this area if Rte. 11 is ever built.

Mr. Nickerson said that someone owns the property and is paying taxes on it and if the State wants to buy it from them then they would have to pay for it.

Mr. Peck said that Rte. 11 would eliminate Exit 75 if it does go in.

Rose Ann Hardy, Ex-Officio said that she thinks that this would be one of the nicest looking signs in the Town. If it were hers, she would not want it next to the Foxwoods 1950's type that screams low-budget cheap motel. She thought that there was a caveat on that sign that said that it was for the owners to get the funds necessary to be able to clean up the property however unfortunately, no time frame was put on it. She said that she thinks that if the minutes were reviewed that maybe there is some leeway there.

Mr. Mulholland said that he thinks that what Ms. Hardy said was correct – it was discussed but in the final form and in the motion, the whole discussion was not made a part of the motion. He added that he would be glad to go back and look at the motion language to make sure.

Mr. Nickerson said that he does agree that they were trying to use the income from the sign to clean up the area.

Ms. Hardy said that she thinks that this is exactly the type of business for this Town and she hopes that there is room for compromise here.

Attorney Harris said that it is clear that the issue is with the existing sign and the aesthetics and mostly the Foxwoods advertising. If granted, they could accept a condition that Foxwoods would no longer be posted on that sign.

Mr. Salerno asked if they would accept a stipulation that it be used for Saturn only.

Attorney Harris said that he does not have the authority to say that – he would have to check with other people.

Mr. Peck said that it is discrimination saying that some companies can advertise there but that others cannot. He does not care what is on the sign, he just would like the reason for both signs.

Mr. McLaughlin agreed with that and said that he does not understand the hardship.

Attorney Harris explained that the brand name is required by the Saturn dealership and that they need the ability to have it seen from a distance. This lower sign gives brand identity, it is attractive, it does not detract from the site and Saturn requires it.

Mr. Nickerson suggested that they push this out another two weeks and maybe see it with the site plan, as this would give a better picture. He said that he totally understands the Saturn branding issue, as other brand dealerships are also requiring it.

Attorney Harris said that if they want to see how this fits into the entire site then perhaps they should withdraw and re-submit this so that it is considered at the same time as the special permit. He said that he would write a formal letter of withdrawal.

Mr. Mulholland asked if that was a withdrawal.

Attorney Harris said that he will formally withdraw this application for now and would like them to add it to the special permit for scheduling reasons only.

Mr. Peck said that if this applicant builds a beautiful facility that it would be ten times better than any sign.

Mr. Dwyer commented that he is not against the second sign.

Mr. Nickerson said that he hopes that they understand that this is not an anti-business Zoning Commission and that they can all work together on this.

Mr. Mulholland and Attorney Harris said for the record that this application has been withdrawn.

Mr. Nickerson accepted this application as withdrawn and adjourned this public hearing at 8:40 PM.

Respectfully submitted,

Karen Zmitruk,  
Recording Secretary