

6/26, 1998 AT 11:30Loriya Black, a/c

East Lyme Town Clerk

East Lyme Zoning Commission**Special Meeting****Thursday, June 25, 1998**

The East Lyme Zoning Commission held a Special Meeting on June 25, 1998 at Town Hall, 108 Pennsylvania Avenue, Niantic, Connecticut. Norman Peck chaired the meeting.

PRESENT: Norman Peck, Christopher Mullaney, Daniel Price, Robert Bulmer, William Weber, William Dwyer and Bill Mulholland, East Lyme Zoning Officer.

ABSENT: Paul Formica, Athena Cone, Shawn McLaughlin, Rose Ann Hardy, ex-officio.

Mr. Peck called the meeting to order at 7:33 PM, July 25, 1998

I. Public Delegation

Mrs. Pat Rovero, 42 Damon Heights suggested that the Zoning and/or Planning Commissions make an amendment to consider an overall town plan where they review business and industrial applications that are coming before the Zoning Board. The applications submitted would be reviewed, seeking any public discord and review traffic studies or similar pertinent data or have a moratorium until such time as the Town has time to generate an overall plan.

Joe Kwasniesky inquired as to whether this meeting was called for a special item or were other things on the agenda.

II. Special Meeting of the Zoning Commission

Application of Douglas J. Beach for a Special Permit to construct a Fast Food Restaurant on property off Flanders Road, Niantic, Connecticut, property further identified as Tax Assessor Map 26.3, Lot 18.

Mr. Peck reminded the Commission that this meeting is convened to address the questions as to (1) the Zoning Board's rights to make decisions, negative or positive, based on traffic volume on a State road, Rte. 161 and (2) can the Commission grant a Special Permit on the assumption that another agency over which the Commission has not control takes some action. The Commission has sought legal council with regard to these matters.. Mr. Price read into the record a letter from Waller, Smith and Palmer, PC, Counselors at Law, June 25, 1998 indicating (1) Statute Section 8-2 and 8-3G, the Zoning Regulations in many cases address that issue. Based on these, the Commissions may properly consider traffic conditions on the adjacent public highway. That consideration should address not whether there would be an increase in the volume of traffic,

but whether or not the proposed use would exacerbate or create traffic congestion or significantly effect traffic safety. (2) With regard to the second issue, the Commission concludes that the permit should only be granted if the State will make changes or improvements to Rte. 161. It can only grant the permit if it is probable that the State will do so and that must be shown by evidence that the State now has plans for those improvements or changes. The Supreme Court has called for evidence such as testimony by representative states or the official correspondence of the State showing the plans of the State. The letter was signed Robert W. Marion, Waller, Smith Palmer, PC

Discussion: Mr. Mullaney commented that he had spoken with the State police and also read the law regarding passing on the right. Chapter 14 indicates one may pass on the right, if the auto is signaling or making a left-hand turn. State has taken this into consideration in widening that area. Mr. Mullaney also noted that East Lyme currently has over 24 fast food restaurants in town. He stated he had no objection to the Special Permit.

Mr. Weber commented the since we don't know if traffic volume will increase, but we know the State has looked at the Rte. 161 traffic situation, and required a breakdown lane, the first paragraph has been properly addressed. Regarding the second paragraph, Mr. Weber again indicated that the State has reviewed the road and this paragraph is addressed. He, therefore, has no exception to application

Mr. Dwyer commented regarding safety issues. School hours and Restaurant hours do not coincide, so children will not be waiting for a school bus when the Restaurant is open. The State has recommended breakdown lane. Mr. Dwyer indicated that he is in favor of application

Mr. Price commented that traffic is a problem on Rte. 161, with or without this Restaurant. Most of the residents of Damon Heights have indicated a problem getting out onto Rte. 161 because of the traffic volume. The Commission cannot require the State to install light, but can recommend they do so. Regarding bus stop safety problem, this can be overcome by moving stop up the street. The Restaurant will generate more taxes for town and jobs for, most likely, local high school aged kids. All other conditions met. Mr. Price stated that he was in favor of application.

Mr. Bulman stated that he did not believe this business would increase traffic anymore than any other business at that location. He expressed his disappointment, however, with regards to the aesthetics of the building. In reviewing regulations Sec 25.4 Standards Applicable to All Special Permit Uses, Sec 25.4.1. He cited "shall be such that it will be in harmony with the orderly development of the district and the location, nature, and height of buildings, walls, fences will not discourage appropriate development and use of adjacent lands and building or impairment thereof." He felt the building does not fit the

"harmony" of the location. He felt the other buildings in the area were subdued, (brown, brick, grey) the Restaurant building is bright white with large white light beacons. He will reserve decision as to how he will vote.

Mr. Peck noted that this area of Rte. 161 currently, in his opinion, has a long way to go to be harmonious. He also noted that the Restaurant hours do not include the breakfast hours, the time the children are waiting for the school bus. The traffic issue will have to be addressed at another time.

Motion (1) Mr. William Dwyer moved to accept the application of Douglas J. Beach for a Special Permit to construct a Fast Food Restaurant on property off Flanders Road, Niantic, Connecticut, property further identified as Tax Assessor Map 26.3, Lot 18 with the condition granting exception to Section 24.6.E3 to eliminate the evergreen plantings along the southerly and westerly property lines. The motion was seconded by Mr. Christopher Mullaney.

Reason for Accepting: (1) Complies with the Zoning Code,
(2) Is a permitted use
(3) Does not adversely effect public health, safety or property values.

Effective upon publication.

Vote to approve: (5-1)

Motion (2): Mr. Robert Bulmer moved to adjourn. The motion was seconded by Mr. William Dwyer.

Vote in favor of motion (6-0)

Respectfully submitted,



Anita M. Bennett
Commission Clerk