

**PUBLIC HEARING II Thursday, APRIL 2nd, 2009
EAST LYME ZONING COMMISSION
MINUTES**

The East Lyme Zoning Commission held a Public Hearing on the Application of Joseph W. and Sophia Brubaker for a Zone Change for property identified in the Application as 35 West Main Street, Niantic, CT on Thursday, April 2, 2009 at the East Lyme Town Hall, 108 Pennsylvania Avenue, Niantic, CT. Chairman Nickerson opened the Public Hearing and called it to order at 7:40 PM after the previously scheduled Public Hearing.

PRESENT: Mark Nickerson, Chairman, Marc Salerno, Acting Secretary,
Ed Gada, Steve Carpenteri, Bob Bulmer, Alternate, William
Dwyer, Alternate

ALSO PRESENT: Norm Peck
Joseph Brubaker, Applicant
William Mulholland, Zoning Official
Rose Ann Hardy, Ex-Officio

ABSENT: Rosanna Carabelas, Secretary, Gregory Massad, Alternate

PANEL: Mark Nickerson, Chairman, Marc Salerno, Acting Secretary,
Ed Gada, Steve Carpenteri, Bob Bulmer, Alternate, William Dwyer,
Alternate

Pledge of Allegiance

The Pledge was observed.

Public Hearing I

1. Application of Joseph W. and Sophia Brubaker for a Zone Change for property identified in the Application as 35 West Main Street, Niantic, CT. East Lyme Assessor's Map 11.1, Lot 28.

Chairman Nickerson noted that Mr. Peck had recused himself from this Hearing and had removed himself from the table and was now seated in the audience and that he had seated Bob Bulmer, Alternate and William Dwyer, Alternate at the table.

Mr. Nickerson said that the Legal Ad for this application had run in The Day on March 20, 2009 and March 30, 2009.

He then asked Marc Salerno, Acting Secretary to read the correspondence into the record.

Mr. Salerno read the following correspondence:

- ◆ Letter dated 4/2/09 to EL Zoning Commission from William Mulholland, Zoning Official - Re: Application of Joseph and Sophia Brubaker for a change of zone from RU-40 to CA commercial – noting that the extension of the commercial zone would essentially bring the accessory building or garage completely into the commercial zone however it would need to pass the two-part test of – is it in accordance with the comprehensive plan and it is reasonably related to the normal police power purposes outlined in Section 8-2 of the General Statutes.
- ◆ Letter dated 3/31/09 to Mark Nickerson, Chairman, EL Zoning Commission, from Gary Goeschel, Director of Planning – Re: Referral – Application of Joseph & Sophia Brubaker for a Zone Change at 35 West Main Street – noting that the Planning Commission found the application CONSISTENT with the Plan of Conservation and Development
- ◆ Letter dated 2/25/09 to Mark Nickerson, Chairman, EL Zoning Commission, from East Lyme Water & Sewer Commission – Re: Referral – Application of Joseph & Sophia Brubaker for a Zone Change at 35

West Main Street – finding that the proposed boundary amendment does not appear to effectively change the water and sewer use of the property or adversely impact water or sewer capacity.

- ◆ Email dated 2/26/09 from Marcy Balint, Sr. Coastal Planner, CT DEP OSLIP to Bill Mulholland, ZEO – Re: Zone Change referral at 35 West Main Street – finding the proposed amendment consistent with the goals and policies of the CT Coastal Management Act.

Mr. Nickerson called for the applicant or their representative to make their presentation.

Joseph Brubaker, 35 West Main Street said that before he started that he had sent a letter to Mr. Nickerson, Chairman of the Commission regarding the site plan of the White's and that he had not heard back from him and wanted to ask why.

Mr. Nickerson said that the regulations do not allow for a Public Hearing on a site plan and that a site plan review is a function of Staff. He said that he further, could not comment on it any further.

Mr. Brubaker said that Mr. Mulholland had said the same thing to him and had agreed to meet with the concerned neighbors who had questions on the site plan at 10 AM on Monday morning. He said that he has spoken with the neighbors and that 10AM is not conducive to them as they work and would suggest that they could hold a meeting at 7 PM next week Thursday evening to go over the site plan and answer any questions that they might have.

Mr. Mulholland said that a site plan review is not a subject for a Public Hearing or for an evening meeting and that he is not sure that what Mr. Brubaker is asking for in terms of that type of meeting with the neighbors, is something that could be held. He said that the neighbors are welcome to stop in at the office anytime or to make an appointment to meet with him at anytime that it would be conducive for them and that he would go over the site plan and answer any questions that they might have. He suggested that they work up a list of the people who are interested in speaking with him and that he would meet with them.

Mr. Brubaker said that he heard about the extension that was requested for the White's application this evening and said that he would like to request the same extension/continuance of his Public Hearing as the White's as they have the same neighbors and in that way with the Public Hearings on the same evening, the neighbors could make comments on both of them. He asked that they be continued to the same night as the White's application.

Mr. Nickerson said that May 7, 2009 is the 35 days so they would probably want to allow for an extension.

Mr. Brubaker submitted to Mr. Nickerson, **Exhibit A** – A request (dated 4/2/09) for a continuance of the Public Hearing to 5/7/09.

Mr. Nickerson called for a motion to continue this Public Hearing to the Regular Meeting of the Commission on May 7, 2009.

****MOTION (1)**

Mr. Salerno moved that this Public Hearing be continued to the May 7, 2009 meeting of the Commission.

Mr. Carpenteri seconded the motion.

Vote: 6 – 0 – 0. Motion passed.

Mr. Nickerson adjourned and continued this Public Hearing at 7:57 PM.

Respectfully submitted,

Karen Zmitruk,
Recording Secretary