

**PUBLIC HEARING II Thursday, MAY 7th, 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, May 7, 2009 at the East Lyme Town Hall, 108 Pennsylvania Avenue, Niantic, CT. Chairman Nickerson opened the continued Public Hearing and called it to order at 8:36 PM after the previously scheduled Public Hearing.

PRESENT: Mark Nickerson, Chairman, Rosanna Carabelas, Secretary, Ed Gada, Marc Salerno, Steve Carpenteri, William Dwyer, Alternate

ALSO PRESENT: Norm Peck
Joseph (Bill) Brubaker, Applicant
William Mulholland, Zoning Official

ABSENT: Bob Bulmer, Alternate, Gregory Massad, Alternate

PRESENT: Mark Nickerson, Chairman, Rosanna Carabelas, Secretary, Ed Gada, Marc Salerno, Steve Carpenteri, William Dwyer, Alternate

Pledge of Allegiance

The Pledge was previously 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 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 also noted that no letter was received from SECCOG on this application.

He then asked Rosanna Carabelas, Secretary to read the correspondence into the record.

Ms. Carabelas read the following correspondence into the record:

- ◆ 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 then called for the applicant or their representative to make their presentation.

Bill Brubaker, 35 West Main Street said that he was representing himself and his wife who unfortunately was out of the country and unable to attend this evening. He said that they applied for the same zone change because they think that it is only fair if the neighbor's are going for it that they also are granted it. He said that he does feel that they are compliant even though the neighbors are not. He said that he also does not feel that an expansion of the CA zone is something that should be done. However; that being said – if they decide to grant it then he wants them to grant the same for the both of them. And – if they decide to carve a little area out for the Book Barn building; then he wants the same amount of area carved out for him so that he can put up a shed for a wood shop for himself.

Mr. Nickerson asked if the wood shop would be a commercial business.

Mr. Brubaker said no – he would use it as a hobby.

Ms. Carabelas asked if he sells things from the art studio.

Mr. Brubaker said that his wife runs the business as she is the artist. She sells some supplies and small items and she also gives art classes.

Ms. Carabelas asked if they are compliant with parking and the other requirements.

Mr. Mulhollands said that it is considered a home occupation.

Mr. Gada asked if there are two barns on the property.

Mr. Brubaker said yes.

Mr. Nickerson explained the protocol for public comment and called for those from the public who wished to speak in favor of the application.

Hearing no one –

Mr. Nickerson called for those who wished to speak in opposition to the application.

John Wilson, 13 Park Place said that his yard abuts the back of the Brubaker's. He submitted his 2006 Google Earth picture of the area which was entered into the record as **Exhibit A**. He said that he thinks that they knew the 'lines' just like the Whites' knew them when they first got there and that if they expand the CA zone area that will bring them closer to the residential area and his back yard and he does not want to see them if he is sitting in his back yard. He said that they have to stay within the 'lines' as they have these 'lines' in place for a reason.

Kerry Janus, 22 Park Place said that they have zones for reasons and that creeping commercialism could happen even more so with the Brubaker's property as it comes up closer to them and would come closer to the 25' required buffer.

Mr. Nickerson asked if there were any other comments –

Hearing no one –

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. Salerno moved that this Public Hearing be closed.

Mr. Carpenteri seconded the motion.

Vote: 6 – 0 – 0. Motion passed.

Mr. Nickerson closed this Public Hearing at 8:56 PM.

Respectfully submitted,

Karen Zmitruk,
Recording Secretary

(Note: A brief break was taken here -

Mr. Peck returned to the table and Mr. Dwyer, Alternate returned to the audience)