

**EAST LYME ZONING BOARD OF APPEALS  
PUBLIC HEARING AND REGULAR MEETING  
Monday, JUNE 1st, 2009  
MINUTES**

A Public Hearing and Regular Meeting of the East Lyme Zoning Board of Appeals was held on Monday, June 1, 2009 at 7:30 PM at the East Lyme Town Hall, 108 Pennsylvania Avenue, Niantic, CT.

**PRESENT:** Bill Mountzoures, Chairman, Tom Boguszewski, Secretary,  
Leo Mostowy, Craig Mason, Skip Saunders

**ALSO PRESENT:** Attorney Garon Camassar, representing the applicant  
Ray Jones, UBS Facilities Manager  
Charles Ambulos, Alternate

**ABSENT:** Shawn McLaughlin, Alternate

FILED IN EAST LYME TOWN  
CLERK'S OFFICE

June 4 20 09 at 2:40 (AM  
PM)

*Esther B. Williams*

EAST LYME TOWN CLERK

**1. Call Public Hearing to Order**

Chairman Mountzoures called the continued Public Hearing to order at 7:30 PM.

**2. Read Notice of Public Hearing**

Mr. Mountzoures asked Mr. Boguszewski, Secretary to read the Notice of the Public Hearing:

**Case No. 2-2009: Application of Garon Camassar for MCN Partnership for an appeal of an alleged error in Zoning Official's action under Section 11.20.2 and 20.2.1 of the East Lyme Zoning Regulations to allow installation of an outdoor wood burning furnace in use for the heating of its commercial buildings at property identified in the application as 49 Industrial Park Road, East Lyme, Connecticut. Said parcel appears on the East Lyme Assessor's Map 26.0, Lot 1.**

The Public Hearing notice was sent to the New London Day for publication on 4/22/09 and 4/30/09.

Mr. Mountzoures introduced the Board members and polled each for any conflict of interest. Hearing no conflicts of interest, he explained the rules of the meeting and asked that anyone speaking please stick to the subject matter of the application.

Mr. Mountzoures called for the applicant to make his presentation.

Attorney Garon Camassar, place of business 181 Broad Street, New London, CT said that he represents MCN Partnership which is UBS (United Building Supply) which has an entity here in East Lyme, and also one in Waterford and two in Rhode Island. He provided the Board with a background on the wood burning boilers available on the market noting that they are built to meet the new EPA regulations that are going into effect in 2010. He said that the technology has evolved and that this is not a 'can' with a 'chimney' but rather a sophisticated unit with burn boxes, air injection and baffles; ash release and which have very few emissions coming out. He noted that the EPA currently has a voluntary compliance program. They are proposing to obtain a highly efficient unit so that no neighbors would ever know that they are there. These units look like a small 7 x 10 shed and are water-heating units that are installed away from the main plant. Their intent is to connect one unit to the warehouse and showroom which is approximately 18,000 sq. ft. in area, for the sole purpose of providing heat during the winter months. With UBS being a lumberyard, they would propose to burn the hardwood scrap wood that they generate. The one facility that they have a wood-burning unit in use at in Rhode Island has had no complaints and they propose to put a better unit in at this facility than that one.

The latest information that could be found in the statutes was that the unit had to be at least 200' from residences and they have well over 2500 feet from anything due to their location. The stack has to be at least as high as the houses in the area and they are located at elevation 85. The proposal is not to create a

problem at any time and for no odors or smoke to be emitted. He said that he understands that a first time for anything has to be brought before them; however he feels that they are in an ideal location for this type of operation. He said that Ray Jones, the UBS Facilities Manager who has set up the unit in Rhode Island is also present this evening and that they propose to have Mr. Jones in charge of the unit here along with another person that he will train. He said that if the units are well operated that they release no more particulate than an oil fired unit. They feel that they can run it efficiently and well and be a good neighbor. The unit is expensive and they should not be putting into the air anything more than what is already going there. They are seeking to be competitive in the industry.

He submitted the following materials for the record:

**Exhibit A** – List of cleaner hydronic from the EPA

**Exhibit B** – The Wood Master Natural Energy Furnace brochure

**Exhibit C** – CT DEP Fact Sheet on Outdoor Wood Burning Furnaces

**Exhibit D** – EPA Partnership – Program Partners List of Outdoor Wood-fired Hydronic Heaters

Mr. Mountzoures noted that Mr. Mulholland had submitted copies of his letters of denial for this and asked Mr. Boguszewski to read it into the record.

Mr. Boguszewski, Secretary read the following into the record:

- Letter dated 8/15/2008 from William Mulholland, Zoning Official to Ray Jones, UBS Fleet Manager – Re: Proposed Outdoor Wood Burning Boiler, UBS Lumberyard, Niantic, CT – stating that under Section 20.2 and 20.2.1 that he has concluded that the proposed use is not a permitted use nor a typical accessory use.

Mr. Mountzoures asked if the DEP has any lawful regulations at this time. Attorney Camassar said that other than not burning treated materials, no.

Mr. Mountzoures asked if in the future if they came out with standards, his client would be willing to upgrade to those standards without seeking to be grandfathered.

Attorney Camassar said, absolutely and added that this proposed unit is a clean burning unit.

Mr. Mountzoures asked if they would have the unit inspected annually and provide the Town with a report on that inspection.

Attorney Camassar said that they would not have any problem with the Town looking at this and noted that they will regulate the materials going into it.

Mr. Saunders asked if he had said 6/10's of a lb. per million of particulate and also asked what materials they would be burning.

Attorney Camassar said yes and asked Ray Jones, Facilities Manager for UBS to explain the materials.

Ray Jones, UBS Facilities Manager said that in Rhode Island they burn a lot of hardwoods as they own a lot of land where they can cut their own wood. They would use wood from there as well as hardwood scraps from here. He explained that a key element of smoke is that the wood is wet and they keep the wood dry. They will not burn plywood, pressure treated wood or particle board as they are all treated and it is against the law to burn them. They burn good, clean wood and they fire the unit up in October and shut them down in the spring.

Mr. Saunders asked if they run 24/7.

Mr. Jones said yes and explained that they have people who come in during off-hours to add wood.

Mr. Saunders asked about inspections and noted that the warranty program states that it is good for 10 years and asked if the vendor provides inspections.

Mr. Jones said no, they do not but noted that these are very efficient units. He added that he also runs one of the same brand at his home.

Mr. Saunders asked if this would be considered an accessory use.

Mr. Mountzoures said that in a letter that they received from Town Counsel that he found it to be an accessory use to the primary use and that he would agree with that.

Attorney Camassar said that he would also agree with the opinion of Town Counsel.

Mr. Mountzoures asked about the size of the chimney and how that is determined.  
Attorney Camassar said it is determined by the buildings in the vicinity and there are none nearby.  
Mr. Mountzoures asked for a comparison of this to a fireplace that people have in their homes.  
Attorney Camassar said that these units burn far more efficiently and release way less particulate than a fireplace does.  
Mr. Jones added that when operated properly that these units burn clear and clean.

Mr. Mountzoures asked if anyone wished to speak in favor, against or neutrally on this application –  
Hearing no one –

Mr. Mountzoures asked if the Board members had any other questions or if the applicant wished to comment further –  
Hearing none – he said that he would now close the Public Hearing.

Mr. Mountzoures closed this Public Hearing at 8:08 PM.

Mr. Mountzoures said that they would now deliberate and possibly make a decision on the application.

Mr. Mountzoures explained that the only comments that they can take now are from the applicant and only if they have technical questions that they need answered. He also informed the applicants that in the event that they wish to contest the decision that they have 15 days to appeal it to the Superior Court.

#### **REGULAR MEETING**

Mr. Mountzoures opened the Regular Meeting at 8:09 PM.

**Case No. 2-2009: Application of Garon Camassar for MCN Partnership for an appeal of an alleged error in Zoning Official's action under Section 11.20.2 and 20.2.1 of the East Lyme Zoning Regulations to allow installation of an outdoor wood burning furnace in use for the heating of its commercial buildings at property identified in the application as 49 Industrial Park Road, East Lyme, Connecticut. Said parcel appears on the East Lyme Assessor's Map 26.0, Lot 1.**

Mr. Mountzoures called for discussion.

Mr. Mason said that he does not see where this is a problem or where any noxious materials would be released. It burns cleaner than a fireplace. He added that heating the building is an appropriate accessory use to the lumberyard.

Mr. Mostowy said that he does not see where there is a difference between burning a fireplace or woodstove and burning this as this is very clean. He said that he does not have any objections to this what so ever and that the standards, as such do not seem to even apply here.

Mr. Boguszewski said that this is a commercially available piece of equipment and that when installed it would have to be inspected by the Fire Marshal – as such, he has no objection to it and agrees that it is an accessory use.

Mr. Saunders said that he agrees with the opinion on the Town Attorney on the accessory use. As for the smoke, 6/10's of a lb. per billion BTU's is wonderful. He said that he also thinks that it is wonderful to try to help a business to be competitive and to also not have to toss as many products into a landfill to break down there and cause worse emissions.

Mr. Mountzoures said that he is comfortable with this and that the EPA will regulate it. He added that he also sees this as less polluting than his fireplace at home.

Mr. Saunders said that he is ready to make a motion.

**\*\*MOTION (1)**

Mr. Saunders moved that subject to acquiring the proper permits for the installation of this heating system, to OVERTURN The Zoning Official's action; and to agree with Town Counsel's finding that this is an accessory use, and to APPROVE the Application of Garon Camassar for MCN Partnership for an appeal of an alleged error in Zoning Official's action under Section 11.20.2 and 20.2.1 of the East Lyme Zoning Regulations to allow installation of an outdoor wood burning furnace in use for the heating of its commercial buildings at property identified in the application as 49 Industrial Park Road, East Lyme, Connecticut. Said parcel appears on the East Lyme Assessor's Map 26.0, Lot 1. Mr. Mason seconded the motion.

Mr. Mountzoures and Mr. Saunders noted that they had previously provided numerous reasons for overturning the Zoning Official's decision and for allowing this installation to go forward.

Mr. Mountzoures called for a vote on the motion.

Vote: 5 – 0 – 0. Motion passed.

Mr. Mountzoures called for a motion to adjourn.

**ADJOURNMENT**

**\*\*MOTION (2)**

Mr. Mason moved to adjourn Case #2-2009 of the East Lyme Zoning Board of Appeals at 8:25 PM.

Mr. Saunders seconded the motion.

Vote: 4 – 0 – 0. Motion passed.

Respectfully submitted,

Karen Zmitruk,  
Recording Secretary