

**ESSEX ZONING COMMISSION
29 WEST AVENUE**

**Wednesday, January 30, 2013
Town Hall – Meeting Room A
Essex, Connecticut 06426**

MINUTES

PUBLIC HEARING

Chairman Al Wolfgram called the meeting to order at 7:00 p.m.

Seated for the public hearing were Al Wolfgram (Chair), Larry Shipman, (Secretary), Jim Hill, Bill Reichenbach. Also in attendance were Attorney Peter Sipples and Zoning Enforcement Officer Joe Budrow. Absent: Susan Uihlein/Vice Chair, Jeffrey Lovelace and Barbara Zernike. Robert Connelly has resigned as an alternate.

Al Wolfgram, Chairman asked if anyone was there to here the Zoning Commission Amendments items 1-3 on Agenda, if not would like to move ahead would like to move ahead with item 4 – **Application No. 12-23 - Bestway 2, LLC**. Noted for record is that Al Wolfgram was an employee at Dicesare Bentley from 1987 to 1991.

Application No. 12-23 – Bestway 2, LLC – to convert a former service station to a convenience store at 1 Saybrook Road, Essex.

Larry Shipman read notice of Public Hearing. Per Joe Budrow there is no correspondence with regards to this application. Joe also mentioned that the Health Department has approved this application for this proposal under the health code.

Clint Brown, with Dicesare Bentley Engineers and also joined by Tom McLaughlin from Cloutier and Cassella Law Firm. They are here on behalf of the new owners Bestway 2, LLC representatives. This application is to convert 1,769 sq. ft. gross floor area automobile service station to convenience (retail) store and associated site improvements, including parking and landscaping. Mr. Brown reviewed detailed site and floor plans with Commission and indicated he will leave an exhibit for the record.

Mr. McLaughlin again representing the owners - discussed couple of points to add as the “benefit” to the neighborhood and removes the blithe of vacant lot since 2005. The removal of pumps will add 8 additional parking spots. Mr. Brown noted an error in the math regarding parking spaces. Al Wolfgram read regulations regarding use for grocery vendors that may be more appropriate then use of what this facility will be. This being the case this would require different parking requirements adding more parking spaces. Mr. Brown responded with a notation from the history of traffic engineers entitled “Parking Generation” which indicates the average parking demand is 3.4 vehicles per

1000. This appears to be a hybrid situation. Truck loading was thought through with regards to loading space and keeping it in back corner.

Open to Commission for questions:

Joe Budrow, Zoning Enforcement Officer – Asked Clint Brown - does the back room have 3 bay sink (will there be food prep)? Answer “no”. Joe Budrow indicates he comes up with 12 parking spaces, however, the plan says 9. Architect look at this again and reconfirm.

Bill Reichenbach – asked architect to explain pump space. Mr. Brown responded with that is the space where you are pumping gas which would be 8 places where a vehicle would be able to gas up.

Mr. Reichenbach also inquired about the facility having been empty for 7 years – what is current signage? Response - 14 ½ feet high. Sign has Variance #3C –8/92 regarding location of sign. Has it been verified that it was structured according to variance? Response – that has not been done at this point in time. Will there be any other signs in front of building? Response, yes, there will be just one sign with store name. Establishment will be 24 hour, and will have appropriate site lighting.

Al Wolfgram inquired on survey plan that there are two areas of encroachment on town property. Has any attempt been made to contact the First Selectman’s office to see if you need an easement to continue that encroachment? Mr. Brown responded not as yet. If we don’t get approval we plan that would be academic, If not approved, we’ll approach accordingly.

Al Wolfgram asked if there were any environmental issues on site? Owners responded that the project has been approved for purchase the property and they will pull tanks and pumps out along with any bad soil. Tank locations will not change. Is fuel oil for the store the heat source? No - heat for store will be provided by propane. Response from Al Wolfgram is that – that needs to be indicated on site plan.

Handicap space is only 17.5 feet – that is not enough space to back up. Angle parking may be the substitute and move dumpster closer to building and add spaces for employees.

Transportation study done in 2011, intersection is noteworthy. Suggestion is to close off plaza entrance and closing off SE corner entrance and try to tighten up. Mr. Brown responded nothing was done regarding Plaza entrance and will lay a template on there to see if we can do that. Mr. Brown reviewed study as well and didn’t note any reference to closing any entrance. Al Wolfgram indicated as this is a sensitive intersection, we might want to do something along these lines. Al Wolfgram will look up the reference and email it to Joe Budrow to see if it is possible to narrow the throat.

Al Wolfgram also inquired on the building footprint exit in front and to the left which is far away from dumpster. Can dumpster be moved? Mr. Brown responded with they

didn't want it to be visible to public. Pump parking spaces to use as access to the convenient store does not apply for buying retail and architect should look for more physical spaces away from pumps.

Open to Public for questions:

Request to audience if there were any questions in favor or against of application. There were none. Transportation study should be part of hearing documents in Volumes 1, 2 & 3. Sufficient questions need to be answered and return for next month's Zoning Commission meeting. Al Wolfgram suggested the architect and owners should discuss with First Selectman's office on encroachment items.

Al Wolfgram discussed maximum coverage being 92% to 86% and that the regulations for commercial zone is 65%. This is preexisting so any improvement coming down from that is well accepted. Encroachments on the side yard, front yard are probably preexisting. For the record, they were noted as being preexisting. First reference of property was 1967 or 1968.

Regarding Note 20 – Grease interceptor will be put in. It's internal and will be put in with kitchen items. Al Wolfgram suggested they further define as prior in operations. We like to be as specific as we can and use as a reminder it has to be done.

Motion made by Larry Shipman to extend public hearing **Application No.12-23 - Bestway 2, LLC** to the 2/25/13 meeting. Bill Reichenbach, seconded motioned. Passed unanimously. **Motion carried.**

1. **Application 12-19 – Essex Zoning Commission** –A petition to amend Section 20 (Definitions) of the Essex zoning regulations (Open and closing of the public hearing at the discretion of the Commission). Referred to planning commission and they had comments as well as the development commission.
2. **Application 12-20 – Essex Zoning Commission** – A petition to amend Section 80 (Commercial Districts) of the Essex zoning regulations (Open and closing the public hearing at the discretion of the Commission).
3. **Application 12-21 – Essex Zoning Commission** – A petition to amend Section 40 (General Prohibitions) of the Essex zoning regulations (Open and closing the public hearing at the discretion of the Commission).

Al Wolfgram asked how the Commission would like to incorporate comments. Go through these as they are, or ask Joe to edit regulations to incorporate these comments and discuss in further detail at next meeting. Bill Reichenbach suggested we date drafts so that he can pick and choose which ones are most current. Assemble a current set.

Joe Budrow responded that the first draft is dated November 26. Next time you'll see it, a new date will be put on the next set.

Larry Shipman made a **motion** to close **Application 12-20** - public hearing and make a **motion** that continue to public hearing on **Application 12-19** and **Application 12-21** with the referral to WPCA. Passed unanimously. **Motion carried.**

- 4. Application 12-24 - New England Commercial Properties, LLC** – to amend Section 90 (Limited Industrial District) of the Town’s zoning regulation.

Motion to delay hearing until February meeting made by Larry Shipman, seconded by Jim Hill. Passed unanimously. **Motion carried.**

REGULAR MEETING

Called to order at 7:45 p.m.

Seated for regular meeting were Al Wolfgram (Chair), Larry Shipman, (Secretary), Jim Hill and Bill Reichenbach. Also in attendance were Attorney Peter Sipples and Zoning Enforcement Officer Joe Budrow. Absent: Susan Uihlein/Vice Chair, Jeffrey Lovelace and Barbara Zernike. Robert Connelly has resigned as an alternate.

1. APPROVAL OF THE AGENDA

Approval of the agenda to move Agenda item #1 until Attorney Lohm arrives

- 1) Application No. 12-15 – Frank Sciame, Jr.

2. NEW BUSINESS

Application No.12-15 to January 30, 2013 public hearing Bill Reichenbach reclused himself from this motion - Public Hearing closed, waiting on Attorney Lohm or get an extension. Bypassing vote.

Motion to deny **Application No. 12-15** by Larry Shipman, rejecting a request for amending zoning map by relocating a district line based on fact that no compelling reason why the lot line should be revised. There is no issue of enforceability and is consistent with decision from planning and survey results of comprehensive development. Also, does not comply with 2005 plan of conservation and development as determined by plan commission. Motion seconded by Jim Hill. Passed unanimously. **Motion carried.**

- 3. Application 12-20 – Essex Zoning Commission** – A petition to amend Section 80 (Commercial Districts) of the Essex zoning regulations. Closed hearing.

Larry Shipman made a **motion** to approve **Application 12-20** application by Zoning Commission to amend and remove revised Section 80A to 80E. Consistent with Conservation Development with effective date of March 15, 2013. Jim Hill **seconded** motion. Passed unanimously. **Motion carried.**

4. OLD BUSINESS – Larry and Al met with Gateway – they are going to provide summary of conversations in not to distant future.

5. RECEIPT OF NEW APPLICATIONS

Two applications received late last week and did not make meeting material distribution however, submitted at this meeting.

- **Application No 13-1** AT&T Mobility – 6 Main St. Centerbrook. An application to modify a previous approval that allowed 6 antennae to be attached to water tower located at 6 Main Street in Centerbrook.

- **Application No. 13-2** AT&T Mobility – 158 Main St., Ivoryton. An application to modify a previous approval that allowed 6 antennae to be attached to water tower located at 158 Main Street in Ivoryton.

Eric Dahl: AT&T Representative - spoke referring to section 120K – minor changes to an improved site plan submitted as part of an approved special exception may be approved by Zoning Commission and not at Public Hearing. However, in previous text a memo is required to be filed with land record. Joe Budrow believes one was filed previously however, not sure about Ivoryton one. One would be exempt administratively, however, we might as well keep together and go forward with Public Hearing.

Mr. Dahl indicated that the antennae’s will be taller from 55” to 96” – 1 antennae will be added to each section and placed on existing towers.

Motion to accept Application No.’s 13-1 and 13-2 and go to public hearing in February made by Larry Shipman, **seconded** by Bill Reichenbach. Passed unanimously. **Motion carried.**

6. VISITORS AND GUESTS - None

7. REPORT FROM LEGAL COUNSEL AND ZONING ENFORCEMENT AGENT

Attorney Sipples sent memorandum of special exception from Essex Yacht Club Inc. sent to Joe who caught an error and other modifications, addition of approval on town sanitarian and site plan approved.

Motion to approve for special exception memorandum of **Application No. 12-22** – on coastal site plan for Al Wolfgram to sign by Larry Shipman, **seconded** by Jim Hill. Passed unanimously. **Motion carried.**

8. OTHER BUSINESS

Update from Dunkin Donuts, is they requested zoning permit of which we requested more information and they decided not to submit. Joe Budrow denied the zoning request and they appealed decision. Joe will go in front of ZEA to defend Zoning Commission decision. Al Wolfgram asked Joe Budrow to write a letter and have Attorney Sipples review and approve it.

Upcoming special exception for smoothie operation in Essex and Rite Aid expansion request will be coming through Zoning Commission office.

Robert Connelly resigned from the Essex Zoning Commission. Currently looking for alternate. Mr. Connelly submitted resignation to First Selectmen's office and it has been accepted.

9. APPROVAL OF MINUTES

Motion by Larry Shipman to approve the minutes of the December 17, 2012 meeting. **Seconded** by Bill Reichenbach. Passed unanimously. **Motion carried.**

10. CORRESPONDENCE AND PAYMENT OF BILLS

Motion made by Larry Shipman to approve payment of legal fees based on availability of funds. \$80.00 paid to Bombaci and current month for attorney of \$1,920. **Seconded** by Jim Hill. Passed unanimously. **Motion carried.**

11. ADJOURNMENT

Adjournment – 8:25 p.m.

Motion made by Al Wolfgram to adjourn meeting at 8:25 pm. **Seconded** by Jim Hill. Passed unanimously. **Motion carried.**

Respectfully submitted,

Yvonne M. Roziak
Recording Secretary