

**ESSEX ZONING COMMISSION
29 WEST AVENUE**

**Monday, March 18, 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 first group of public hearings are Al Wolfgram (Chair), Larry Shipman, (Secretary), Jim Hill, Bill Reichenbach and new alternate Adrienne Forrest (for Susan Uihlein, Vice Chair). Also in attendance was Zoning Enforcement Officer Joe Budrow. Absent: Susan Uihlein (Vice Chair). Jeffrey Lovelace and alternate Barbara Zernike.

Al Wolfgram, Chair requested **Application No. 12-19 - Essex Zoning Commission** to be extended to the April 15, 2013 meeting for time to review changes that were submitted.

Motion made by Larry Shipman, seconded by Jim Hill. All in favor. None opposed.
Motion carried.

Al Wolfgram, Chair requested **Application No. 12-21 - Essex Zoning Commission** to be extended to the April 15, 2013 meeting for time to review changes that were submitted.

Motion made by Larry Shipman, seconded by Jim Hill. All in favor. None opposed.
Motion carried.

Application No. 12-24 – New England Commercial Properties, LLC – A petition to amend section 90 (Limited Industrial District) of the Town's Zoning regulations. Attorney Chris Smith from Shipman & Goodwin representing Joseph Armenia, principal owner of NECP, LLC at 46 Plains Road.

Attorney Smith distributed revisions to the Commission of Section 90 – Limited Industrial Districts of Essex Zoning Regulations - Exhibit A - (these items did not make the mailing in time for meeting). Proposed new wording is for the request to replace existing language with NEW Contractor's Office Use language used for the LI Zone District as well as NEW Commercial Kitchen Use for the LI Zone District.

Commission agreed that the under the Contractor's office revision that retail clause will remain as is. "A contractor's office shall not include retail as defined by these Regulations". The Commercial Kitchen language will be rewritten to include – Commercial kitchen for the preparation and packaging of food for off-site sales only *"which shall not include retail."*

Al Wolfram suggested to keep this application open until next meeting April 15, 2013. Joe Budrow will need something in writing from Attorney Smith to extend.

Motion made by Larry Shipman to extend hearing on **Application No. 12-24 – New England Commercial Properties** until next meeting April 15, 2013. Seconded by Bill Reichenbach. All in favor. None opposed. **Motion carried.**

Application No. 13-1 – AT&T Mobility – An application to modify a previous approval that allowed 6 antennae to be attached to a water tower located at 6 Main Street in Centerbrook. Open hearing notice read by Larry Shipman, Secretary.

Eric Dahl, agent for applicant AT&T mobility described the 3 additional antennae's in addition to the 6 and the purpose for them. This request is to upgrade service to 4G technology for hand held devices and faster downloading etc. There are other carrier's currently housing antennae's on this tank. Mr. Dahl will look into whether or not the tank is currently being used as an existing water tank, he believes not. Macbeth Ventures LLC, currently owns the industrial park in which the tank resides. AT&T has a lease agreement with the property owners for 35 years, however, that is reviewed approximately every 5 years.

Motion made by Larry Shipman to close public hearing. Seconded by Jim Hill. All in favor. None opposed. **Motion carried.**

Application No. 13-2 – AT&T Mobility – An application to modify a previous approval that allowed 6 antennae to be attached to a water tower located at 158 Main Street, Ivoryton. Open hearing notice read by Larry Shipman, Secretary.

Eric Dahl, agent for applicant AT&T described current set up on this tower however, AT&T in addition has outdoor cabinets on a concrete grade at this tank and will be also adding an additional radio equipment cabinet to this facility. Tank is owned by property owner, however, previous owners sold the rights to this tank and sold the AT&T lease to Rooftop Mgmt. Company and they have been maintaining the tank satisfactorily. Joe Budrow requested a copy of that lease for the file.

Motion made by Larry Shipman to close public hearing. Seconded by Jim Hill. All in favor. None opposed. **Motion carried.**

Application No. 13-4 – Jessica Smith – An application for a change of use from a retail use to a food service shop at 1-3 North Main Street, Essex. Open hearing notice read by Larry Shipman, Secretary.

Joe Budrow read a memo from Health Dept. approving this application with regards to utilizing no more than 50 gallons of water per day and to install a water meter to monitor usage.

Jessica Smith discussed site plan and is comfortable with the no consumption on site rule as part of the zoning regulation. Biodegradable disposable cups and straws will be used.

No tables or chairs will be set up. Food waste will be put in compost and given to local farmer. Bottled water will be used in producing product and not tap water.

Motion made by Larry Shipman to close public hearing and a request by Ms. Smith was for a Memorandum of Decision be signed by the Chair as soon as prepared (prior to the next meeting – 4/15/13). This approval will be based on compliance request from Town Sanitarian in letter dated 02/25/13. Seconded by Jim Hill. All in favor. None opposed.

Motion carried.

Application 13-5 – Diane M. Bell, 3 South Winds Drive – convert attic above garage into an in-law apartment. Open hearing notice read by Larry Shipman, Secretary.

Joe Budrow submitted new correspondence with regards to this application a B100A was approved by Health Dept. No letter was written for the Commission from the Health Dept. They requested the property owner look at a larger septic tank but is not required.

Requirement for over an acre in that sub division came into question as to what the survey and / or assessor states for acreage on file versus when the regulation was passed in 1999. The date the house was built was in 2002 and the date of the regulation change was in 1999. This needs to be re-looked at and to move this decision to the next meeting on April 15, 2013.

Motion made by Bill Reichenbach to extend open hearing to April 15, 2013. Seconded by Jim Hill. All in favor. None opposed. **Motion carried.**

REGULAR MEETING

Called to order at 8:07 p.m.

Seated for the regular meeting are Al Wolfram (Chair), Larry Shipman, (Secretary), Jim Hill, Bill Reichenbach and new alternate Adrienne Forrest (for Susan Uihlein, Vice Chair). Also in attendance was Zoning Enforcement Officer Joe Budrow. Absent: Susan Uihlein (Vice Chair), Jeffrey Lovelace and alternate Barbara Zernike.

1. APPROVAL OF THE AGENDA

Motion made by Jim Hill to approve the agenda. Seconded by Bill Reichenbach. All in favor. None opposed. **Motion carried.**

2. NEW BUSINESS

1. Application 12-19 – Essex Zoning Commission –A petition to amend Section 20 (Definitions) of the Essex Zoning regulations (Decision to be made at the discretion of the Commission). Moved to next meeting on April 15, 2013.

2. Application 12-21 – Essex Zoning Commission – A petition to amend Section 40 (General Prohibitions) of the Essex Zoning regulations (Decision to be made at the discretion of the Commission). Move to next meeting on April 15, 2013.

3. Application No. 12-24 – New England Commercial Properties, LLC. A petition to amend section 90 (Limited Industrial District) of the Town's zoning regulations (If closed, decision must be made by May 1st).

Motion made by Larry Shipman to extend hearing on **Application No. 12-24 – New England Commercial Properties** and to go to meeting on April 15, 2013. Seconded by Bill Reichenbach. All in favor. None opposed. **Motion carried.**

4. Application No. 13-1 – AT&T Mobility – An application to modify previous approval that allowed 6 antennae to be attached to water tower at 6 Main Street, Centerbrook. (If closed, decision must be made by May 1st).

Motion made by Larry Shipman to close hearing on **Application 13-1**. Seconded by Jim Hill. All in favor. None opposed. **Motion carried.**

5. Application No. 13-2 – AT&T Mobility – An application to modify previous approval that allowed 6 antennae to be attached to water tower at 158 Main Street, Ivoryton. (If closed, decision must be made by May 1st).

Motion made by Larry Shipman to close hearing on **Application 13-2**. Seconded by Jim Hill. All in favor. None opposed. **Motion carried.**

6. Application 13-4 – Jessica Smith - An application for a change of use from a retail use to a food service shop at 1-3 North Main Street, Essex.

Motion made by Larry Shipman to close hearing on Application 13-4. Seconded by Jim Hill. All in favor. None opposed. **Motion carried.**

7. Application 13-5 – Diane M. Bell, 3 South Winds Drive – convert attic above garage into an in-law apartment.

Motion made by Bill Reichenbach to extend open hearing to April 15, 2013. Seconded by Jim Hill. All in favor. None opposed. **Motion carried.**

3. OLD BUSINESS - None

4. RECEIPT OF NEW APPLICATIONS - None

5. VISITORS AND GUESTS – Attorney Ed Cassella discussed informally the property at 23 Main Street, Centerbrook. He is requesting for his client – Standard Petroleum that the Commission review an amendment to Section 40U and 80A.2.(O) to eliminate the existing non-conformities associated with gas station/convenience stores throughout the town. The request is to think about eliminating the regulation

currently enforce (that has not been adhered to over the years) and eliminating it and regulating convenience stores under special exception would be a better zoning practice.

6. REPORT FROM LEGAL COUNSEL AND ZONING ENFORCEMENT AGENT –

Joe Budrow welcomed Adrienne Forrest to Commission and noted several memos in packet, 1) concerning an Art School – Bloom – wants special exception as an “art club.” 2) Calamari’s- property compliance issue and 3) C.P Burdick and Son, Inc., - building expansion without approval.

Dunkin Donuts update – Attorney Sipples while has been dealing with Attorney Cronin and they have since dropped their appeal. Joe Budrow will send letter to Attorney Cronin formally denying their appeal this week.

7. OTHER BUSINESS – None

8. APPROVAL OF MINUTES –

Motion made by Larry Shipman to approve minutes with correction of Al Wolfgram’s last name being spelled incorrectly, Page 1 – 3rd paragraph. (Wolfram s/b Wolfgram). Seconded by Bill Reichenbach. All in favor. None opposed. **Motion carried.**

9. CORRESPONDENCE AND PAYMENT OF BILLS

Motion made by Larry Shipman to approve payment of legal fees to attorney based on availability of funds in the amount of \$3,040. **Seconded** by Jim Hill. All in favor. None opposed. **Motion carried.**

10. ADJOURNMENT

Adjournment – 8:35 p.m.

Motion made by Bill Reichenbach to adjourn meeting at 8:35 pm. **Seconded** by Jim Hill. All in favor. None opposed. **Motion carried.**

Respectfully submitted,

Yvonne M. Roziak
Recording Secretary