

ESSEX ZONING COMMISSION

29 WEST AVENUE – ESSEX, CT 06426

REGULAR MEETING MINUTES – November 23, 2015

PUBLIC HEARINGS

Seated: Larry Shipman, Chairman
Alvin Wolfgram, Vice-chairman
Bill Reichenbach, Secretary
Jim Hill, Regular Member
Alternate member, Adrienne Forrest

Absent: Alternate member, Jeffrey Lovelace
Susan Uihlein, Regular Member

Also present: Joe Budrow, Zoning Enforcement Official
Peter Sipples, Commission legal counsel

No public hearings scheduled

REGULAR MEETING

1. **CALL TO ORDER:** Larry Shipman, Chairman called the regular meeting to order at 7:00 PM. Seated for the regular meeting was Larry Shipman, Alvin Wolfgram, Bill Reichenbach, Jim Hill, Adrienne Forrest, alternate member for Susan Uihlein. Absent were Susan Uihlein, regular member and Jeffery Lovelace, alternate member.

2. **APPROVAL OF THE AGENDA**

The agenda was not modified.

Motion made by Larry Shipman, Chairman to accept the agenda, Bill Reichenbach, Secretary seconded the motion, All in favor, **Motion carried, 5-0.**

3. **NEW BUSINESS**

2016 meeting scheduled was presented

Motion made by Alvin Wolfgram, Vice-chairman to accept the 2016 meeting schedule, Bill Reichenbach, Secretary seconded the motion, All in favor, **Motion carried, 5-0.**

4. **OLD BUSINESS**

5. **RECEIPT OF NEW APPLICATIONS**

Application 15-11 - Bradford and Lindsay Tully, 26 South Main Street

An application for a special exception to locate a single-story accessory apartment within a detached accessory building.

Discussion included no variances needed because the building is older than 1999. Joe Budrow, Zoning Enforcement Official will make a note to get the waiver request in. Alvin Wolfgram, Vice-chairman asked if they will be changing the structure and the answer was the changes to the building are all internal.

Motion made by Alvin Wolfgram, Vice-chairman to accept the waivers subject to the sanitarian's review for **Application 15-11** – Bradford and Lindsay Tully, 26 South Main Street, Bill Reichenbach, Secretary seconded the motion, All in favor, **Motion carried, 5-0.**

Motion made by Alvin Wolfgram, Vice-chairman to accept the application and set a date for public hearing for December 21, 2015 for **Application 15-11** – Bradford and Lindsay Tully, 26 South Main Street, Bill Reichenbach, Secretary seconded the motions. All in favor, **Motion carried, 5-0.**

Application 15-12 – Rick and Debbie Steele, 29 Pratt Street

A petition to amend the Town's zoning map to extend the Village District eastward and removing three residential parcels from the Waterfront District.

It was discussed this topic has come up before as a topic but noted it was previously tabled.

All three owners are signing and Joe Budrow, Zoning Enforcement Official stated we will see their signatures next time.

Alvin Wolfgram, Vice-chairman noted it has to be submitted to Planning Commission and Gateway Commission so Public hearing will be set for January 25, 2016.

Motion made Alvin Wolfgram, Vice-chairman to accept and set a Public Hearing for January 25, 2016 **Application 15-12** –Rick and Debbie Steele, 29 Pratt Street, Bill Reichenbach, Secretary seconded the motion. All in favor, **Motion carried, 5-0.**

6. **VISITORS AND GUESTS**

Several visitors were in attendance regarding **Application 15-9** – Kim Thomas – An application for a Special Exception for a food service shop at 90 Main Street,

Centerbrook which was approved by the Zoning Commission at their meeting on October 19, 2015.

Attorney Michael Ruben Peck was in attendance along with his law partner, Geraldine Ficarra. Attorney Peck represents Pauline Kaplan and Howard's Bread, LLC. Howard's Bread is an abutting unit owner to the applicant, Kim Thomas and Savour Café. Attorney Peck stated he has come before this commission at the invitation of Attorney Sipples. He provided a written memorandum which included his facts, claims and issues. He states he is here to appeal the approval that was made last month for application 15-9, Kim Thomas. Attorney Peck discusses he is requesting a possible stay of the signing of the memorandum of decision for application 15-9 because of legal issues. Attorney Peck states an appeal has been filed in Superior Court in Middletown at issue is who owns the grease trap associated with the common septic system. Mrs. Kaplan and her attorneys believe she does.

Attorney Bennet spoke on behalf of Community Music School and Kim Thomas. He states it is his belief that the purpose of this action is solely to prevent competition for Howard's Breads.

Alvin Wolfgram, Vice-chairman states to Attorney Peck the worst case would be the commission signs this memorandum of decision and you (Howard's Bread) win, the applicant puts in another grease trap.

Larry Shipman, Chairman asks Attorney Sipples, "what gives us (this commission) the authority to not sign the memorandum of decision that was approved at the prior meeting"? Attorney Sipples answers they have no authority not to sign.

Attorney Sipples advises to go ahead and sign and let the court decide, the applicant will proceed at their own risk, he further states the Commission should follow their regular procedure.

Attorney Bennet stated the stay is against the applicant not the town, Attorney Peck disagrees.

The town has been served by the court, but nothing has come from the court telling us the Zoning Commission) they can't sign this.

Attorney Peck thanked the commission and Attorney Bennet stated he is looking forward to issuance of the permit.

Norman Needleman, Essex First Selectman was also in attendance ex officio to discuss the rewrite/review of zoning regulations (see other business).

Susan Malan was also in attendance relating to the issues of the review and rewrite of the Town's zoning regulations (see other business).

7. REPORT FROM LEGAL COUNSEL and ZONING ENFORCEMENT AGENT

Attorney Sipples states there are no other outstanding issues.

Joe Budrow, Zoning Enforcement Official reports Cumberland Farms was approved by ZBA.

Alvin Wolfgram, Vice-chairman stated he would like it added to the record that he has heard that CMS leases parking spaces to Centerbrook Architects. He would like it put in the file and incorporating into parking calculations.

Larry Shipman, Chairman read aloud for the record the memorandum of decision for **Application 15-9**.

Motion made by Alvin Wolfgram, Vice-chairman to approve memorandum of decision for **application 15-9** as read, Bill Reichenbach, Secretary seconded the motion, All in favor, **Motion carried 5-0**.

8. OTHER BUSINESS

Route 9 signage – Joe Budrow, Zoning Enforcement Official reports. Phone calls have been made; people at the state have been changing

Calimari Recycling- Joe Budrow, Zoning Enforcement Official reports that it is unchanged since last.

Zoning Regulations - Norman Needleman comes before the commission ex officio regarding the committee that has been formed to rewrite and review the regulations. He states the following:

- he believes a strong look is needed and tidying up the regulations.
- he gets a lot of feedback and wants to talk about the process by which these regulations are reviewed.
- he would like to engagement of the Economic Development Commission, the Planning Commission and the Selectman in the process.
- he talked about zoning permits and the fact that ½ the businesses in town don't have any and there are regulations that are not being followed.
- he strongly suggests that more people should be involved in the processes of revising the zoning regulations.
- he spoke about parking in town.
- he states it is necessary to remember municipalities are a competitive environment.
- he states the town's land use professionals meet once a month and communicate with other. Building, and Fire

both have similar language but zoning language is different (an example is use vs use). Mr. Needleman would like to have a meeting with this commission and the land use officials to discuss harmonization of the language.

- he says language matters and let there be no confusion

Alvin Wolfgram, Vice-chairman stated 2 meetings of the sub-committee have happened and because there are no majority commission members present so minutes are not necessary. Alvin Wolfgram, Vice-chairman talked about they would first like to clean up the document and once they get it in a clean format they are going to put it out to everybody and get comments back. Their first goal is to make the document easier to approach.

Gateway District – sent the committee a response saying they will respond to the letter they sent

APPROVAL OF MINUTES (from October 19, 2015) - **Motion** made by Alvin Wolfgram, Vice-chairman to approve the minutes of the October 19, 2015 meeting with 2 modifications, Jim Hill seconded the motion, All in favor, **Motion carried, 5-0.**

The following are the modifications:

Page 2, 2nd paragraph, 12th lines has a typo, should be, he **states**

Page 2, 4th paragraph should read “what happens if you fill all the vacancies because of that the number is than over the number of spaces available”.

9. CORRESPONDENCE AND PAYMENT OF BILLS

Attorney Sipples submitted a bill for legal fees in the amount of \$3654.40

Motion made by Alvin Wolfgram, Vice-chairman to approve payment of legal fees, subject to the availability of funds, Bill Reichenbach, Secretary seconded the motion, All in favor, **Motion carried 5-0.**

10. ADJOURNMENT

Motion made by Alvin Wolfgram, Vice-chairman to adjourn the meeting at 8:52, Bill Reichenbach, Secretary seconded the motion, All in favor, Opposed none, **Motion carried 5-0.**

The next scheduled meeting is December 21, 2015

Respectfully submitted,
Gayle Capezzone
Zoning Board Clerk