

# TOWN OF ESSEX ZONING COMMISSION

29 WEST AVENUE – ESSEX, CT 06426

REGULAR MEETING MINUTES – April 18, 2016

## **PUBLIC HEARINGS**

Present: Larry Shipman, Chairman  
Alvin Wolfgram, Vice-chairman  
Jim Hill, Regular Member  
Bill Reichenbach, Secretary  
Alternate members, Adrienne Forrest, Russ Smith, Jeffrey Lovelace

Absent: Susan Uihlein, Regular Member

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Also present: Joe Budrow, Zoning Enforcement Official  
Peter Sipples, Commission Legal Counsel

**CALL TO ORDER:** Larry Shipman, Chairman called the Public Hearing to order at 7:00 PM. Seated for the public hearing were Regular Members, Larry Shipman, Alvin Wolfgram, Jim Hill and Bill Reichenbach. Alternate Member Adrienne Forrest sat in for Susan Uihlein.

**Application 16-2 - Cumberland Farms, Inc., 82 Main Street, Centerbrook** – An application for a special exception to remove an existing convenience store and gas fueling operation and rebuild a new and larger convenience store and gas fueling operation.

Seated for the public hearing were Regular Members, Larry Shipman, Alvin Wolfgram, Jim Hill and Bill Reichenbach.

Items submitted since last meeting:

- Sketches of two on-site circulation patterns of a vehicle with a trailer
- Amendment of site lines in the traffic study
- Letter from resident Jane Siris in opposition of the project
- Letter from Boulder Engineering describing the new proposed canopy
- Memo from Lisa Fasulo, Health Director, giving approval of the septic system
- Picture of new proposed canopy
- New site plan
- Memo from Bob Doane, Town Engineer

Attorney Joseph Williams from Shipman and Goodwin presented. He addressed concerns that had come about at the previous meeting. He mentioned that parking was previously proposed to have 22 spaces including 6 spaces at the pumps. Cumberland Farms Project Engineer Kevin

Thatcher has drawn a new site plan which will show an additional area of potential reserved spaces for 10 more cars.

Mr. Thatcher spoke about the memo he received from Town Engineer Bob Doane who has concerns regarding the drainage by the dumpster area and large fuel spills running into the surface storm water system. He does not feel that these issues can be resolved in the manner that Mr. Doane had suggested.

Mr. Doane spoke about spills now going to the storm drainage on Main Street or Westbrook Road and how there is potential for an additional basin. He thinks perhaps having a smaller pipe discharge into the forebay retention area would help. The runoff in the dumpster area is a concern. This can be resolved if there is an enclosed area where drainage is collected and put into an oil/water separator and then discharged into the bioretention area. The bioretention area should be maintained after every significant rainfall (such as one or two inches) in order to be free of debris. The mulch in this area can also tend to clog outlets, therefore is an item that should be included in the maintenance of the facility.

Mr. Thatcher said a smaller pipe may be a possible solution by having a slimmer grade which would be raised by one or two inches. This would be atypical but may be able to be done. Cumberland Farms is proposing to have surface flow run to the forebay bioretention area or have a catch basin in the rear corner but will have to discharge to a different corner of the site. The flow cannot be piped to the bioretention area because of the septic area.

The septic system has been reviewed and approved by Lisa Fasulo, Health Director.

Mr. Thatcher presented two sketches that were drawn of two on-site circulation patterns of a vehicle with a trailer, demonstrating them coming off of Main Street and Westbrook Road. These sketches show that the vehicles can circulate appropriately.

The traffic study has been confirmed as being satisfactory for DOT standards.

Attorney Williams stated that the fire suppression system has been put back into the canopy design, as recommended by the Fire Chief and Fire Marshall. Boulder Engineering has come up with a deck mounted suppression system. Mr. Williams submitted a picture from Boulder Engineering demonstrating this. The canopy currently pending with the Zoning Commission is a distance of 10 feet. The deck mounted system requires 11 feet 6 inches of space. With the current spacing between the pumps being 27 feet, the canopy would be 83 feet long. To accommodate the fire department and concerns from the community, Cumberland Farms is looking to reduce the spacing between pumps to 24 feet, therefore taking 6 feet off the length of the canopy, thus giving 2 options: a deck mounted system or a rack mounted system.

Mr. Thatcher explained that a deck mounted system would be 77 feet long, and a rack mounted system (which Cumberland Farms does not prefer) would be 74 feet long. He submitted a photo of both canopy designs and a photograph of a rack mounted system.

Mr. Thatcher explained that with the installation of a deck mounted system, the overhang over the outer islands would increase from 10 feet to 11.5 feet from the center line of the pump. Shortening of the canopy would allow for an increase in aisle width which would benefit the circulation of large vehicles. The total canopy length would be 77 feet as opposed to the original site plan of 80 feet. There would be a reduction of 6 feet between the pumps and an 18 inch extension on each side, to allow for the deck mounted suppression system.

The commission made comments and asked questions:

Bill Reichenbach asked if people could still pass through the pump area. Mr. Thatcher stated that it would still be possible, but not able to be done comfortably.

Vice-chairman Alvin Wolfgram asked Mr. Thatcher if we could minimize the spacing between pumps to possibly 20 feet to allow for the canopy length to be cut by an additional 8 feet, therefore discouraging people from being able to drive between the pumps at all. Mr. Thatcher said that this would not be a good idea, because there would not be enough space for drivers to get out and move around the car comfortably during a fueling operation. Traffic Engineer Maureen Chlebeck from McMahon Associates confirmed that 20 feet of spacing would be too narrow between the pumps.

Zoning Official Joseph Budrow asked Ms. Chlebeck what the average width of a vehicle is with both doors open. She did not know the exact answer to this.

Mr. Wolfgram asked if the length of the canopy is the minimum amount needed for the deck fire suppression system. Mr. Williams said this is the minimum amount necessary to sufficiently cover the fueling area from the elements.

Ms. Chlebeck said that there are a few different options for large vehicles, but not all of the pumps will be accessible. Mr. Wolfgram asked if we could move the pump islands by 15 degrees clockwise to enhance the traffic movements. Mr. Thatcher said it would only help for certain movements and would make it worse for others; therefore a 90 degree angle is preferred.

Mr. Reichenbach thought the island could be rotated so all vehicles could easily access a pump. Mr. Thatcher said this would be a concern because it would make it too easy for vehicles to cut through the parking lot if the pumps were not being used.

The public made comments and asked questions:

Joel Marzi has a concern about the site lines and that his property lines may be blocking them. Ms. Chlebeck said the site lines meet the standards. They have measured each driveway in each location. Mr. Marzi is also concerned about his septic system being close to the property line and is concerned with flooding. He is also concerned about an easement he has with the State of CT for a drainage system going into a pond at the back of his property. The easement does not include anything being connected to it. He is worried that a spill from Cumberland Farms would go onto his property, run into a manhole and enter his pond.

Jane Siris spoke and referred to the letter she had previously submitted. She does not think that 6 pumps with a large canopy are necessary for this community.

Andrea Griffis-Inglis thinks that the size of the canopy is too large.

Ken Bombaci is concerned with fitting a truck and trailer in the parking lot. He thinks the parking spaces should be made bigger. He is also wondering who is responsible for a death or serious accident. Chairman Larry Shipman assured him that the town would not be responsible for this since it is not our property. The State of Connecticut DOT would be approving this.

Suzanne Howard is against the Cumberland Farms expansion and thinks it de-values the corner area and takes away from the value of the land.

Peter Trumes thinks that the project is too large. If number of pumps were reduced, this would allow for the size of the canopy to be reduced and trucks with trailers would be able to pass through easier.

Mr. Marzi suggested talking to CT DOT and possibly making the driveway on Westbrook Road an entrance only.

Mr. Wolfgram asked if anything on Mr. Marzi's property would be obstructing the site line. Ms. Chlebeck does not think so. Mr. Wolfgram said that we need an agreement with Mr. Marzi to maintain the site line and ensure he will not plant vegetation or install a fence. It seems to be unclear right now if the site line does in fact go across Mr. Marzi's property.

**MOTION** made by Vice-chairman Alvin Wolfgram to close the public hearing. Reichenbach seconded the motion. All in favor, **Motion carried, 5-0.**

**Application 15-14 – Signature Contracting Group, LLC, 21, 27 and 29 Plains Road, Essex –**  
An application for site plan review to construct a multi-family affordable housing development consisting of 52 apartment units in three buildings.

Seated for the public hearing were Regular Members, Larry Shipman, Alvin Wolfgram, Jim Hill and Bill Reichenbach. Alternate Member Adrienne Forrest sat in for Susan Uihlein.

Mr. Budrow began by mentioning that with extension time they have 130 days, until April 29<sup>th</sup> if needed. If extension time not granted, must close tonight.

Items submitted since last meeting:

- Supplemental Materials booklet

- Revised plan set, pages 1-7

- Letter from Attorney Rob Galiette

- Letter from Lisa Fasulo, Health Director

- Letter to Brandon Handfield, Civil Engineer from Bob Doane, Town Engineer

- Updated Storm Management Report from Mr. Handfield to Mr. Doane

Attorney Timothy Hollister from Shipman & Goodwin presented.

Mr. Hollister addressed the intervention petition from Attorney John Bennett that if this complex is built, it will cause water pollution. Attorney Hollister stated that Attorney Bennett needs to provide proof. The claim has to be very specific and quantitative as to the cause and effect in order to meet statutory requirements. Mr. Hollister recommends doing a separate vote on the intervention petition and the application.

Mr. Hollister reviewed the Supplemental Materials booklet with the Commission.

Mr. Hollister discussed the fact that Georgetown Woods and Essex Meadows are located in very close proximity to the railroad tracks. He provided an illustration to demonstrate this.

Architect Gary Coursey submitted a letter in which he does not recommend the use of elevators in any of the 3 buildings.

Engineer Brandon Handfield from Yantic River Consultants spoke about the revisions to their previous site plan. The changes they are proposing to make would accommodate a 74,000 pound apparatus or vehicle, also recommended by the Fire Chief.

A fire lane was added behind building C, as recommended by the Fire Chief.

Light bulbs were moved 16 feet back from the edge of the pavement.

Fire hydrant was moved.

Each building will be equipped with a fire alarm, and each unit will be equipped with a separate unmonitored system.

A Knox Box will be installed at each building's front entrance, and dry hydrants will be installed at the common area on each floor of the building.

Mr. Handfield stated that more storm water details were provided to Mr. Doane. The assessment of nitrogen or coli form bacteria impact was discussed. He assured that the proposed systems will not impact ground water.

David Giel, Traffic Engineer from CDM Smith discussed the traffic study done that past weekend when Thomas the Tank Engine was in town. He said that there was very minimal impact. 2 to 4 foot shoulders along Route 153 and Route 154 have been a concern for bike riders. The State DOT's Bicycle Plan rates this as suitable for biking. Connecticut's Vendor in Place paving program will allow for DOT to re-mark the 12 foot travel lanes to 11 foot travel lanes to increase the shoulder width.

Attorney Hollister addressed his confusion as to why Attorney Bennett, on behalf of North Bound Nine LLC was referring to this property as an industrial district when it is in fact located in a business district.

Mr. Doane spoke. He mentioned the importance of having maintenance agreements for sanitary systems and particularly the storm water and storm water quality. He thinks the issue of the catch basin has been addressed. The town regulations do not specify which criteria they are to use to review the nitrogen level; therefore he will rely on the DEEP's regulations. A soil air system is being incorporated into the sanitary system, which results at 60 percent renovation instead of the typical 40 percent at a property line, based on DEEP standards. Mr. Doane is not sure how to respond being that there is an absence of a regulatory standard in the town

regulations. He thinks the soil air is required and accomplishes the intent of Regulation 104(e) (5). He reviewed the mounding for the storm water recharge to see if it affects the sanitary systems, and agrees with Mr. Handfield that it does not adversely affect it. He thinks ground water monitoring should be continued throughout the wet season. He is still waiting on the cost of landscaping.

Dave Sullivan, Traffic Engineer from Malone and McBroom also had an analysis done when Thomas the Tank Engine was in town. They found that there was minimal impact on the traffic pattern.

Mr. Wolfgram asked the engineers if there was a delay in emergency response time when large events are taking place in town. Mr. Giel and Mr. Sullivan both agreed there was plenty of opportunity for emergency vehicles to get through the roadways.

Attorney John Bennett from Gould, Larson, Bennett and MacDonnell spoke on behalf of North Bound Nine LLC and addressed the following concerns:

He thinks there is a traffic problem whether the traffic study reflects that or not. He believes the shoulder is too dangerous for a family of four.

Nitrate levels escaping the boundaries of the property are a major concern.

The acoustical study showed that a train whistle has a minimum of 96 decibels according the code of Federal Regulations, not 82 decibels as previously submitted in the Brooks report. The train whistle is very loud and is required to blow when it crosses the street.

Emissions concerns were raised by Mr. Bennett because the engines run in the rail yard all night long.

Attorney Bennett is also worried about the ground water level in that area based on his own personal observations.

The applicant has offered some ways to protect the railroad, but Attorney Bennett does not think this is enough. With running a significant tourist operation, they are afraid of complaints of noise and other health and safety issues from people residing in the apartments. He wants it recorded that the railroad has been understanding and complied with everything along the way, therefore they want to make sure the zoning commission understands that the railroad may be in need for significant protections in this context.

Mr. Reichenbach doesn't see why the railroad is so worried about someone complaining of a nuisance if they are following the regulations. He suggested possibly coming up with an aesthetic barrier (such as trees) so as to make both parties happy.

Attorney Hollister said that Mr. Brooks's acoustical study is accurate and he disagrees with Attorney Bennett. The whistle is 96 decibels and there is no noise issue.

Attorney Bennett discussed the Proposed Condition of Approval- stating that the applicant can't ask the railroad to install sound barriers or do anything else regarding noise control. Attorney Hollister said that 10 two bedroom apartments would generate one school age child, based on the Rutgers study from 2006. A one bedroom apartment has virtually no children living in there.

The commission made comments and asked questions:

Mr. Shipman asked if there is a requirement that there be a zone change in order to stay in compliance with the Connecticut statute 8-30g requirement. Mr. Hollister said 8-30g is about health and safety issues and is a very site specific application. It was chosen with this property in mind.

Russ Smith asked how we could even consider an approval when we're still waiting on the septic system approval from the Town Health Director.

Mr. Wolfgram asked if a little bus stop can be put in front if it is on one of the transit routes. Mr. Giel said that they would have to talk to the bus company.

Adrienne Forrest asked why the developers picked this particular spot and not a different location in Essex. Kevin Daly, the applicant, said that this site is close to Route 9, close to retail and commercial businesses, on a commuter route, and close to transportation.

The public made comments and asked questions:

Andrea Griffis-Inglis spoke in opposition of this project. She says there would be too many young families around to have a residential complex by the Valley Railroad. She is concerned with renters using our school system, not paying taxes and not working in Essex.

Kevin Dodd, President of Valley Railroad spoke. He mentioned he has not been asked any questions by anyone representing this project, but would be happy to discuss these issues at any time. Mr. Dodd has concerns regarding smoke emissions. The amount of coal burned overnight depends on the day and the breeze. South side residents experience a thick cloud of smoke from this coal. There are no studies to compare. They are worried about residents claiming down the road that they are being harmed from this smoke. He understands that the railroad is exempt from these issues, but is trying to be proactive.

Dan McCurdy spoke about his concerns with noise and smoke emissions. He thinks these concerns need much more attention and the zoning commission should not rush to make a decision.

Attorney Rob Galiette spoke as a representative of North Bound Nine LLC and as an Essex resident. He submitted an Executive Summary to the commission and discussed Connecticut Statute 8-30g. He discussed the importance of maintaining an established industrial zone on Plains Road.

Richard Kupchunos has a concern about the septic system and what happens if the density fails or if another emergency situation arises. This is a small town and fears that Essex could not handle having an apartment complex such as this.

Theresa Lak spoke about how this project is not befitting of this town.

Harvey Hoberman asked if the railroad had an opportunity to buy this property before Signature Contracting did. Mr. Dodd said they did look at the property and found several issues that made it very difficult for them to even examine the possibility at that time.

Joy Kmetz has major safety concerns with this project and doesn't think kids who live in these apartments should be attending our schools when the families do not have to pay property tax here.

Ken Bombaci spoke about his safety concerns and submitted a 2009 traffic study to the zoning commission.

Attorney Peter Sipples and Attorney Hollister stated that the close of the public hearing can be extended until April 29, 2016 and a Special Meeting will be scheduled for April 25, 2016 to provide more time to reach a decision.

**MOTION** made by Vice-chairman Alvin Wolfgram to extend the public hearing to a Special Meeting on April 25, 2016. Ms. Forrest seconded the motion. All in favor, **Motion carried, 5-0.**

### **REGULAR MEETING**

1. **CALL TO ORDER:** Chairman Larry Shipman called the regular meeting to order at 10:28 PM. Seated at the regular meeting were Regular Members Larry Shipman, Alvin Wolfgram, Jim Hill and Bill Reichenbach. Alternate Member Adrienne Forrest sat in for Susan Uihlein.

### 2. **APPROVAL OF AGENDA**

Agenda was approved with no changes or modifications

### 3. **NEW BUSINESS**

Discussion and possible vote on **Application 16-2 - Cumberland Farms, Inc., 82 Main Street, Centerbrook** – An application for a special exception to remove an existing convenience store and gas fueling operation and rebuild a new and larger convenience store and gas fueling operation. Decision to be made by June 23, 2016.

The commission decided on the following conditions for the applicant:

- 1) The applicant must comply with Mr. Doane's letter dated April 18, 2016 regarding storm water drainage.
- 2) A plan in elevation view site line drawing as required by the state DOT.
- 3) Pumps must be spaced 24 feet and the canopy must be in good standing with a fire suppression system.



- 4) A 74 inch canopy with a rack mounted fire suppression system will be used, subject to a potential change to pump island, and subject to proving that it doesn't enhance the traffic flow.
- 5) Out of the 10 reserved parking spaces, 2 of the spaces must be activated so that 8 parking spaces are reserved and 24 spaces are active.
- 6) A 15 degree angle rotation is to be put in place at the pump stations.

**MOTION** made by Alvin Wolfgram, Vice-chairman to approve **Application 16-2** subject to the conditions as stated by Attorney Sipples and performance of 120 and 130a standards. Jim Hill seconded the motion. All in favor, **Motion carried, 5-0.**

#### **4. OLD BUSINESS**

Application 16-4 was approved to re-do the lot line. A new public hearing is scheduled for May 18, 2016 to set the definition of a rear lot.

#### **5. RECEIPT OF NEW APPLICATIONS**

None

#### **6. VISITORS AND GUESTS**

None

#### **7. REPORT FROM LEGAL COUNSEL AND ZONING ENFORCEMENT AGENT**

Memorandum of Decision for **Application 16-5 Paul Cappezone, 104 Main Street, Ivoryton, CT.** Special Exemption was approved. The applicant must provide a sign approved by the zoning enforcement agent that states that there is additional parking in the rear.

**MOTION** made by Alvin Wolfgram, Vice-chairman to approve **Application 16-5**. Jim Hill seconded the motion. All in favor, **Motion carried, 5-0.**

#### **8. OTHER BUSINESS**

Gateway and the Planning Commission would like to participate in the May 18, 2016 Public Hearing.

#### **9. APPROVAL OF MINUTES**

Page 2- Parking space dimensions were not reduced

Page 4- Letter from Essex Fire Marshall should say "submitted" instead of "written"

Page 5- Paul Krikowski was misspelled

Page 7- Bill Reichenbach was misspelled

Page 8- Out of context paragraph regarding parking lots  
Page 8- Lisa Fasulo was misspelled

**MOTION** made by Larry Shipman, Chairman to approve the minutes of the March 21, 2016 meeting. Alvin Wolfgram seconded the motion. All in favor, **Motion carried, 5-0.**

**10. CORRESPONDENCE AND PAYMENT OF BILLS**

None

**11. ADJOURNMENT**

The next scheduled meeting is May 16, 2016.

**MOTION** made by Adrienne Forrest to adjourn the meeting at 11:15 PM. Bill Reichenbach seconded the motion. All in favor, **Motion carried, 5-0.**

Shannon DeLorso,  
Zoning Board Clerk