

TOWN OF ESSEX ZONING COMMISSION

29 WEST AVENUE – ESSEX, CT 06426

REGULAR MEETING MINUTES – August 15, 2016

PUBLIC HEARINGS

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

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

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, Bill Reichenbach, Jim Hill and Susan Uihlein.

Application 16-10 – Signature Contracting Group, LLC – 21, 27 and 29 Plains Road.
A resubmission of Application No. 15-14 to discuss certain conditions approved by the Zoning Commission.

The Fire Marshall was asked to speak about the need for elevators at this location. The agenda was modified to let Signature Contracting Group first discuss the elevator condition that the Zoning Commission has given them. Then let the other applicants listed as number 1 and 2 go next, as originally written in the agenda. Signature Contracting Group will proceed with discussing the other conditions as number 3 on the agenda.

Attorney Tim Hollister from Shipman and Goodwin opened up by explaining numerous reasons of why an elevator is not necessary or required for a three story building.

Architect Gary Coursey from Gary B. Coursey and Associates agreed that an elevator is not normally installed in a building such as this. They are typically only used in buildings where there are long corridors. It is not required by the national building code. Mr. Coursey submitted a letter to the Commission that summarizes what he presented.

Mr. Kevin Daley, Project Developer mentioned that a form was submitted of pictures of buildings that are recent three story constructions, and none of them have elevators installed.

Paul Fazzino, Essex Fire Chief said that Signature Contracting Group is not required to install elevators. The fire department has no objections to what they are building. They are code compliant. The fire department had previously requested that elevators be installed, but it is not required.

MOTION made by Alvin Wolfgram, Vice-chairman to continue on to the original first applicant on the agenda, and finish up with Signature Contracting Group as number 4 on the agenda. Bill Reichenbach seconded the motion. All in favor, **Motion carried, 5-0.**

Application 16-4 – Essex Zoning Commission – An application to amend section 20 of the zoning regulations to change the definition of a rear lot.

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

Joe Budrow is working on a final write-up for this project that will explain the current situation. He asked the Commission to extend the application until the next meeting on September 19, 2016.

MOTION made by Alvin Wolfgram, Vice-chairman to extend the public hearing to September 19, 2016. Bill Reichenbach seconded the motion. All in favor, **Motion carried, 5-0.**

Application 16-8 – Planning Commission – An application for a text amendment to Section 45 (ACCESSORY APARTMENTS). Replacing existing section with new section. (Public hearing to be held at the discretion of the Commission).

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

Alan Kerr, Chairman of the Planning Commission spoke. He thinks that accessory apartments are a great opportunity for increasing affordable housing in town and feels that the existing regulations are confusing, complicated and unnecessarily difficult; therefore their Commission wants a more stream lined approach. He mentioned that a Narrative Justification for Amendment was previously submitted to the Zoning Commission, and zoning health and building requirements remain in the regulations. They just want to make the process more expedited so it is easier for applicants to approve an accessory apartment application.

John Guskowski, Town Consultant and staff to the Planning Commission spoke next. He assured that these additional apartments will not be allowed where there are inadequate surroundings and will not compromise the primary structure or appearance of the neighborhood.

Mr. Budrow has some concerns when reading the proposals and comparing their section 45 of the regulations to the Zoning Commissions section 45.

The new regulation would require a two bedroom maximum, with one unit per building.

Current regulations require that the property owner live in either the principal or the accessory dwelling. If the town allows an accessory apartment in a commercial building, Mr. Budrow is wondering how it will get regulated if it's rented out and the property owner does not live there. Mr. Budrow mentioned that commercial buildings are mixed use, residential is not mixed use. We currently allow two accessory apartments within a commercial district.

Al Wolfgram, Vice-chairman spoke about how this issue was reviewed with the Sub-Committee and felt that both conditions could be combined to revise. He would like a site plan with maybe an abutting notification from a neighbor.

Mr. Shipman, Chairman would like a workshop to be held between the Zoning Commission Sub-Committee and the Planning Commission to discuss.

Town resident Joy Kmetz had concerns with accessory apartments being located in an industrial zone.

Town resident Jackie Wolfe asked a question about how many industrial parks are in Essex and where they are located. She asked for clarification on what the Planning Commission is hoping to do with their revisions.

MOTION made by Alvin Wolfgram, Vice-chairman to extend the Public Hearing to the next meeting on September 19, 2016. Susan Uihlein seconded the motion. All in favor, **Motion carried, 5-0.**

Application 16-9 – Mark Bombaci, Bokum Road. An application for a special exception to locate 4 duplexes as an Active Adult Community development on a lot known as Assessor's Map 77, Lot 2.

James Moran, Architect asked to go after the next application because Joe Wren, Principle Architect had not arrived to the meeting yet.

MOTION made by Alvin Wolfgram, Vice-chairman to amend the agenda and move Application 16-10 ahead of Application 16-9. Bill Reichenbach seconded the motion. All in favor, **Motion carried, 5-0.**

Application 16-10 – Signature Contracting Group, LLC – 21, 27 and 29 Plains Road.
A resubmission of Application No. 15-14 to discuss certain conditions approved by the Zoning Commission.

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

Attorney Tim Hollister from Shipman and Goodwin spoke about the application resubmission and the Conditions of Approval that the Zoning Commission put in place. Out of the 10 conditions that were given, numbers 1, 2, 3, 4, 8 and 9 were accepted. The other 4 need to be discussed.

Attorney Hollister handed out a Supplemental Material packet to the Commission.

Brandon Handfield from Yantic River Consultants presented regarding condition number 5, installation of a 6 foot high perimeter fence. The developer would like to compromise by using a 4 foot high fence, with part of it being chain link instead of picket. Existing vegetation will remain in order to create a barrier. Evergreen trees will also be placed to create a barrier in addition to the fence. The fence will be black vinyl coded, therefore drawing attention to the vegetation rather than the fence.

A representative from Essex Savings Bank (located next door to the property) stated that the bank has no position on this fence.

Mr. Handfield submitted 4 photos of the property lines.

Mr. Hollister opened up the condition concerning striping and bike lanes on Route 154.

Engineer Joe Balskus from CDM Smith presented. He is working with the DOT to provide a wider shoulder for a bike lane (that the town will be required to maintain).

The DOT was already in the process of redoing the road, so they were going to restripe from a 12 foot road to an 11 foot road to create a 5 foot bike lane rather than a 4 foot bike line. However, when the DOT did the re-striping they did not follow through with this and kept the measurements the same as before.

Mr. Balskus does not yet know if the DOT will repave to create an 11 foot road and 5 foot bike lane.

The Commission asked Mr. Balskus a few questions.

Attorney Hollister is asking for condition 6 to be revised to state that the applicant is working with the town and the DOT on this issue.

For condition number 10; Signature Contracting Group addressed the original plan to have a 46 foot high building.

Developer Kevin Daly spoke about the height of the buildings being presented now. One is 35 feet high with a flat roof, the second is 40 feet high with a pitched roof and the third building is 42 feet high with a roof that is pitched with a flat spot.

Attorney Hollister asked for condition number 7 regarding elevators be deleted.

Bill Reichenback read a submission from Attorney John Bennet who represents Northbound Nine, LLC, a direct abutter to the property. They believe that the Commission needs to stand by their original judgment in regards to the conditions that were put in place.

The public made comments and asked questions:

Dan McCurdy spoke in opposition to the project. He believes that the Zoning Commission needs to be unyielding with its original 10 conditions and the applicant needs to move forward by accepting those original conditions.

Jackie Wolfe has concerns about traffic and speeding in the area, therefore she is in opposition of the project.

Joy Kmetz asked a few questions for clarification regarding the 10 conditions. Mr. Handfield addressed her concerns.

Jerry McMillan made a comment about the fence and how important it is that it is effective. She encouraged that the Zoning Commission be vigorous in defending their safety regulations.

Arthur Ferguson asked a question about roof heights and variances.

First Selectman Norman Needleman clarified to the Commission that he was not contacted by the DOT regarding the road width, as Mr. Balskus had previously made reference to. He made a comment about Essex Place, which is a new development in town. He overheard the building official say that they were having some building issues arise because of height requirements.

Mr. Wolfgram asked Mr. Needleman if he could request from DOT to put in cross road striping at Cross Road.

Harvey Hoberman made comments about evidence versus people's opinions.

Barbara Fortuna thinks that having elevators on site is very necessary.

Joe Shea, building contractor and town resident spoke about the 35 foot building height restriction. He feels that this restriction should in no way limit the structure of the building. He also mentioned that the current design of Essex Place is an issue, but not because of the building height.

Mr. Budrow submitted a written statement from resident Dan McCurdy, two petitions, and pictures of the fence that Mr. McCurdy has on his property.

The commission made comments and asked questions:

Mr. Wolfgram asked if it is feasible to redo the floor plan to include elevators. Mr. Coursey said that the floor plan would have to be re-designed, but yes it is possible to do.

Ms. Uihlein had a question about the phrasing on condition 8. She feels that the applicant is not addressing the whole issue. Mr. Reichenbach had a couple suggested word changes as well.

Mr. Reichenbach feels that an elevator would be desirable to the tenants and wonders if the value of the complex is less desirable by having no elevators. Mr. Daley stated that it is standard in the industry for a building that is 3 stories with 2 flights of stairs to not have an elevator.

Mr. Wolfgram wants staff to look at the previous definition of building height (before it was changed a couple years ago) and he would like to use that to deliberate.

Joe Shea, building contractor and town resident believes that the property needs to be raised up about 4 feet to accommodate for the septic system. He wondered if the building height would be increased even more because of this. Mr. Wolfgram said yes, according to their current definitions.

Jeff Lovelace asked what recreational activities would be available on the property for children.

Mr. Hollister asked to leave the hearing open until the DOT issue is resolved and there is more discussion about the building height.

Ms. Uihlein made a comment that all on the commission, except for Mr. Reichenbach, felt strongly about the conditions when they were written and will find it hard to revise them now.

MOTION made by Alvin Wolfgram, Vice-chairman to extend the Public Hearing to the next meeting on September 19, 2016. Susan Uihlein seconded the motion. All in favor, **Motion carried, 5-0.**

Application 16-9 – Mark Bombaci, Bokum Road. An application for a special exception to locate 4 duplexes as an Active Adult Community development on a lot known as Assessor's Map 77, Lot 2.

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

Architect Joe Wren opened by introducing Engineer Shane Moran. Mr. Moran gave an overview of the project plans.

The applicant is proposing 4 buildings, 8 restricted units.

Mr. Wolfgram asked a question about the lot and if wetland requirements were being met. Attorney Campbell Hudson clarified this, but Mr. Wolfgram would like more clarification.

Craig Laliberte, Architect and Essex resident presented the building plans. He also clarified that this property, known as Bokum One LLC is owned by the three Bombaci brothers. The property to the south is owned by the same people, but not under the LLC.

Mr. Budrow mentioned that the town Health Department is waiting for the applicant to send in a submission on revised plans for additional review before the septic design can be approved.

Resident Jennifer Rannestad asked a question about vegetation. Wayne Bombaci addressed her question.

Mr. Lovelace asked a question as to why the A-A units do not have the same dormer off the back as the B-C units. Mr. Laliberte explained that the buildings are of a different design and it is not necessary.

Mr. Budrow asked a question of Mr. Wolfgram about a site line easement. Mr. Wolfgram clarified.

MOTION made by Alvin Wolfgram, Vice-chairman to extend the Public to the next meeting on September 19, 2016. Bill Reichenbach seconded the motion. All in favor, **Motion carried, 5-0.**

REGULAR MEETING

1. **CALL TO ORDER:** Larry Shipman, Chairman called the regular meeting to order at 10:26 PM. Seated for the public hearing were Regular Members Larry Shipman, Alvin Wolfgram, Bill Reichenbach and Jim Hill. Alternate member Jeffrey Lovelace sat in for Susan Uihlein.

2. **APPROVAL OF AGENDA**

MOTION made by Alvin Wolfgram, Vice-chairman to amend the agenda and discuss one item for **Application 16-10** – **Signature Contracting Group** first. Bill Reichenbach seconded the motion. All in favor, **Motion carried, 5-0.**

MOTION made by Alvin Wolfgram, Vice-Chairman to amend the agenda and move **Application 16-10** – **Signature Contracting Group** ahead of **Application 16-9** – **Mark Bombaci**. Bill Reichenbach seconded the motion. All in favor, **Motion carried, 5-0.**

3. **NEW BUSINESS**

Application 16-4 – **Essex Zoning Commission** - Extended until the next hearing on September 19, 2016.

Application 16-8 – **Planning Commission** - Extended until the next hearing on September 19, 2016.

Application 16-9 – **Mark Bombaci** - Extended until the next hearing on September 19, 2016.

Application 16-10 – **Signature Contracting Group, LLC** - Extended until the next hearing on September 19, 2016.

Application 16-11 – **Jonathan and Margaret Morris**- An application for a Coastal area Management Site Plan Review for a new single family home with a swimming pool and patio.

Architect Joe Wren presented. They are waiting to hear back from DEEP with some comments, therefore they would like to extend the hearing at this time.

4. OLD BUSINESS

Mr. Budrow received an email from the Cumberland Farms Attorney mentioning that they need to make a slight architectural change. Mr. Budrow is waiting to hear more.

Ms. Uihlein asked about an antique business in town. Mr. Budrow is planning on a meeting on site this week to discuss their sales year, with the Property Manager present.

MOTION made by Alvin Wolfgram, Vice-chairman to give an antique store in town two weeks to fix hours of operation and signage in accordance with being located in an industrial zone, or they will be issued a cease and desist order. Susan Uihlein seconded the motion. All in favor, **Motion carried, 5-0.**

5. RECEIPT OF NEW APPLICATIONS

None

6. VISITORS AND GUESTS

Gateway Commission was present at the meeting but did not have a chance to speak. The Commission will ask them to return for the October meeting.

7. REPORT FROM LEGAL COUNSEL AND ZONING ENFORCEMENT AGENT

Attorney Sipples has written a Memorandum of Decision for Application 16-7 – Michael and Angela Halperin. Mr. Wolfgram found a revision to be made.

MOTION made by Alvin Wolfgram, Vice-chairman to modify the Memorandum of Decision. Susan Uihlein seconded the motion. All in favor, **Motion carried, 5-0.**

Mr. Budrow is working with the state regarding signage.

Mr. Budrow asked a question about a retail store moving to a new location in town which is still in a retail zone, but they would like to add food sales as 20% of the floor space. Mr. Wolfgram asked about parking. If there is an increase in parking at this new location, then the business will have to come before the Zoning Commission for possible approval.

8. OTHER BUSINESS

Mr. Wolfgram is working with the sub-committee to update the zoning regulations. He is requesting that a workshop be held with the Planning Commission before the sub-committee takes on the task of incorporating the Planning Commission's ideas with their own.

9. APPROVAL OF MINUTES

MOTION made by Alvin Wolfgram, Vice-chairman to approve the minutes of the July 18, 2016 meeting. Bill Reichenbach seconded the motion. All in favor, **Motion carried, 5-0.**

10. CORRESPONDENCE AND PAYMENT OF BILLS

A bill was presented for Attorney Sipples. **MOTION** made by Alvin Wolfgram, Vice-chairman to approve, Bill Reichenbach seconded the motion. All in favor, **Motion carried, 5-0.**

11. ADJOURNMENT

The next scheduled meeting is September 19, 2016.

MOTION made by Alvin Wolfgram, Vice-chairman to adjourn the meeting at 10:46 PM. Bill Reichenbach seconded the motion. All in favor, **Motion carried, 5-0.**

Shannon DeLorso,
Zoning Board Clerk