

# TOWN OF ESSEX ZONING COMMISSION

29 WEST AVENUE – ESSEX, CT 06426

SPECIAL MEETING MINUTES – October 3, 2016

## PUBLIC HEARINGS

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

Absent: Susan Uihlein, Regular Member  
Joe Budrow, Zoning Enforcement Official

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Also present: Peter Sipples, Commission Legal Counsel

**CALL TO ORDER:** Larry Shipman, Chairman called the Public Hearing to order at 7:04 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.

**Application 16-9 – Mark Bombaci, Bokum Road (Cobblestone Court)** – 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.

Two items were submitted to the Zoning Commission which Mr. Reichenbach read into the record:

A letter from Bob Doane at Doane Engineering with comments and suggestions regarding drainage on the property.

A letter from Lisa Fasulo, town Health Director, stating that compliance has not been met and she cannot offer a letter of support for the applicant at this time.

Mr. Shipman, Chairman asked Joe Wren from Indigo Land Design to address the regulation issue they were having in regards to the property needing to be ten acres.

Mr. Wren said that they had just received comments from the Health Department the day before therefore they did not have time to try to further address the issues with her. Ms. Fasulo has concerns

with buildings 7 and 8, being that they have a septic system in front of the units (all the other units have septic systems behind the units). She would like more testing to be done. Mr. Wren then went on to further explain their drainage plans.

Mr. Wren talked about the contradicting regulations for minimum size lot area versus minimum size parcel of land, stating that they have different values and the two regulations should be revised.

Attorney Campbell Hudson from Hudson and Kilby, LLC spoke on behalf of the applicant. He submitted the following:

A letter from Wayne Bombaci, a principal of the project.

Extra copies of a letter from Attorney Hudson dated September 15, which was previously read into the record at the last meeting on September 19th.

An application and zoning permit that were issued when the lot was divided to make a separate lot. (There was a zoning permit issued on March 3rd and a letter from Mr. Budrow confirming this approval on March 8<sup>th</sup>).

Mr. Hudson also discussed the minimum lot area and minimum size parcel of land and said that these two regulations cannot be construed to be the same thing.

Mr. Hudson mentioned that Mr. Budrow has already approved the lot. Therefore, it must comply with the questionable regulation because otherwise it wouldn't have ever been considered a lot.

The zoning permit shows that the original requirement for a lot area has already been approved and signed off on with the permit that was previously submitted in March.

The applicant is applying for a specific use with particular standards, then on top of being an approved lot, it has to have a minimum size parcel of land at a minimum of ten acres.

Mr. Hudson has researched other cases of a similar nature, and has come up with the conclusion that if there are two possible interpretations, the less restrictive one is the one that should apply. Therefore, the wetlands limitation does not apply to this specific use.

Mr. Wolfgram, Vice-chairman asked a question about the lot division.

Attorney Sipples raised concerns about the lot area and what he thinks about the contradicting zoning regulations. He asked Attorney Hudson and Mr. Wren a few questions pertaining to this matter.

Mr. Wren made it clear to the Commission that they are not creating a new lot; it's always been a separate parcel of land. The property lines were just changed in order to meet the regulation of a ten acre lot minimum.

Mr. Wolfgram questioned why the applicant did not come before the Zoning Commission prior to changing the property lines. He also asked a question pertaining to the ten acre regulation.

Mr. Lovelace asked Attorney Hudson a question about the ten acre minimum and how much upland would be necessary with the wetlands.

Mr. Shipman, Chairman asked Attorney Sipples if he saw any ambiguity in the regulations. Mr. Sipples said the case is not clear. It should be up to the applicant to keep up with the regulations and abide by them, and it's up to the Zoning Commission to make the ultimate decision.

Mr. Wolfgram discussed a request for a fourteen day extension while waiting for the Sanitarian to take a look at the revised plan and therefore consider the application to be compliant. Mr. Wolfgram would like Attorney Sipples to review these two regulations and possibly come up with a language change to avoid any future confusion.

Currently the applicant's property has 8.6 acres of upland when they should really have 9 acres based on the interpretation of one of the regulations in question.

Mark Bombaci, property owner signed an agreement to extend the hearing until the next Public Hearing on October 17<sup>th</sup>.

Craig Laliberte, Architect for the project spoke briefly about his revised plans.

**MOTION** made by Alvin Wolfgram to extend this application until the next Public Hearing scheduled for October 17, 2016. Bill Reichenbach seconded the motion. All in favor, **Motion carried, 5-0.**

### **SPECIAL MEETING**

1. **CALL TO ORDER:** Larry Shipman, Chairman called the Special Meeting to order at 7:07 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. **NEW BUSINESS**

**Application 16-9** – Mark Bombaci, Bokum Road (Cobblestone Court) – 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.

**MOTION** made by Alvin Wolfgram to extend this application until the next Public Hearing scheduled for October 17, 2016. Bill Reichenbach seconded the motion. All in favor, **Motion carried, 5-0.**

4. **ADJOURNMENT**

The next scheduled meeting is October 17, 2016.

**MOTION** made by Alvin Wolfgram, Vice-chairman to adjourn the meeting at 8:07 PM. Jeffrey Lovelace seconded the motion. All in favor, **Motion carried, 5-0.**

Shannon DeLorso,  
Zoning Board Clerk