

# TOWN OF ESSEX ZONING COMMISSION

29 WEST AVENUE – ESSEX, CT 06426

## REGULAR MEETING MINUTES – February 27, 2017

### PUBLIC HEARINGS

Present: Alvin Wolfgram, Chairman  
Bill Reichenbach, Secretary  
Jim Hill, Regular Member  
Alternate Member Russ Smith (sitting in for Larry Shipman)  
Alternate Member Adrienne Forrest (sitting in for Susan Uihlein)

Absent: Larry Shipman, Vice-chairman  
Susan Uihlein, Regular Member  
Jeffrey Lovelace, Alternate Member  
Peter Sipples, Commission Legal Counsel

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Also present: Joe Budrow, Zoning Enforcement Official

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

**Application 16-8(A) – Planning Commission** – A Petition for a text amendment to the zoning regulations Section 45 (ACCESSORY APARTMENTS). Replacing existing section with new section.

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

**MOTION** made by Bill Reichenbach to continue this application to the next scheduled meeting on March 20, 2017. Jim Hill seconded the motion. All in favor, **Motion carried, 5-0.**

**MOTION** made by Bill Reichenbach to amend the agenda by moving Application 17-2 in front of Application 16-14. Jim Hill seconded the motion. All in favor, **Motion carried, 5-0.**

**Application 17-2 – River Properties, Inc., 37 Pratt Street** – A Petition for text amendment to the zoning regulations Section 71 to allow pre-existing residences as an accessory use in the Waterfront District.

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

This application was scheduled to be discussed at the February Planning Commission meeting, but due to bad weather, the meeting was cancelled. Therefore, the Zoning Commission will wait to discuss this application until after the March Planning Commission meeting.

**MOTION** made by Bill Reichenbach to continue this application until the next meeting on March 20, 2017. Adrienne Forrest seconded the motion. **All in favor, Motion carried, 5-0.**

**Application 16-14** – **Essex Boat Works, LLC, 9 Ferry Street** – A Petition for a text amendment to the zoning regulations Sections 20 and 71 adding restaurants as an accessory use within the Waterfront District.

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

**Application 17-3 was also opened with Application 16-14.**

**Application 17-3** – **Essex Boat Works, LLC, 9 Ferry Street** – A petition for a text amendment to Section 71 to change the allowed building height to 35 feet.

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

Mr. Reichenbach read the Notice of Public Hearing aloud for Application 17-3.

Mr. Budrow read the following items in the record for Application 16-4:

- Letter from Gateway Commission stated that the restaurant would not take away from their mission of keeping the area attractive.
- Letter from Mark Benedict, town resident
- Letter from Donna Dean, town resident
- Letter from John Lewis, area business owner
- Letter from Peter Spielman, works in the area

All of the above were in favor of the project with the consensus that the village presently needs more business.

The Planning Commission verbally communicated to Mr. Budrow that they were in favor of this application.

Mr. Budrow read the following items in the record for Application 17-3:

- Letter from State of Connecticut, finding the amendment pursuant to the applicable statute and consistent of the goals of the statutes.
- Letter from Gateway Commission stating that they were in favor of the application.
- Letter from Economic Development Commission stating that they were in favor of the application.

Attorney Chris Smith from Shipman and Goodwin presented for Application 16-4. He submitted a packet of materials to the Commission to assist in his presentation, and he reviewed each exhibit demonstrating why the text amendment should be done.

Attorney Smith then submitted a packet of materials to the Commission for Application 17-3 and reviewed each exhibit. He explained why an amendment should be made to change the maximum building height allowed to 35 feet.

Proposed Statement of Use was read aloud by Attorney Smith.

The Essex Planning and Conservation Development Commission and The Land and Water Resources Planning Division (CCT Department of Energy and Environmental Protection) are also in favor of this application.

Mr. Wolfgram asked a question about 71A.1 in the Petition.

Mr. Reichenbach asked Attorney Smith a question regarding why the clients want these changes made. The clients and Mr. Smith explained that it's a marina and boat yard first and they will keep the same primary use with a restaurant use associated with it on one of the two floors.

Mr. Wolfgram asked Attorney Smith why we wouldn't want to apply this amendment to existing restaurants with other accessory principal units if the regulation is meant to apply to the whole district. Attorney Terry Lomme has put in a request to not apply this amendment to other Waterfront restaurants in the area.

Mr. Wolfgram stated that Application 16-14 has to be closed tonight, and Application 17-3 has to be extended due to the Planning Commission's last meeting getting cancelled, therefore not being able to discuss this application yet. Mr. Wolfgram asked if Attorney Smith and his client would be willing to postpone Application 16-14 as well. Attorney Smith does not think it's necessary to postpone moving this application along. Mr. Budrow agreed with Mr. Smith, mentioning that John Guskowski from the Planning Commission had previously told Mr. Budrow that this application does not need to be held up because of Application 17-3 being postponed.

Mr. Reichenbach asked Attorney Smith a couple general questions.

Mr. Wolfgram asked Mr. Budrow why the regulation was previously changed from 35 feet to 30 feet. Mr. Budrow is not sure why but is planning on looking into it further. He clarified that this

regulation applies to the entire Gateway district, and this amendment would only apply to the Waterfront district within the Gateway district.

The public then asked questions of fact:

Greg Ellis, town resident in the Waterfront district asked a question about the zoning definitions and if take-out is included in the restaurant definition. He also asked a question about parking which Mr. Wolfgram answered for him.

Nicholas Xenelis, 32 Pratt Street, asked a question about the definition of accessory and restaurant in this circumstance. Mr. Budrow clarified for him.

Mr. Budrow mentioned that one principal use is allowed on a lot. The restaurant must be an accessory use, not a primary use.

Mr. Reichenbach read the definition of “accessory use” in the zoning regulations.

Louis Ely, town resident asked two questions to the Commission.

The following people spoke in favor of this application:

- Jackie Wolfe, resident
- Amy Cameron, Essex resident, business owner and President of the Board of Trade
- Paul Gill, town resident
- Sarah Wadle, Ivoryton resident
- Peter Amos, co-owner of Essex Yacht Sales
- Colt Taylor, owner and chef of The Essex Restaurant
- Greg Ellis, resident
- Phil Reed, resident
- Laura Walker, resident

The session was then made open to the public for those in objection of this application:

- Elizabeth Van Wazer, 34 Pratt Street is not against having a restaurant, but is against the increased height of the building. She is afraid that the increased height will obstruct views.
- Nick Xenelis of 32 Pratt Street asks that the Commission holds off on the 35 foot building height amendment until more research is done on the height of other area buildings.
- Louis Eely is concerned that the height increase will cause a blockage of views.

Attorney Smith stated that the existing red building on the clients property is 35 feet and because of the FEMA lines in the Waterfront district, the requirement needs to come up a bit.

Jackie Wolfe, town resident stated that she does not feel that there is a big difference between 30 feet and 35 feet.

**MOTION** made by Russ Smith to close Application 16-14. Bill Reichenbach seconded the motion. All in favor, **Motion carried, 5-0.**

**MOTION** made by Russ Smith to close Application 17-3 with the understanding that it meets the conditions of Attorney Sipples letter dated March 17, 2008. Bill Reichenbach seconded the motion. All in favor, **Motion carried, 5-0.**

**Application 17-4 – Teresa Patrick-Connell, 124 Westbrook Road** – An application for Special Exception to approve a food service retail shop with seats to locate in a commercial space at 124 Westbrook Road.

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

Bill Reichenbach read the Public Notice.

Mr. Budrow entered one item into the record from Lisa Fasulo, Essex Health Department. Ms. Fasulo generally supports the proposed plan if having prepackaged food. No food to be made on site. She therefore feels that the septic system will be suitable, but the applicant needs to get a zoning permit once she addresses three items:

- Itemized list documenting the sources of prepackaged chocolates.
- Submission of an annual food service registration form.
- Need to schedule a pre-operation inspection from the Health Department.

Applicant may have up to 24 seats, and there is more than enough parking spaces available.

The Commission asked the applicant a few questions.

The following people spoke in favor of this application:

- Diana Gregory, town resident and business owner
- Colt Taylor, owner and chef of The Essex Restaurant
- Susan Alan, Economic Planning Commission
- Sarah Wadle, town resident

**MOTION** made by Bill Reichenbach to close this application. Jim Hill seconded the motion. All in favor, **Motion carried, 5-0.**

## **REGULAR MEETING**

### **1. CALL TO ORDER**

Alvin Wolfgram, Chairman called the Regular Meeting to order at 8:33 PM. Seated for the public hearing were Regular Members Alvin Wolfgram, Bill Reichenbach, and Jim Hill. Alternate Member Russ Smith sat in for Larry Shipman and Alternate Member Adrienne Forrest sat in for Susan Uihlein.

## 2. APPROVAL OF AGENDA

**MOTION** made by Adrienne Forrest to approve the agenda of the February 27, 2017 meeting. Jim Hill seconded the motion. All in favor, **Motion carried, 5-0.**

## 3. NEW BUSINESS

**Application 16-8A** – **Planning Commission** – Continued to next meeting.

**Application 16-14** – **Essex Boat Works, LLC, 9 Ferry Street** – A Petition for a text amendment to the zoning regulations Sections 20 and 71 adding restaurants as an accessory use within the Waterfront District.

**MOTION** made by Alvin Wolfgram, Chairman to approve this application with the change of the accessory use only being accessory to the special principal uses in zoning regulations Section 71 A.2. The conditions of approval must be met in sections 1 through 5 of Attorney Peter Sipples letter dated March 17, 2008. Adrienne Forrest seconded the motion. All in favor, **Motion carried, 5-0.**

**Application 17-3** – **Essex Boat Works, LLC, 9 Ferry Street** – A petition for a text amendment to Section 71 to change the allowed building height to 35 feet.

**MOTION** made by Russ Smith to approve this application with the understanding that it meets the conditions of Attorney Sipples letter dated March 17, 2008. Bill Reichenbach seconded the motion. All in favor, **Motion carried, 5-0.**

**Application 17-1** – **CRR Main, LLC, 30 Main Street, Centerbrook** – An application for Site Plan Review to amend a previously-approved special exception to eliminate a condition that restricts the second floor to storage and an office.

The owner, Colt Taylor spoke about wanting to reduce the seating from 130 to 103 and utilize the 3,250 square feet of space upstairs. 1200 square feet of the space would be for a tenant, such as a financial advisor. The remaining space would be used as restaurant storage. There is a sufficient number of parking spaces available.

The zoning regulations list a previous condition that states that the second floor can only be used for storage, therefore an amendment is needed.

The Zoning Commission applied two conditions:

- Seating will be reduced from 130 to 103 seats.
- Maximum allowance of office space is 1,200 square feet.

**MOTION** made by Alvin Wolfgram, Chairman to approve this application with two conditions. Jim Hill seconded the motion. All in favor, **Motion carried, 5-0.**

**Application 17-4** – **Teresa Patrick-Connell, 124 Westbrook Road** – An application for Special Exception to approve a food service retail shop with seats to locate in a commercial space at 124 Westbrook Road.

Three conditions were applied:

- Layout is as shown in the two drawings submitted with the application, showing 24 seats.
- The retail shop is consistent with the letter from the town Sanitarian dated February 27, 2017.
- The retail shop is consistent with sections 120 and 130 of the zoning regulations.

**MOTION** made by Alvin Wolfgram, Chairman to approve this application with three conditions. Adrienne Forrest seconded the motion. All in favor, **Motion carried, 5-0.**

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

**MOTION** made by Alvin Wolfgram, Chairman to appoint Russ Smith as liaison for the Economic Development Commission of Essex. Adrienne Forrest seconded the motion. All in favor, **Motion carried, 5-0.**

Mr. Budrow has a zoning application for Essex Station presently on his desk and should be approved within a couple days once all paperwork is submitted.

Mr. Budrow has a Cumberland Farms application on his desk. The town Health Department still needs to approve the septic system. The engineering company is working on the three conditions that the Zoning Commission had listed on the last Memorandum.

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

**Application 17-5 – David Perelli** – A petition for Text Amendment to add new language for minor and major home businesses to sections 20, 60 and 61.

Mr. Perelli is looking to buy a home in town and bring a business to his home. The language currently maximizes a home to be 30% of a home business. The applicant is asking for this to be changed to 75%. Mr. Budrow may add another section under major as a Special Exception where 75% of a floor area can be mixed with residential and commercial in the village.

Mr. Wolfgram mentioned that this text amendment will have to be presented to the Planning Commission and the Gateway Commission.

**MOTION** made by Alvin Wolfgram, Chairman to accept this application and put on the agenda for the next meeting on March 20, 2017, with one condition that the applicant meets with the Planning Commission and Gateway Commission before then. Motion is subject to the Planning Commission and Gateway Commission contacting Mr. Budrow before the next Zoning meeting. Russ Smith seconded the motion. All in favor, **Motion carried, 5-0.**

**Application 17-6 – Michael Belanger** – A special exception for an inland marine and RV facility dealing with the storage of boats, boat trailers and RV's.

Applicant is planning on merging his two rear lots.

Applicant has previously submitted a Statement of Use and is requesting to be granted waivers:

- The applicant would like a waiver to the soil access and the soil classifications (since septic does not apply in this case).
- The applicant has a building in the business district with 15 foot set-backs, but he wants to be in the industrial district, therefore allowing a 25 foot set-back. He was granted a variance by the Zoning Commission, therefore he will have a storage building to do some work inside, but no approval of a septic system.
- Parking calculations and spaces is not a criteria for a marine but Mr. Budrow asked the applicant to also include this as a waiver.
- Maps, drawings and certifications were drawn by the applicant, and therefore were not officially stamped. Because of that, Mr. Budrow suggested that the applicant ask for a waiver.

Mr. Wolfgram stated to Mr. Budrow that he would like the applicant to take pictures of the property to show that it is flat. He also wants to see something showing erosion semi-control when doing the construction.

**MOTION** made by Alvin Wolfgram, Chairman to accept the waivers regarding soil for this application (septic is not an issue) and put on the agenda for March 20, 2017. Jim Hill seconded the motion. All in favor, **Motion carried, 5-0.**

**MOTION** made by Alvin Wolfgram, Chairman to accept the special exception for this application and put on the agenda for the next meeting on March 20, 2017. Jim Hill seconded the motion. All in favor, **Motion carried, 5-0.**

## **6. VISITORS AND GUESTS**

None

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

None

## **8. OTHER BUSINESS**

Mr. Budrow mentioned that he would have the appointment list and updated news of past decisions by the next meeting.

## **9. APPROVAL OF MINUTES**

**MOTION** made by Adrienne Forrest to approve the minutes of the January 23, 2017 meeting with no corrections. Jim Hill seconded the motion. All in favor, **Motion carried, 5-0.**

## **10. CORRESPONDENCE AND PAYMENT OF BILLS**



**MOTION** made by Adrienne Forrest to approve a bill from Attorney Sipples in the amount of \$2,612.80, subject to availability of funds. Jim Hill seconded the motion. All in favor, **Motion carried, 5-0.**

**11. ADJOURNMENT**

The next scheduled meeting is March 20, 2017.

**MOTION** made by Jim Hill to adjourn the meeting at 9:26 pm. Bill Reichenbach seconded the motion. All in favor, **Motion carried, 5-0.**

Shannon DeLorso,  
Zoning Board Clerk