

TOWN OF ESSEX ZONING COMMISSION

29 WEST AVENUE – ESSEX, CT 06426

REGULAR MEETING MINUTES – July 17, 2017

PUBLIC HEARINGS

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

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

Also present: David Royston, Commission Legal Counsel

CALL TO ORDER: Alvin Wolfgram, Chairman called the Public Hearing to order at 7:00 PM. The hearing took place in the auditorium at John Winthrop Middle School in Deep River. Seated for the public hearing were Regular Members Alvin Wolfgram, Larry Shipman, Bill Reichenbach and Jim Hill. Alternate Member Adrienne Forrest sat in for Susan Uihlein. Alternate Member Jeffrey Lovelace was also present.

Application 17-7 – Essex Boat Works, LLC, 9 Ferry Street – An application for a Special Exception to construct a new building for a marina along with accessory site work on a lot known as Assessor's Map 47, Lot 21-1, Main Street, Essex.

Application 17-9 – Essex Boat Works, LLC – An application for Special Exception to allow a restaurant as an accessory use at a marina located on a lot known as Assessor's Map 47, Lot 21-1, Main Street, Essex.

Both applications were deliberated on together.

Bill Reichenbach mentioned that he is on the Board of the CT River Museum, but assured the Commission that his involvement will not pose any conflict for this application.

Chairman Wolfgram entered items into the record:

A set of plans received on July 10, 2017
Staff report from Attorney Royston dated July 17, 2017
Letter from Halloran & Sage dated July 17, 2017
Letter from Patricia Thompson, in favor of the application
Letter from Laura Walker, in favor of the application
Letter from Patrick McCauley, in favor of the application

Attorney Royston asked if Mr. Wolfgram had seen the minutes of the Harbor Management Commission. Mr. Wolfgram said that he had not. Attorney Royston advised Mr. Wolfgram on this subject.

Attorney Chris Smith from Shipman & Goodwin presented for the applicant. He introduced the members of their team.

Tom Daly from Milone & MacBroom presented with the minor plan revisions that they have made, mostly based off of comments from Mr. Budrow. A sign in the Main Street driveway was moved back, and they added a three foot wide paver strip to allow for a defined space in the driveway. A Contractor will use temporary sheet piling which will be put in along the property line, and once the septic system is put in, they will take it out. Mr. Daly explained a revision that was made for parking. He had previously gone over the impervious coverage in thorough detail with Mr. Budrow. A row of hedges is being added, and the driveway on the eastern side of the building has been widened. Mr. Daly showed, on screen, the flow of traffic for the restaurant and parking, based on the season.

Chad Floyd, Principal from Centerbrook Architects and town resident presented and read a letter he wrote in favor of this restaurant. He was hoping to show a demonstration on screen with what the interior of the building would look like, but unfortunately the team was unable to open up the presentation on the computer.

Attorney Smith handed out a supplemental packet from Shipman & Goodwin (which he reviewed with the Commission) regarding the Freedom Information Act. He also submitted a copy of a request made to the Harbor Management Commission.

Attorney Smith stated that he found some comments made by Attorney Royston and Attorney Branse related to the Harbor Management Commission to be inappropriate. Attorney Smith explained how The CT River Museum does have a right to ask for a permanent easement on Essex Boat Works property, but Essex Boat Works does not have to grant this access if they don't want to. Attorney Smith does not want this conversation about the easement continued through the zoning process any longer. He suggested that both parties treat this issue as a private matter.

An audience member asked what the actual impervious coverage of the land is. Mr. Daly said it was 64.5%. 65% is required.

Mr. Shipman asked how high the retaining wall in the back of the property is. Mr. Daly said that it is 5 feet high, with all of it located on Essex Boat Works property.

Charles Muller from Centerbrook Architects stated that the mechanical equipment on the roof is

below 35 feet (per regulation).

Mr. Shipman asked Mr. Smith to look at Regulation 120G-1.

Mr. Wolfgram asked Attorney Smith if the violation that was sighted by the Harbor Management Commission was just on the Ferry Street lot, not the Main Street lot. He asked how the review for the Special Exception could be affected by the Harbor Management Commission. Attorney Royston explained.

Attorney Royston mentioned that on the plan, the license, in the extent that it remains in effect, does not create a safety concern within the rights of the license because of the increase in traffic.

A landscape plan showing the impervious surface coverage was submitted.

Attorney Branse asked what the landscape coverage was and said that there is a minimum of 35%. Mr. Daly said there is 35.5% landscape coverage located on the Main Street parcel.

Attorney Branse presented. He explained that they are not trying to ruin the project for Essex Boat Works. They just have concerns in regards to compliance with the regulations. They have safety concerns with delivery trucks coming in and out of the Main Street parking lot. Attorney Branse said they were forced to try to settle at the last meeting when only half the information was told by Rick Carlson, applicant.

Mr. Branse received a letter dated July 17, 2017 from their engineer mentioning that the revised plans show discharge of water onto the museum property. He also read where the Engineer stated that the Main Street entrance should only be for pedestrian and emergency vehicle access only, due to the concern of pedestrians being hit by delivery vehicles entering and exiting the Main Street driveway.

Mr. Branse asked for a correction to be made to the June meeting minutes in which it states that Mr. Robert Osborn spoke as a member of the CT River Museum, however, he is not a Member.

Questions of fact from the audience:

Resident Bob Leary asked if a child tripped down the shared stairs, who would be liable... Essex Boat Works or the CT River Museum? Attorney Smith has advised his clients to obtain insurance for this reason, although they would still have some liability. Attorney Branse agreed that if an accident occurs, the victim will most likely sue whoever they can. As a property owner, you are liable.

Resident Bob Leary asked how many trucks go into the Connecticut River Museum on a daily basis. Executive Director Chris Dobbs said that they have trash pickup every week, delivery of office supplies every other week, and about 8 events throughout the summer such as weddings, etc. They try to minimize truck deliveries to the property when there are groups of children attending the museum.

Margaret Morris asked the Connecticut River Museum how someone in a wheel chair will be able to access that property to the Essex Boat Works property. Mr. Wolfgram

said that this is not part of this discussion.

Audience in favor of this application:

William Stanlonis, Town Resident and member of the CT River Museum
Bill Reed, town resident
Diana Gambini Elwood, town resident
Maureen O'Grady, member of the CT River Museum
Wayne Damico, Ivoryton resident
Peter Linder, town resident
Bill Carlson, town resident
Suzanne Smythe, town resident
John Osbourne, town worker
Phil DePaula, owner of DePaula Jewelers
Tom Wilcox, town resident and Chairman of the Connecticut River Museum
Peter Coombs, town resident, business owner, and also on the Board of the Connecticut River Museum and Elderly Housing

Audience in opposition of this application:

None

Attorney Royston gave a staff report. H said that the applicant will have to make a decision as to whether or not they agree with this plan as presented, being that there is no defined cross easement between the two steam boat dock properties. A decision needs to be made and a plan written out for traffic regulations, which can be put as conditions and attached with a proposal. He asked for the Members of the Commission to use their own experience in making a decision as to whether or not this plan is acceptable, as presented. If the members of the Commission are making a decision based on their own experience, he is asking that that information be disclosed to the applicant in case they have any questions, etc.

Attorney Royston also asked that the Commission decide whether or not they're going to have counsel prepare a draft Motion of Approval and conditions in that draft motion. This draft is simply for ease of approval. It does not determine whether the Commission is going to approve this application or not.

Attorney Royston said that under the law and action of the Harbor Management Commission, you must have four affirmative votes for this application. If not, it would be deemed denied under that statute. If there is no approved alternative motion presented which meets the approval of the Commission, then the decision is final.

If the public hearing is concluded that night, deliberations between the Commission members can be discussed, but if they have asked for counsel to draft a Motion that will mean that the final decision making would have to be continued to the next meeting.

Mr. Reichenbach submitted the following into the record:

Copy of document entitled "Easement", dated April 2005, including a map referenced in

the easement. (Obtained by Mr. Reichenbach from the Town Hall)
Copy of Covenant dated September 1968 entitled "Compilation Plan"

Attorney Smith mentioned that he is aware of these documents.

Mr. Reichenbach asked Attorney Royston a question about the easement. Attorney Royston asked if the actual reported easements were available. If Attorney Smith can confirm that they have the documents and are in agreement with them, then the council will most likely be able to proceed. Attorney Smith will review his full file and get back to the Commission.

Documents were presented to Attorney Royston, which contains a plan that will be reviewed for consistency with the cross easement of covenants associated.

Mr. Wolfgram asked a question whether there was any response from the applicant to restrict truck traffic to Ferry Street. Attorney Smith said that the applicant will not commit to only using Ferry Street entrance or commit to a specific time frame for delivery trucks to use the Main Street Entrance.

Mr. Wolfgram asked if the dumpster could be used from the front yard to the other side of the building.

Mr. Wolfgram asked if they had 33 seats in their seating plan, because he counted a lower number. He asked the applicant to take another look at the plans to make sure that it's accurate with the seating count.

At the request of Attorney Smith, Chairman Wolfgram allowed the applicant to deliberate over a short break. The break began at 9:22 pm and commenced at 9:34 pm.

Attorney Royston would like the hearing to be kept open until the minutes are received from the Harbor Management Commission, while planning to commence at the next zoning meeting on August 21, 2017.

Attorney Smith does not want the Zoning Commission to base their decision just off of the Harbor Management Commission minutes from their meeting.

Attorney Royston addressed his concerns and asked if the client would agree to keeping the record open until the Zoning Commission meets on August 21, 2017, after having discussed the minutes from the latest meeting of the Harbor Management Commission

Attorney Branse asked Attorney Royston for some clarification which he provided.

Attorney Smith asked that there be multiple meetings allowed (Special Meeting, etc.) between now and the next meeting on August 21, 2017, if necessary.

Attorney Smith addressed the following:

The applicant would be willing to commit to a condition that they will make every effort to not schedule deliveries from service trucks using the Main Street entrance after 10:00

a.m. (when the Connecticut River Museum opens).

Unfortunately the dumpster needs to be located in the front of the building because of the lay of the land. If placed in back, the people who are in the front area of the building (kitchen staff, etc.), would have to walk around the building and through the back to access the dumpster. The area will be screened in.

At the Main Street driveway, if approved by the commission, the applicant would be willing to have Mr. Daly and Dave Sullivan, Traffic Engineer, provide a testament stating that this is a safe traffic area with the crossing at the Main Street entrance.

Mr. Daly from Milone and MacBroom gave his professional opinion that the access between the two properties is safe for pedestrians.

Mr. Sullivan next presented. He discussed the pedestrian crossing and explained that it is perfectly safe either mid driveway or in other locations of the driveway. There are different ways of designing it to make it suitable.

Mr. Sullivan referred to a current map of the Main Street area and he feels that this is a safe traffic plan. However the applicant would be willing to work with Public Works for a sign to not allow a left hand turn if necessary.

Attorney Smith asked that if there were a condition, the applicant be able to work with Public Works rather than having everything decided for them.

Mr. Muller explained the seating plans and demonstrated how there would be a maximum of 55 seats which is within the regulations.

Mr. Wren (not present at the hearing) had previously raised a storm water issue, which Mr. Daly addressed.

Mr. Wolfgram asked Mr. Daly to make sure there is a 24 foot two-way aisle that is accessible. Mr. Daly agreed, but he does have a concern with this because of the flood plain restriction set by the Town.

Mr. Lovelace made a statement that many of the parking spaces will be available because with the working boat yard, there will be plenty of empty spaces with many boats being repaired.

Mr. Wolfgram asked a question about the alcohol permit which Attorney Royston addressed.

Questions of fact:

Doug Deveney, worker at shipyard and boatyard gave an advisement to the Commission.

Mr. Branse stated that per Mr. Dobbs, the school groups arrive to the museum at 8:30 a.m., therefore setting the 10:00 a.m. restriction for delivery trucks will not work. Mr. Branse still has concerns regarding trucks taking a left hand turn out of the Main Street driveway.

Attorney Smith commented to Attorney Branse that they would be able to commit to the 10:00 a.m. deadline for deliveries.

Attorney Royston said that the Commission needs to make a determination as to whether or not during the public hearing; the intervener has provided sufficient evidence therefore being able to move forward and extend the application to next month.

Mr. Wolfgram asked Attorney Royston a question for clarification which he addressed.

Attorney Branse agreed with Attorney Royston that the minutes of the Harbor Management Commission should be ignored, except for the number of votes.

Mr. Shipman does not think there's a strong likelihood that the storm water runoff is a big issue.

Attorney Royston is taking into consideration that the Inland Wetland Commission does not find this to be a great concern.

MOTION made by Larry Shipman to deny the intervener application for both applications. Jim Hill seconded the motion. All in favor, **Motion carried, 5-0.**

MOTION made by Larry Shipman to close **Application 17-7** – Essex Boat Works, LLC and keep the record open until the next scheduled hearing on August 21, 2017 for the purpose of determining the votes applicable to the application from the Harbor Management Commission. Bill Reichenbach seconded the motion. All in favor, **Motion carried, 5-0.**

MOTION made by Larry Shipman to close **Application 17-9** – Essex Boat Works, LLC and keep the record open until the next scheduled hearing on August 21, 2017 for the purpose of determining the votes applicable to the application from the Harbor Management Commission. Bill Reichenbach seconded the motion. All in favor, **Motion carried, 5-0.**

REGULAR MEETING

1. **CALL TO ORDER:** Alvin Wolfgram, Chairman called the Public Hearing to order at 7:00 PM. The hearing took place in the auditorium at John Winthrop Middle School in Deep River. Seated for the public hearing were Regular Members Alvin Wolfgram, Larry Shipman, Bill Reichenbach and Jim Hill. Alternate Member Adrienne Forrest sat in for Susan Uihlein. Alternate Member Jeffrey Lovelace was also present.

Mr. Wolfgram would like the Commission members to come up with a draft plan of Condition of Approval if choosing to approve the Essex Boat Works applications.

Attorney Royston made some closing remarks and recommendations to the Commission regarding the Essex Boat Works applications.

2. APPROVAL OF AGENDA

None

3. NEW BUSINESS

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

MOTION made by Larry Shipman to continue this application to the next scheduled hearing on August 21, 2017. Jim Hill seconded the motion. All in favor, **Motion carried, 5-0.**

Application 17-7 – Essex Boat Works, LLC, 9 Ferry Street – An application for a Special Exception to construct a new building for a marina along with accessory site work on a lot known as Assessor's Map 47, Lot 21-1, Main Street, Essex.

MOTION made by Larry Shipman to extend the discussion and possible vote of this application until the next scheduled hearing on August 21, 2017. Jim Hill seconded the motion. All in favor, **Motion carried, 5-0.**

Application 17-9 – Essex Boat Works, LLC, 9 Ferry Street – An application for Special Exception to allow a restaurant as an accessory use at a marina located on a lot known as Assessor's Map 47, Lot 21-1, Main Street, Essex.

MOTION made by Larry Shipman to extend the discussion and possible vote of this application until the next scheduled hearing on August 21, 2017. Jim Hill seconded the motion. All in favor, **Motion carried, 5-0.**

Application 17-8 – Essex Boat Works, LLC, 9 Ferry Street – An application for Coastal Area Management site plan review for vacant property known as Assessor's Map 47, Lot 21-1.

MOTION made by Larry Shipman to extend the discussion and possible vote of this application until the next scheduled hearing on August 21, 2017. Jim Hill seconded the motion. All in favor, **Motion carried, 5-0.**

4. OLD BUSINESS

Mr. Budrow to discuss at the August 21, 2017 meeting.

5. RECEIPT OF NEW APPLICATIONS

MOTION made by Larry Shipman to accept **Calamari Recycling** (no application number assigned yet) and schedule for the next hearing on August 21, 2017. Jim Hill seconded the motion. All in favor, **Motion carried, 5-0.**

MOTION made by Larry Shipman to approve and allow the Chairman to sign the Memorandum of Decision for **Application 17-2 – Text Amendment for Section 71**. Bill Reichenbach seconded the motion. All in favor, **Motion carried, 5-0.**

MOTION made by Larry Shipman to approve and allow the Chairman to sign the Memorandum of Decision for **Application 17-6** – **Special Exception for Michael Belanger, inland marine use**. Bill Reichenbach seconded the motion. All in favor, **Motion carried, 5-0**.

MOTION made by Bill Reichenbach to approve and allow the Chairman to sign the Memorandum of Decision for **Application 17-10** – **Special Exception for Computer Management Services, LLC**. Adrienne Forrest 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

None

9. APPROVAL OF MINUTES

Postponed until August 21, 2017 meeting

10. CORRESPONDENCE AND PAYMENT OF BILLS

None

11. ADJOURNMENT

The next scheduled meeting is August 21, 2017.

MOTION made by Larry Shipman to adjourn the meeting at 10:49 pm. Bill Reichenbach seconded the motion. All in favor, **Motion carried, 5-0**.

Shannon DeLorso,
Zoning Board Clerk