

TOWN OF ESSEX ZONING COMMISSION

29 WEST AVENUE – ESSEX, CT 06426

REGULAR MEETING MINUTES – July 16, 2018

PUBLIC HEARING

Present: Larry Shipman, Chairman
Russ Smith, Vice-Chairman
Bill Reichenbach, Secretary
Jim Hill, Regular Member
Jeffrey Lovelace, Alternate Member
Robert Day, Alternate Member
Thomas Carroll, Alternate Member

Absent: Susan Uihlein, Regular Member
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, Russ Smith, Bill Reichenbach and Jim Hill. Alternate Members Rob Day, Jeffrey Lovelace and Tom Carroll were also in attendance.

Application 17-18 – Essex Zoning Commission – A Petition for a Text Amendment of the Zoning Regulations section 45 adding language to allow residential apartments on the same property as commercial uses.

Seated for this application were Regular Members Larry Shipman, Russ Smith, Bill Reichenbach and Jim Hill. Alternate Member Rob Day was seated for Susan Uihlein. Alternate Members Jeffrey Lovelace and Tom Carroll were also present.

Mr. Reichenbach read a letter into the record from the Planning Commission.

Mr. Shipman thinks that more time should be spent into rewriting this regulation. It was previously modified in November of 2017 and it is his opinion that any changes to this regulation at the present time need to be well thought out.

It was decided amongst the Commission to wait to discuss this application at a time when Mr. Budrow is present.

MOTION made by Russ Smith to continue this application until the next public hearing on August 20, 2018. Robert Day seconded the motion. All in favor, **Motion carried, 5-0.**

Application 18-12 – **Dong Kim, 31 Main Street, Centerbrook** – An application for a Special Exception to locate a dry-cleaning drop-off/pick-up facility at 31 Main Street, Centerbrook.

Mr. Reichenbach read the legal notice into the record.

Seated for the public hearing were Regular Members Larry Shipman, Russ Smith, Bill Reichenbach and Jim Hill. Alternate Member Rob Day was seated for Susan Uihlein. Alternate Members Jeffrey Lovelace and Tom Carroll were also present.

Mr. Reichenbach read a letter from the town sanitarian, in which she gave her approval.

The applicant spoke. He explained that with Deep River Cleaners going out of business, this dry cleaning facility would be good for the community.

Mr. Day asked if the space is currently vacant in the building. The applicant answered yes, it is now vacant.

Mr. Shipman mentioned that Mr. Budrow did a parking count and he has found that there is adequate parking for this facility.

The owner of Ideal Cleaners in Essex stood. He does not find it fair for the applicant to open a dry cleaning business right down the street from his business.

Mr. Kim again expressed that it would be convenient for the public since Deep River Cleaners has closed. He would like to take over some of those customers.

Mr. Lovelace is concerned with the parking situation. He does not feel that there is enough space in the front of the building, and if people park in the back lot then they will have to walk around to the front of the building.

John Weinstein, owner of the building where the dry cleaners is to be located, said that he has never had a problem with parking. If there was ever an issue with finding parking in the front, he could designate a couple parking spots by putting up a sign for dry cleaning drop off/pick up only. The other units all have a second entrance inside their store which allows for easier parking in the back lot.

MOTION made by Russ Smith to close this application. Rob Day seconded the motion. All in favor, **Motion carried, 5-0.**

Application 18-13 – Tom Evans, 26 Main Street, Essex. A Petition for a Change to the Town

zoning map to allow 26 Main Street, Essex, to be entirely within the Essex Village District.

Seated for the public hearing were Regular Members Larry Shipman, Russ Smith, Bill Reichenbach and Jim Hill. Alternate Member Jeffrey Lovelace was seated for Susan Uihlein. Alternate Members Rob Day and Tom Carroll recused themselves.

Mr. Reichenbach read the legal notice into the record.

Mr. Reichenbach read a Memorandum from Alan Kerr, Chairman of the Planning Commission. He finds this proposed map change to be inconsistent with the plan of Conservation and Development (POCD).

Mr. Reichenbach also read a letter from Susan Jacobson, CT Department of Energy Environmental Protection, Land and Water Resources Department (LWRD). She finds the proposed map amendment to be generally consistent.

Attorney Chris Smith from Shipman and Goodwin presented for the applicant. He submitted a packet of materials which assisted with his presentation.

Attorney Chris Smith also said the he has a copy of the green cards and notice letters sent to DPH and CT Water Company assuming that the property may be located over a designated water shed area.

Attorney Smith gave an overview of each exhibit in the packet that he submitted.

Attorney Smith mentioned that the front lots in town are mostly located in the Essex Village District. The rear lots are mostly located in the Village Residential District. Town requirements are strict in the Village District. The applicant would like his property to be entirely located with the Village Residential District. The Village Residential District has a minimum property size of 60,000 square feet, but the applicant's property is 40,000 square feet which makes it non-confirming at the present time.

Attorney Smith requested that the proposal is consistent with the comprehensive plan and with the POCD and will not have an adverse impact toward the public's health and safety.

Tom Evans, applicant stood up. He spoke about why they want to change the zone for this property. The setbacks as of now make it difficult to put a garage and pool on the backside of the property.

Questions were opened up to the audience.

Elizabeth Samek, neighboring property to applicant, wondered why applying for a variance wouldn't be appropriate for this scenario. Attorney Smith answered.

Terry O'Malley, neighboring property to applicant, spoke about having a problem with a person buying a property and then trying to change the zone lines afterward, when they knew ahead of

time what zones the property is in.

No one from the audience spoke in favor of this application.

Charles Atwood, abutting neighbor to applicant, does not want to see any zone lines change. He is concerned about a shed he has located near his property line. If this zoning change is done, the applicant would be able to build right next to his shed.

Mr. Smith thinks that the zone lines should match the property lines and should not run through the property.

Mr. O'Malley suggested not changing zoning lines on a one-by-one basis and instead changing the regulations if necessary.

Mr. Shipman said that typically the Commission would change the property to which zone has the larger property area and/or whichever zone is more restrictive with lots requirements.

Mr. Shipman is concerned with opening up the rear of the property to commercial uses.

Mr. Shipman asked Attorney Smith to explain again why the applicant did not submit for a variance request instead of a zone change. Mr. Smith did not want to explain why on the record. He mentioned that another option that was considered was a text amendment to the Village District. Mr. Smith would rather see a text amendment done so as to be fair to the neighbors.

Mr. Smith asked Attorney Smith why the Planning Commission voted against it. Attorney Smith declined to answer but did say that the statutory charge was to look at whether it was consistent with the plan of Conservation and Development.

Mr. Reichenbach asked Attorney Smith if lot 51 has ever been two separate parcels. Attorney Smith is unsure. Mr. Evans said that it's been this way for over 100 years.

Mr. Reichenbach is not sure that he wants to see commercial activity be extended down to the Middle Cove section of Main Street. Attorney Smith reminded him that the Commission does have control over that through the Zoning Regulations, etc. Mr. Reichenbach is not comfortable with changing the zoning line for this area.

Mr. Smith asked Mr. Evans if he realized that the property was in two zones when he bought the property. Mr. Evans said that yes, he was aware.

Mr. Shipman brought up the possibility of deed restricting the lot. Attorney Smith will look into this option further.

MOTION made by Russ Smith to continue this application until the next public hearing on August 20, 2018. Bill Reichenbach seconded the motion. All in favor, **Motion carried, 5-0.**

Application 18-8 – **Essex Zoning Commission** – A Petition for a Text Amendment to introduce

a new formatted book of regulations with some additions and deletions of the current zoning regulations. Articles III, IV and the proposed Gateway regulation to be discussed.

Seated for this application were Regular Members Larry Shipman, Russ Smith and Jim Hill. Alternate Member Jeffrey Lovelace was seated for Susan Uihlein. Alternate Members Rob Day and Tom Carroll were also in attendance.

The Gateway Commission was present at the meeting. Claire Matthews, the Essex Representative, first spoke and mentioned that they can answer any questions during the hearing as needed. She introduced alternate member, Marianne, Staff Director Torrance Downes, and Vice President Nancy Fischbach.

Attorney Chris Smith from Shipman and Goodwin was there to represent town residents Ken and Judy Bombaci. Their property is in a business zone. There are a number of commercial uses in the area. Permitting business uses with accessory uses has occurred over time. Mr. and Mrs. Bombaci would like to permit accessory uses in the business zone district as well as principle uses in the business zone district. Alvin Wolfgram suggested to Attorney Smith that he write something up to submit to the Commission. Mr. Shipman assured Attorney Smith that any changes to the regulations that have been made thus far by the Zoning Commission are not of any real sustenance at this point.

Mr. Wolfgram went over some recommendations he has for these sections of the regulations.

Ms. Fischbach mentioned that Mr. Downes is there to offer his services if necessary.

Mrs. Fischbach discussed the significant changes that were made to The Gateway Commission's standards.

Mr. Wolfgram gave a brief overview of the changes that have been made to these zoning regulations. The Commission and Norman Needleman (sitting in as Ex-Officio) briefly discussed. It was decided to hold off on any in-depth discussion of these articles until Mr. Budrow can be present at the meeting.

Alphonse Adinolfi, Essex business owner, asked a question to Mr. Needleman regarding instituting retail on Route 153 and Route 154. Mr. Needleman referred to the Heritage Gateway District (where the Witch Hazel property is located), and the spot zoning that is currently part of Route 153 and Route 154. He also clarified what the Heritage Gateway District is and what The Gateway Commission is. The Commission is attempting to change the restrictions in this district to simplify things and would also like to expand the district itself to allow for more of a mixed use. Mr. Needleman thinks that the stretch from Colonial Market to the railroad station should be a mixed use.

MOTION made by Jeffrey Lovelace to continue this application until the next public hearing on August 20, 2018. Russ Smith 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 8:55 PM. Seated for the regular meeting were Regular Members Larry Shipman, Russ Smith, Bill Reichenbach and Jim Hill. Alternate Member Rob Day was seated for Susan Uihlein. Alternate Members Jeffrey Lovelace and Tom Carroll were also seated.

2. **APPROVAL OF THE AGENDA**

MOTION made by Larry Shipman to approve the agenda with one modification. (Application 18-8 was moved down on the agenda). Russ Smith seconded the motion. All in favor, **Motion carried, 5-0.**

3. **RECEIPT OF NEW APPLICATIONS**

No new applications.

4. **NEW BUSINESS**

Application 17-18 – Essex Zoning Commission – A Petition for a Text Amendment of the Zoning Regulations section 45 adding language to allow residential apartments on the same property as commercial uses.

Continued until the next meeting on August 20, 2018.

Application 18-9 – HOPE Partnership, Inc. – An application for a Site Plan review to locate a 17-unit multi-family dwelling development, known as “The Lofts at Spencer’s Corner”, at 90 Main Street, Centerbrook. Application submitted under State Statute 8-30g.

The conditions that were drawn up by Mr. Budrow were reviewed with the applicant and the Commission. Mr. Smith thinks that the use of speed bumps should be taken out of the conditions. Mr. Needleman suggests inserting language in this section such as, “to manage the traffic and parking lot in the safest way as possible”.

MOTION made by Russ Smith to approve this application subject to a new site plan to be submitted, with conditions. Jim Hill seconded the motion. All in favor, **Motion carried, 5-0.**

Conditions of Approval Proposed by the Applicant and/or required by the Commission:

- 1) A new site plan will be submitted to show the following additions:
 - Improvements needed to be made to the septic system.
 - Per zoning regulation section 80B.1, along the property line shared with 28 Westbrook Road (J. Wallace) and with 108 Main Street (Essex Elementary School), the site plan will show a 30-foot wide green belt tip that was established when Spencer's Corner was developed.
 - The plan will show a circular traffic pattern with directional arrows applied to the pavement. Speed bumps shall be installed in most optimal locations. (This section may be revised by Mr. Budrow).
 - The plan shall show any required improvements, signage and crosswalks required to make the external area safe for pedestrians.
 - The plan shall show a reserve parking area as approved by the Zoning Commission (Mr. Budrow to provide a date for this).
- 2) The applicant will submit an amended Affordability Plan.
- 3) Spencer's Corner Condo Association shall improve the pathway between their property and Essex Elementary School to allow for safer pedestrian access to both properties. A sidewalk shall be considered and a crosswalk shall be painted across the parking lot.

Mr. Smith read in the findings provided by Mr. Budrow.

Findings:

- 1) The proposed zone (Commercial District) is not zoned primarily for industrial use and does permit residential uses. Section 80 permits single-family dwellings, two accessory apartments per lot and customary home occupations, etc. but few Industrial uses. Industrial uses are reserved for Industrial Districts found in Section 90 and 91.
- 2) The applicant has provided architectural renderings and a site plan to establish compliance with zoning and the building department. The applicant has done work on the septic disposal system to establish that more can be added to support the proposal and has received a favorable opinion from the Town Sanitarian and will be required to obtain all necessary future permits prior to construction.
- 3) The proposal consists of 17 dwelling units to include a total of 36 bedrooms.
- 4) Section 8-30g(h) permits the Applicant to revise and refile its' application if needed. The Applicant will be required to meet conditions in accordance with the approval of this application.

Application 18-8 – **Essex Zoning Commission** – A Petition for a Text Amendment to introduce a new formatted book of regulations with some additions and deletions of the current zoning regulations. Articles III, IV and the proposed Gateway regulation to be discussed.

Continued until the next meeting on August 20, 2018.

Application 18-12 – Dong Kim, 31 Main Street, Centerbrook – An application for a Special Exception to locate a dry-cleaning drop-off/pick-up facility at 31 Main Street, Centerbrook.

MOTION made by Russ Smith to approve this application, consistent with sections 120 and 130 of the Zoning Regulations. Rob Day seconded the motion. All in favor, **Motion carried, 5-0.**

Application 18-13 – Tom Evans, 26 Main Street, Essex – A Petition for a Change to the Town zoning map to allow 26 Main Street, Essex, to be entirely within the Essex Village District.

Continued until the next public hearing on August 20, 2018.

5. **OLD BUSINESS**

None.

6. **VISITORS AND GUESTS**

None.

7. **REPORT FROM LEGAL COUNSEL AND ZONING ENFORCEMENT OFFICIAL**

None.

8. **OTHER BUSINESS**

None.

9. **APPROVAL OF MINUTES**

MOTION made by Russ Smith to approve the minutes from the June 18, 2018 meeting. Jim Hill seconded the motion. All in favor, **Motion carried, 5-0.**

10. **CORRESPONDENCE AND PAYMENT OF BILLS**

None

11. **ADJOURNMENT**

The next scheduled meeting is August 20, 2018.

MOTION made by Jim Hill to adjourn the Regular Meeting at 9:08 pm. Rob Day seconded the motion. All in favor, **Motion carried, 5-0.**

Shannon DeLorso,
Zoning Board Clerk