



TOWN OF ESSEX PLANNING and ZONING COMMISSION

29 WEST AVENUE – ESSEX, CT 06426
Essex Town Hall

REGULAR MEETING
Tuesday, April 4, 2023 7PM

DRAFT MINUTES

1. Call to Order and Seating of Members

Chairman Russ Smith called the meeting to order at 7:07 p.m. Seated for the meeting were Members Jane Siris, Mark Reeves, Gary Riggio, Robert Day, Peter Fleischer, and Chris Riley. Also in attendance was Alternate David Rosengren, Land Use Official Carey Duques, Town Engineer Bob Doane, Commission Counsel Larry Shipman, Attorney David Royston, and Town Planner John Guskowski.

2. Approval of the Minutes

- March 7, 2023 Regular Meeting

Motion to approve the minutes of March 7, 2023 by Robert Day, seconded by Mark Reeves. Motion carried unanimously.

3. Public Hearings

- **PZC Application 23-01 Text Amendment** under Section 123 of the Essex Zoning Regulations to make editorial changes to the Essex Zoning Regulations pertaining to the Gateway Conservation District and modifications regarding light pollution and associated regulation in the Gateway Conservation District *Applicant: CT River Gateway Commission*

Claire Matthews, the Town's representative to the Gateway Commission, presented the proposed text amendments, which attempted to unify the eight municipal sets of Zoning Regulations, update several administrative details, clarify language and definitions for elements such as Riparian Buffers. There were also new standards proposed relating to lighting that are meant to avoid disruption of bird migration and environmental degradation from light pollution. Several of the communities have already adopted stronger lighting standards. The Gateway Commission has not yet had a public hearing on these changes. Misha Semenov-Leiva, Alternate Gateway Commission member, presented the impetus for several of the details of the changes, particularly focused on light pollution.

Gary Riggio asked a question of clarification about the tributaries to the Connecticut River within the Gateway Zone. Chris Riley and Robert Day asked about enforcement of these regulations. Misha Semenov-Leiva answered that the process was already in place, and the new regulations would just add a new lighting criteria in addition to other design and construction criteria. Ultimate enforcement would fall to Carey Duques as zoning officer. Chris Riley stated that he thought this might be an overreach and would discourage development in Essex. David Rosengren asked whether this would apply to current residents adding lighting, and Misha Semenov-Leiva stated that it would only come to Gateway and the PZC for review if it were new construction.

Carey Duques noted that there were roughly 2-3 such applications per year. Claire Matthews discussed how the Gateway Commission intended to be a partner with each of the Towns involved in the compact. Jane Siris stated that the light pollution standard was a very good one, but enforcement would be a concern. Carey Duques stated that the indefinite standard opened the door for disagreement and interpretation, but it gave the Commission some authority to review proposed designs. Peter Fleischer spoke in favor of what he described as a reasonable standard, and David Rosengren clarified that this standard would be added to the local regulations. Larry Shipman stated that there was already a somewhat less prescriptive lighting standard in the Essex Zoning Regulations, and that section could also be reviewed.

Chairman Smith invited additional input from the Commission and the public. There was no additional testimony. Misha Semenov-Leiva made some closing comments about the value of having lighting regulations that would help raise awareness among property owners.

Motion to close the public hearing by Robert Day, seconded by Mark Reeves. Motion carried unanimously.

- **PZC Application 23-02 Special Exception** under Section 40J of the Essex Zoning Regulations for construction of a new 1000 sq ft single family home with architectural elements that represent a vintage Dutch windmill at **24 Charles Street Centerbrook** *Applicant/Owner: Keith Knickerbocker*

Applicant Keith Knickerbocker presented his plans to build a residential structure at the end of Charles Street that would include an architectural windmill element that exceeded the standard height maximum. The property was relatively secluded and more than 1.8 acres of land. He presented elevation renderings of the proposed structure and discussed that only a small portion (less than 10%) of roof and structural footprint would be over 35' in height. Jane Siris asked about the definition of the top of the roof, which was not a cupola nor spire. Robert Day stated that the windmills were different than the roof structure, which essentially would allow many other roof designs to exceed the maximum height. The roofline as proposed, in his belief, was not a cupola-like appurtenance. Mr. Knickerbocker stated that this design was more appropriate aesthetically. Jane Siris stated that she believed it could be scaled down, or that the applicant should seek relief from the Zoning Board of Appeals. Mr. Knickerbocker believed that this roofline met the regulations. Mark Reeves discussed the structural integrity of the roofline and how the top, as proposed, was not an independent appurtenance. The Commission discussed the definitions of structure heights and architectural features. Chairman Smith believed that this design met the intent of the regulations. Carey Duques discussed the process of getting a variance and the hardship standard. The Commission discussed a potential redesign that would allow for compliance. Chairman Smith opened up the hearing for public comment.

Ward Feirer from 20 Charles Street asked about the height and dimensions of the windmill blades, and Mr. Knickerbocker stated that they would extend diagonally 24' in length, or an additional 15' above the 35' roof. Jane Feirer from 20 Charles Street asked who would be residing in the windmill, and Mr. Knickerbocker stated that he did not believe that it mattered. He stated that he was building a 1,000 square foot, 2-bedroom single family residence. Ms. Feirer stated that there was drainage problems on Charles Street, and was concerned that this project would exacerbate that. Mr. Knickerbocker stated that the project would be properly engineered. He stated that a previous sump-pump problem from another property had been addressed. Russell Rankin of 112 Main Street stated that there were bad soils and drainage problems on the Charles Street hill. He also asked if the property was zoned for commercial use. Carey Duques said that it is zoned residential. Leigh Rankin of 112 Main Street had concerns with the proposed

development. Steve Kilby, 24 Ridge Rd, stated that there would be strangers looking down into the neighboring houses. Lauren Devin 2 View Street voiced concerns about the use of the property relating to short term rentals. Marjorie Russell from 8 Charles Street asked about the zoning, and stated that the current use of the barn appears to be commercial, and had concerns about the non-residential uses. Jill Dowling from 17 Cedar Street stated that this was not appropriate for a residential area with many schoolchildren on the streets of the neighborhood. Larry Shipman stated the application was for a residential structure, not for a short term rental, which are not currently allowed. If that was the use, that is an enforcement matter. This application was simply for the structure. Robert Day asked whether the barn is on the same lot as the proposed house. The Commission discussed the barn relative to the proposed house. The barn would become an accessory structure to the new primary residence.

Steven Kilby asked about the number of lots that could be accessed off the same driveway without becoming a roadway. Carey Duques stated that multiple properties could share a driveway per the regulations. Larry Shipman clarified that this review is not for the proposed site plan, but just for the building height question. Carey Duques stated that the building plans needed to be revised to show conformance with the regulations. The Commission discussed the precedent-setting nature of a specific regulatory interpretation of building height. Russell Rankin stated that he did not believe this proposal was appropriate for the neighborhood. Karen Kilby 24 Ridge Rd spoke in opposition to this project, which would abut her backyard. Barbara Korper from 9 Charles Street was in opposition. Mr. Knickerbocker stated that the proposed house would be more than 130' feet from any other residence, as opposed to the current building pattern, which had buildings generally within 40' of each other. Chairman Smith stated that he believed the consensus of the Commission was that the proposed heights were too high and asked the applicant if he would consider redesigning. Attorney Shipman stated that if this application was denied, a re-submission would not have to be entertained within the next five years. Lauren Devin asked about the proposed short-term rental ordinance, and Carey Duques discussed the Selectmen's process. The Commission clarified the difference between the current building height proposal and the unrelated discussion about short-term rentals. Attorney Shipman discussed processes for decision making and Commission action.

Motion to close the public hearing by Mark Reeves, seconded by Jane Siris. Motion carried unanimously.

4. Unfinished Business/Action Items

- **PZC Application 23-01 Text Amendment** under Section 123 of the Essex Zoning Regulations to make editorial changes to the Essex Zoning Regulations pertaining to the Gateway Conservation District and modifications regarding light pollution and associated regulation in the Gateway Conservation District *Applicant: CT River Gateway Commission*

Motion to approve application 23-01 to amend the Zoning Regulations with an effective date of April 14, 2023 by Robert Day, seconded by Peter Fleischer. Motion carried 6-1, with Chris Riley in opposition.

- **PZC Application 23-02 Special Exception** under Section 40J of the Essex Zoning Regulations for construction of a new 1000 sq ft single family home with architectural elements that represent a vintage Dutch windmill at **24 Charles Street Centerbrook** *Applicant/Owner: Keith Knickerbocker*

Motion to deny application 23-02 because the application does not meet the height regulations for either the primary structure or the appurtenant fans and the Commission did not wish to set a precedent for cupolas or spires as appurtenant structures to be over 55' in height and due to concern of the impact the proposed structure would have on the neighbors per Section 120G1 by Mark Reeves, seconded by Jane Siris. Motion carried unanimously.

5. Receipt of New Applications

- **PZC Application 23-03 Modification of Special Exception** originally approved on 10/6/83 for **16 Main Street Centerbrook**- Essex Housing Authority proposal to add an approx. 7' X 42' addition to the existing community room and a 20' X 28' pavilion. *Applicant/Owner: Essex Housing Authority*

Carey Duques stated that this was a minor site plan change to a previously approved facility. Steven June, architect, represented the applicant, and described the proposed changes, which were all within the original approved development footprint. This would add space to a community room and add a small pavilion structure. EHA Chair Jane Atkeson stated that the pavilion would replace an existing gazebo.

Motion to approve application 23-03 as a modification of a previously approved plan by Jane Siris, seconded by Robert Day. Motion carried unanimously.

6. New Business

There was no additional new business.

7. Appointments/Reports from Committees and Officers

- Lower CT River Valley Council of Governments Regional Planning Committee: Carey Duques had no specific report.
- Economic Development Commission: Robert Day had no report.
- Plan of Conservation and Development: John Guskowski stated that he would work with RiverCOG to identify funding for traffic and corridor study and had submitted a grant for sidewalk improvements on Route 604.

8. Staff Reports

- Town Planning Consultant: Town Planner John Guskowski reported on current projects, including progress on the Harbor Management Plan, which was being reviewed by the CT-DEEP; the River Road sidewalk/pedestrian bridge project, which will have a public information meeting on April 12 and then will begin construction in the summer, recently submitted grant applications for the River Road bridge and a new sidewalk on Westbrook Road between Centerbrook and Bokum Rd.
- Land Use Official: Carey Duques stated that the short-term rental discussion would be considered by the Board of Selectmen on April 19th and would include future public meetings. She also reported that she was working with EDC Chair Susan Malan on correspondence with Main Street business owners about keeping sidewalks clear and not parking on-street so visitors had better access to parking.
 - o Essex Glen Update: Carey Duques stated that correspondence from Bob Doane and the Homeowners' Association were received and distributed. Bob

Doane reviewed his letter that detailed the project completeness. He stated that the remaining estimate for public improvements for the subdivision improvements was approximately \$25,800, and the public improvements for the special exception depended on the maintenance of tree-work and how that was interpreted by the Commission. Attorney Royston discussed the remaining work. Mark Reeves led a discussion regarding the nature of the landscaping issues and erosion concerns and stated that he thought there was still too much work to be done to release much of the bond.

Attorney Lomme, on behalf of the Essex Glen developer, stated that he had been waiting for the letter to reduce the bond. The Commission discussed the work yet to be completed relative to the remaining bond amount. Attorney Lomme expressed frustration that the letter finally arrived and the Commission was still unwilling to reduce the bond amount. The Commission discussed the work to be done to repair the grading, drainage, and timelines relative to the money remaining. A representative from the Essex Glen homeowners' association discussed the long-delayed nature of the necessary fixed on the property. Attorney Royston discussed the timelines provided by statute, and recommended the Commission should set a deadline for completion for all work required under the bond, suggesting sometime after the June 2023 meeting to make necessary repairs. Bob Doane agreed with this timeline for stabilizing the area. The Commission discussed the landscape work.

Motion with respect to the Essex Glen subdivision approval and Special Exception approval, both of which are covered by a performance bond, the P&Z hereby sets a deadline of June 15, 2023 for the completion of all work required by those approvals as specified in Bob Doane's letter of March 31, 2023. The Commission requests Essex Glen, LLC to provide a written schedule for the completion of the work specified in Bob Doane's letter. The Commission also invites Ed Hoberman to its meeting of May 2, 2023 to discuss this matter directly, by Peter Fleischer, seconded by Mark Reeves. Motion carried unanimously.

9. Correspondence


There was no additional correspondence.

10. Adjournment

Motion to adjourn by Jane Siris, seconded by Robert Day. Motion carried unanimously.

The meeting adjourned at 9:27 p.m.

Respectfully submitted,


John P. Guskowski, AICP
Town Planner (Consulting)