



ESSEX PLANNING & ZONING COMMISSION

REGULAR MEETING

Tuesday, September 7, 2021
7:00 p.m.

Meeting Held in Person in Meeting Room A of Essex Town Hall and
Via Zoom Video Conference

DRAFT MINUTES

1. Call to Order and Seating of Members

Chairman Russ Smith called the meeting to order at 7:01 p.m. In attendance for the meeting were Members Jane Siris, Mark Reeves and Robert Day. Seated for Erin Borruso was David Rosengren (via videoconference). Seated for Gary Riggio was Alternate Jeff Lovelace (via videoconference). Also in attendance were Land Use Official Carey Duques, Consulting Planner John Guskowski, Town Engineer Bob Doane, and Commission Counsel Larry Shipman (via videoconference).

2. Approval of Minutes: August 3, 2021 Regular Meeting

Motion to approve minutes of August 3, 2021 by Jeff Lovelace, seconded by Robert Day. David Rosengren discussed Robert's Rules and the purpose of the minutes vs. a verbatim transcript. He noted that some of his comments were not included in the minutes. The Commission discussed the purpose and extent of the minutes. Motion carried unanimously.

3. Public Hearing

- a. PZC Application 21-6 Text Amendment to Section 60A.3(E) of the Zoning Regulations to allow the keeping of horses in a Village Residence (VR) District with minimum 3 (three) acre land size and maximum number of horses restrictions. Agent: Thomas Metcalf, P.E. L.S.; Applicant: Mary Cunliffe Lewis and Ian Carr Lewis (Received July 6, 2021, Continued from August 3)

Thomas Metcalf presented on behalf of the applicant, discussing some of the concerns raised at the August public hearing. He worked, with Carey Duques to revise the proposal. In recognition of several properties in the Essex Village area in the Village Residence district that may have three acres, the minimum acreage is proposed to be increased to four acres. In addition, an increased setback was proposed for agricultural buildings from property lines and residential structures. There would also be a required submission of a zoning permit to provide a formal record of the use and the new facility to create some review and accountability.

The revised text amendment proposal was forwarded to the Gateway Commission, and the Commission provided a favorable response. Mr. Metcalf provided a petition of neighboring properties in support, as well as a total of 86 signatures in support. He responded to the concerns that he, as applicant's representative, might have a financial interest in the matter. Following the revised text, only six properties total would meet the 4-acre threshold in the Village Residential district. By comparison, there are over 200 properties in the Rural Residential district that are currently eligible for horses. Mr. Metcalf stated that enforcement would not be a burden from a significant increase of equestrian uses.

Chairman Smith asked for comments from the Commission. Robert Day asked whether, since there were already over 200 properties in Essex that could support horses, does the Town need another six properties. Tom Metcalf stated that this right should be extended to additional properties that could support the use. Jane Siris asked about the maps that were distributed, and Tom Metcalf clarified that the "x'ed out" properties were split-zone properties without sufficient acreage in the VR district. Jane Siris stated that several of the eligible properties were configured and shaped differently, and she would recommend setbacks from property lines, not residential properties themselves. Tom Metcalf stated that the property setbacks were increased by 50% in the revised proposal as well as residential building setbacks. Currently in the Rural Residential properties, these setbacks were lesser. He discussed the challenges of irregularly-shaped properties. David Rosengren expressed concerns about the expectations about purchasing properties in the Village Residential district and their neighboring land uses. He stated that the neighbors of the other six eligible properties did not have a reasonable expectation that horses would be allowed. He also discussed the three-acre threshold for horses and pointed out the numerous statements in opposition at the prior public hearing. He further noted that the "self-policing" approach raised at the prior meeting was not an appropriate standard, as well as the fact that there were other zoning districts that would be able to support horses. Carey Duques clarified the increased setback standards for commercial liverys and stables, as opposed to general livestock ownership in the Rural Residential district. Jane Siris and Carey Duques discussed the regulations of other nearby communities relative to livestock.

Jane Siris stated that because there was a clear lack of consensus among neighboring towns or among the Commissioners and public, perhaps a subcommittee work through this issue. Chairman Smith stated that at the last meeting, the Commission gave Tom Metcalf a number of issues to address in a regulatory revision, and he had done so. Robert Day reviewed the different ways of considering the application and

presented a few comments. He would like to see “best practices” spelled out more specifically relative to building size, manure management, etc. He would be in favor of a Special Exception process, 75’ building setbacks, and the requirement that the primary structure be a principal residence. Tom Metcalf pointed out that this is not necessarily a public opinion referendum, but that far more members of the public submitted signatures and statements in favor of the proposal than in opposition. He stated that the public input process was not perfect and the Commission had to use their best judgement. Jane Siris stated that the Commission had to consider impacts to all property owners.

Tom Metcalf stated that these proposed regulations were more than reasonable, but in the narrow case of the property in question, a larger structural setback would still be possible. He also responded to some concerns that the equestrian owners would not properly house the horses nor manage the manure or other appropriate practices. Robert Day stated that if there was the presumption that owners would behave properly, there was no reason to eliminate a delineation of best practices. Tom Metcalf stated that the current Rural Residential district does not have the sort of best practices that the Commission is seeking for this proposal. Mark Reeves stated that there is a lot of neglected and improperly maintained properties in this area. The Commission discussed the off-site use of horses. Mark Reeves and Robert Day would like to see this as a site plan or special exception process.

Greg Ellis from Hilltop Avenue expressed some concerns about the maximum number of horses on a piece of property, and Tom Metcalf clarified that there would be a maximum of five horses, but would need six acres for that. A four-acre property could have three horses. The resident also asked about the applicant’s objection to the Special Exception process. Tom Metcalf stated that the process would be an unnecessary and unproductive burden on the applicant, and there was no single “best practice” to lock into relative to a Special Exception process. The Commission and Mr. Metcalf discussed the permit review process and the details submitted. Robert Day stated that he was not persuaded by this application revision. David Rosengren stated that the Town had taken a step forward by separating residential village areas from rural areas, and this application seemed to be a step backward. Jeff Lovelace discussed the benefits of horses in the proper rural context and discussed some regulatory changes that could be added moving forward.

Randall Clegg from Hilltop Avenue stated that while Mr. Metcalf may have good intentions and behaved appropriately, the absence of clear standards for horse management was an invitation to improper behavior. Carolyn Field from Hilltop Avenue asked about specific practices for manure management, and Mr. Metcalf clarified some pest management practices derived from UConn Extension guidance. Rick Green asked for the minimum square footage for a lot in the Village Residential district, and Carey Duques stated that it was 60,000 square feet. Mr. Green asked about nonconforming lots and hardships. Mary Cunliffe Lewis, owner of the property, speaking in favor of the project, stated that this property did have a history of agricultural use with a barn and horse stalls. Rick Green stated the property, by virtue of its larger size, was suitable for the use. Pat Reed stated that the property owners, looking at selling the rear property but retaining the house, wanted to see

something pleasant in the rear of the property. Jane Siris stated that a Special Exception process seemed to be the only way forward. Valerie Owens spoke in favor of the project. Greg Ellis from Hilltop Avenue was still opposed to the project and submitted written testimony requesting a Special Exception process and encouraged the separation of rural uses and village uses. Greg Ellis expressed concerns about the flies and odors created by horse manure in residential areas. Tom Metcalf summarized his proposal and apologized for any combative comments and presented that his proposed regulations did line up well with many other area communities and that generally, horse uses in Connecticut meshed well with the residential community. He stated that while every decision of the Commission set a precedent, this was an appropriate proposal. Chairman Smith stated that he believed the applicant should consider revising the proposal with a Special Exception process. Tom Metcalf stated that he would accept a conversion of the zoning permit to Special Exception but was concerned about a moving target in subsequent meetings. Carey Duques summarized additional changes, including 100' setbacks, full-time residence of the livestock owners, and clearer best manure management practices. The Commission discussed procedural details of continuation vs. denial. Tom Metcalf offered an extension of the public hearing and would work with staff for an additional revision to the proposal.

Motion to continue public hearing until October 5th meeting by Robert Day, seconded by Mark Reeves. Motion carried 4-2, with Jeff Lovelace and David Rosengren in opposition.

- b. **PZC Application 21- 8 Text Amendment to Section 20 Definitions Building Height and Section 40 Prohibitions 40J. Height Limitation of the Zoning Regulations** to clarify building height as it pertains to cupolas. Applicant: Essex Planning and Zoning Commission (*Received August 3, 2021*)

Carey Duques presented the application and described the inconsistency of the regulation relative to cupolas – ten square feet vs. ten percent of the building footprint. The Commission discussed the appropriateness of a ten percent threshold on large rooves, as well as discussion of the potential livability of that space. Jane Siris suggested that a Special Exception could be provided for a larger structure. Chairman Smith asked if anyone in the audience had any questions or comments. One resident asked about the specific measurement of height, which Jeff Lovelace stated was initial grade, not final grade. Carey Duques clarified that all references to Special Permit should be corrected to Special Exception.

Motion to close the public hearing by Robert Day, seconded by Jeff Lovelace. Motion carried unanimously.

4. Old Business

- a. **PZC Application 21-6 Text Amendment to Section 60A.3(E) of the Zoning Regulations** to allow the keeping of horses in a Village Residence (VR) District with minimum 3 (three) acre land size and maximum number of horses restrictions. Agent:

Thomas Metcalf, P.E. L.S.; Applicant: Mary Cunliffe Lewis and Ian Carr Lewis (Received July 6, 2021, Continued August 3, 2021)

The public hearing on this item was continued until the October 5th regular meeting.

- b. **PZC Application 21- 8 Text Amendment to Section 20 Definitions Building Height and Section 40 Prohibitions 40J. Height Limitation of the Zoning Regulations** to clarify building height as it pertains to cupolas. Applicant: Essex Planning and Zoning Commission (*Received August 3, 2021*)

Motion to approve the application, striking the changes to Section 20 and changing all references in Section 40 and Section 40J from “Special Permit” to “Special Exception” to clarify and correct a scrivener’s error and with an effective date of September 17th by Robert Day, seconded by Jane Siris. Motion carried unanimously.

- c. **Modification to Subdivision Plan- Planning Commission Application No 2-07- Landmark Interests, LLC, 3 lot subdivision. Property now owned by Essex Glen, LLC.** Modification pertains to the “as-built” drainage in the right-of-way for Essex Glen Road. Removal of condition requiring a sidewalk in lieu of turnaround at the cul-de-sac at Essex Glen Drive. The modification is to be provided to Robert Doane, designated Agent for the Planning Commission (now the P&Z) for his recommendation to the Commission. (*Continued on March 2, April 6, May 4, June 1, July 6, and August 3, 2021*)

Carey Duques stated that Attorney Terry Lomme submitted by email that the subdivision bond of over \$600,000 would be automatically extended by the revised statute and would cover elements of water line extension and guard-rail improvements. The Town has not yet received final revised plans. Town Engineer Bob Doane stated that he is still awaiting revisions addressing utilities and the guardrail. Progress is continuing, and Bob Doane is hoping for paving to be completed prior to October 15th. Attorney Shipman will coordinate with Attorney Lomme about the bond extension details. Herb Clark, an abutting property owner, presented a plan that was shared with the water utility provider with a conceptual development so that they could plan for water and gas main extensions in the future. Mr. Clark discussed the conceptual plans briefly with the Commission.

Motion to continue discussion on this matter to the October 5th meeting by Robert Day, seconded by Mark Reeves. Motion carried unanimously.

5. Receipt of New Applications

- a. **PZC Application 21-9 Text Amendment to Section 40A.1.of the Zoning Regulations** to not allow applications for Marijuana Dispensaries and/or Producers within the Town of Essex. Applicant: Roger J. Kern

Motion to receive the application and schedule a public hearing to open on November 9, 2021 by Mark Reeves, seconded by Robert Day. Motion carried unanimously.

6. Appointments/Reports from Committees and Officers

a. Report from Lower CT River Valley Council of Governments

Jane Siris stated that RiverCOG approved the draft of the Regional Plan of Conservation & Development that would be voted on by the Policy Board; Durham and Middlefield are both considering moratoria on growing and sales of marijuana; and Commissioner training criteria would be recommended. Carey Duques stated that she was the local liaison for the Regional Housing Plan and would be forwarding a housing survey to the Commissioners.

b. Report from Economic Development Commission Representative

Robert Day stated that not a great deal was discussed at the last meeting. There was some concern over the pending closing of the Liberty Bank in Essex Village, and there was discussion about how the Town could "curate" the re-use of the property. There was a temporary walkway down Ferry Street that will be finalized into a sidewalk next year.

c. Report of Committee on Plan of Conservation & Development

Carey Duques noted that the Committee had not been established but was a standing item for future meetings.

7. Staff Reports

- Town Planner John Guskowski reported that the Town had selected a consultant for the preparation for a National Register of Historic Places nomination for Essex Village, called Bywater Historical Services. He also noted that he was working with the Harbor Management Commission on an update to their Harbor Management Plan which had not been comprehensively reviewed and updated since the 1990s. John Guskowski also stated that the environmental firm managing the excavation of contaminated soils at Essex Boat Works found some additional contamination and would probably not start full excavation/removal operations until 2022.
- Land Use Official Carey Duques had two items for discussion:
 - o Discussion regarding Accessory Dwelling Units – Carey Duques asked whether the definition of a residential use vs. an ADU where just a bedroom and bathroom was included but not a kitchen. A portion of the regulation refers to “residence purposes” in accessory structures that may not cover additional spaces with bedrooms and bathrooms. The Commission discussed the matter. Attorney Shipman offered to clarify the original conformity of the regulations for otherwise nonconforming lots. John Guskowski stated that without a kitchen, a bed and bath is simply expanding the existing dwelling, and this question is separate from an ADU discussion. The Commission seemed to have consensus

on allowance of the use of existing buildings, even on nonconforming lots, for broader residential purposes. Tom Nichols, a property owner who had met with Carey Duques on the interpretation of residential purposes and accessory dwelling units explained the question of redevelopment of an existing barn for his land. The Commission will discuss the revised State Statutes and ADUs at an upcoming meeting.

- Discussion regarding Recreational Cannabis Moratorium – Carey Duques distributed a staff report on a potential moratorium on recreational cannabis. Attorney Shipman stated that he would support consideration of a moratorium, which would take the form of a text amendment and would require a hearing. The Commission had a general discussion on the matter. Chairman Smith requested that Carey Duques works with Attorney Shipman on drafting a proposed moratorium for consideration.

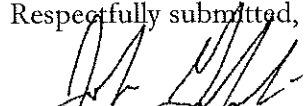
8. **Correspondence and Invoices**

None.

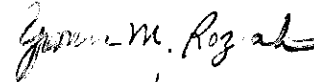
9. **Adjournment**

Motion to adjourn by Robert Day, seconded by Jane Siris. Motion carried unanimously. Meeting was adjourned at 9:48 p.m.

Respectfully submitted,


John Guskowski
Consulting Town Planner

Received For Record



09/08, 2021
Asst. Town Clerk, Essex, CT

@ 11:31
A.M.