

**ESSEX
PLANNING and ZONING
COMMISSION**
29 WEST AVENUE – ESSEX, CT 06426
Essex Town Hall

Organizational and Special Meeting

Monday, November 30, 2020 6:00 PM
Meeting Held Via Zoom Video Conference

MEETING MINUTES

1. **Call to Order.** By the First Selectman and the seating of Alternates if required.

Meeting called to order by First Selectman: Norman Needleman at 5:58 pm.

Roll Call of those Committee members in attendance.

Russ Smith, (Chairman)
Jane Siris (Vice-Chairman/ Secretary)
Ralph Monaco (Regular Member)
Mark Reeves (Regular Member)
Erin Borruso (Regular Member)
Robert Day III- (Regular Member)
Gary Riggio (Regular Member)
Jeff Lovelace (Alternate).
Tom Carroll (Alternate)
Sharon Marie (Planning & Zoning Board Clerk)

Also in Attendance:

Joseph Budrow (Zoning Enforcement Officer)
John P Guskowski (Town Planner)
Joel Marzi (Town Clerk)
Larry Shipman (Outgoing Chairman Zoning)
Attorney David Royston (Attorney for the Town of Essex)

Selectman Needleman noted that the first seven people listed are the Planning & Zoning Committee and that there remains one Alternate position unfilled at this time.

Joel Marzi (Town Clerk) Swore in: Ralph Monaco and Tom Carroll. Each taking the oath of service in their turn.

With the Board sworn in Selectman Needleman acknowledged Attorney Larry Shipman (in Attendance) and strongly recommended him as the Attorney for the Planning and Zoning Commission.

Larry Shipman and David Royston noted in attendance by the first Selectman. Both Confirmed their attendance.

2. **Election of a Chairman.** The Chairman shall be one of the members of the Commission pursuant to the By-Laws of the Essex Planning Commission, which remain in effect as the By-Laws of the Planning and Zoning Commission until amended.

Once elected, the new Chairman shall preside.

The First Selectman thanked everyone for their patience through the long process of combining the Planning and Zoning Commissions. He is hopeful that we will step off with a good spirit and a plan to improve turnaround times for residents. He noted that we are not here to say yes to everything, but we are here to be reasonable to property owners in the town. Selecting the Commission with the regular and alternates was no easy decision as they had to meet many parameters, but he feels we have a great commission stepping off between experience and knowledge and reasonableness and men and women and different party affiliations and between people who have been here in town and people who are newer in town.

The First Selectman addressed the board and put forth his recommendation for the Chairman of the P&Z. **Russ Smith**, who he states has alot of experience and has been on Zoning and Chair Planning for a very long time.

MOTION by Mark Reeves to nominate Russ Smith for Chairman of P&Z.
Motion Seconded by Ralph Monaco.

First Selectman Needleman called for any other nominations...there where none.

The First Selectman called for the vote: **All in Favor, Motion Carried. 7-0**
Russ Smith Elected Chairman of P&Z

He humbly accepted

The First Selectman handed over the meeting to Chairman Russ Smith.

Chairman Smith asked if there was anything else before he proceeded...

FS Needleman noted the following: as of now the ZEO is the same as it has been, and the planning point person is still John Guskowski (Town Planner) as of now there are no changes. They are looking at the organization of the staff but for now no changes.

Chairman Smith asked if we were using the rules of the planning commission.

FS Needleman stated that Attorney David Royston will be weighing in on that and that there are policies that are a combination of the two commissions that we can vote on as draft policies.

Attorney David Royston spoke stating that, as of now per the ordinance, the commission works under the existing planning commission By-laws and those bylaws stay in effect until they are amended. He stated -John Guskowski- has provided a draft of potential (new) By-laws but those are not yet in effect. What is in effect are the By-laws of The Planning Commission as revised through Dec 2009. Under those By-laws what should be next is the election of the Vice Chairman/ Secretary. And that the Vice-Chairman/ Secretary shall be one of the members of the Commission pursuant to the By-laws

3. **Election of a Vice-Chairman/Secretary.** The Vice-Chairman/Secretary shall be one of the members of the Commission pursuant to the By-Laws.

Chairman Smith called for nominations for Vice-Chairman/ Secretary.

MOTION by Mark Reeves to nominate Jane Siris for Vice-Chairman/Secretary of the P&Z
Chairman Smith Seconded the nomination.

Chairman Smith asked for any other nominations. There were none.

Chairman Smith called for a Vote. **All in favor, Motion Carried 7-0 .**
Jane Siris elected Vice-Chairman/Secretary of the P&Z

4. **The appointment of a Clerk.** The appointment of a Clerk is pursuant to the By-Laws. The Clerk need not be a member of the Commission.

MOTION by Chairman Smith to Appoint Sharon Marie as Clerk of the P&Z. Seconded by Mark Reeves. **All in favor, Motion Carried 7-0 .** Sharon Marie appointed as Clerk of the P&Z.

5. **Approval of the Minutes of the last meeting of the Planning Commission and the Zoning Commission.**

The Minutes for each Commission should be voted on by the former members of each Commission.

Planning: MOTION by Jane Siris to accept the Minutes, Motion Seconded by Erin Borruso. No discussion on the minutes. **All in favor, Motion Carried 3-0**

Zoning: Discussion on the Minutes with following corrections to be made:

Joe Budrow has two items. One: Pg. 3, second paragraph “Zoning has not voted on this one” should read “Planning has not yet voted on this one”

Two: Amend spelling of Mr. Reichenbach’s name where in error.

Mark Reeves: Pg. 3 Port Torchier to Porte Cochere

Tom Carroll: Pg. 4, Para two Mr. Carroll has question... replace Lovelace with Carroll.

MOTION by Chairman Smith to accept the Minutes, with Changes noted. **All in favor, Motion Carried . 5-0**

5. Establishment of the Regular Meeting Schedule for the Planning and Zoning Commission for December 2020 through December 2021.

Discussion by panel regarding preferred times for meeting of new Commission. Thursday’s ruled out due to problems with conflict of interest of members who are other boards. Jeff Lovelace and Mark Reeves are on Conservation which meets at the same time. Joseph Budrow spoke concerning how setting a meeting date earlier in the month would allow more time for referrals to go to River COG and Gateway.

The second Monday of each month at 7:00 pm was put forward as the best current option.

Attorney Royston suggested we set a short calendar for December and January second Monday Of the month.

John Gruzkowski stated that the second Mondays are unavailable for him and noted that quorum problems could be an issue due to how many holidays fall on Mondays.

The issue is discussed, and Chairman Smith suggests Monday, December 14, 2020 at 7:00 pm and Monday, January 11, 2021 at 7:00 pm. For our next two meetings.

MOTION by Chairman Russ Smith to set the next two meetings for Monday, December 14, 2020 at 7:00 pm and Monday, January 11, 2021 at 7:00 pm. Motion seconded by Robert Day. **All in favor, Motion Carried 7-0**

7. Unfinished business. (* These Applications are now within the jurisdiction of the Essex Planning and Zoning Commission. There was no pending business before the Essex Planning Commission as of the date of its termination.)

PUBLIC HEARINGS

7A. Zoning Commission Application No. 20-10 now Planning and Zoning Commission Application 20-01 – 35 Industrial Park Road, LLC., - A Petition for a Text Amendment to the Zoning Regulations Section 90 requesting that self-storage facilities, within existing buildings, be allowed within the Limited Industrial District.

Chairman Smith opened hearing on Application 7A.

Asked for applicant or any information that needed to be read into the record. Joseph Budrow read into the record that - By consensus, the Planning Commission determined that this proposal was harmonious with the Plan of Conservation and Development (PoCD) and encourages the Zoning Commission to act Favorably on this application.

The legal notice regarding the posting of advertising was read into the record by Vice-Chair Jane Saris (as noted above)

Attorney Rob Avena spoke for the applicant self-storage at 35 Industrial park Road, LLC. He discussed the history of this application before both Planning and Zoning in the past and highlighted the issues and the substantial renovation they are proposing within the existing footprint. He stated CJ Bardy was available on the other line to answer any questions from the commission.

Chairman Smith opened the floor for any questions:

Ralph Monaco had questions regarding what can be stored in the facilities. Specifically, regarding flammable or combustible items.

Joseph Budrow noted from a zoning standpoint a change in use would have to have a sign off from the fire marshal.

CJ Bardy said he would be happy to provide a sample lease from their Stonington and East Lyme facilities that prohibit hazardous materials or anything flammable.

Jeff Lovelace- wanted to know -Why did the previous regulation exclude this use (self -storage)?

Vice-Chairman Saris answered that this was probably an effort to spare this district from the unsightly look of individual garage doors per unit that are often surrounded chain link fences.

Chairman Smith opened up the floor to any questions or comments from the public

FS Norman Needleman commented that he is an abutter on this property on multiple sides and noted that this is also a Condominium Association issue, on top of being a Zoning Issue. He stated that the Declaration for the Condominium Association is another guiding factor to be taken into account. He didn't want them to go through the process without being aware the other restrictions that the Condo Association has; and He wanted to be clear the applicant

understands the entire property is also in the Transfer Act; and there are significant complications as a result of that.

Chairman Smith opened floor for anyone who would like to speak in favor of the change. Sharon Marie stated that storage is hard to come buy especially without the ugly orange doors and she is in favor of the facility.

Chairman Smith opened floor for anyone who would like to speak in opposition of the change. Erin Barruso stated she has hesitations with this use being used in other areas of this zoning district where it would be more visible (Plains Road and The Bokum Node) and she questions if it is the most Ideal use of the property where you could have the potential to create more jobs and a larger tax revenue from a different use... It seems like it will be more of a box with no taxable personal property.

Attorney Rob Aveno addressed the issue and stated that they plan on putting substantial amount of investment in the building, and CJ Bardy spoke to the Commission and said that from his standpoint it is one of the most dilapidated buildings in town and they will be investing a substantial amount in renovating the building including landscaping which will make it one of the nicest buildings in the Industrial park when it is completed.

Chairman Smith asked how long the building had been vacant. Mr. Bardy answered that the building wasn't vacant and that it was currently occupied by a business called APCO Products.

John Guszkowski (Town Planner) reminded the commission that this a text change and does not apply to a particular property. So, if this falls through other buildings of this type would become eligible to receive a special exception application. He encouraged the Commission to think about all the available properties and not just focus on a single one.

The Commission discussed The Potential properties and reviewed them on the town map.– (there is not a list just the zoning map to refer to) . All properties zoned “LI” would be the ones that would be eligible for this application

Further discussion on the Zoning and the esthetic concerns where addressed, With points on location made by, Erin Borruso , Vice-Chair Siris and Robert Day regarding self- storage visibility at other possible locations, The Limited amount of Single Loading dock buildings and ‘if’ the single loading dock specifically excludes the kind of facility with 100s of little loading doors.

Mr. Day asked for clarification on the loading dock issue.

Attorney Avena confirmed that with the use of the loading dock it was their intent that That there should not be an esthetic concern ...you should not be able to detect the usage...and that the storage would be existing within the footprint.

John Guszkowski noted the way the language is written that there may currently be a limited universe of existing building with a maximum one loading dock. The way it is written “housed

in an existing building” does not actually limit it to those buildings that are in existence now. Someone could build a new building with a single loading dock and wait a month and then it becomes an existing building that is eligible for this use. Unless the intent is to say- buildings existing as of Dec 1, 2020. This does not really limit the potential universe and it is not clear if a building has currently more than one loading dock if they say - We will shut down these two or move these two (loading docks) we will board up that door- would it become eligible or would the preexisting structural feature (sic. eliminate that option).

Chairman Russ Smith questioned if it would be part of the special exception process. It was confirmed that it would.

Robert Day noted the current building appears to already have two loading docks and the applicant confirmed it has three and it is their intent to close up the two front doors that face the main street. The only loading dock would be on the end of the building.

There were no further questions. Chairman Smith requested a motion to close the public hearing.

MOTION by Robert Day to close the Public Hearing on **7A. Zoning Commission Application No. 20-10 now Planning and Zoning Commission Application 20-01 – 35 Industrial Park Road, LLC., - A** Petition for a Text Amendment to the Zoning Regulations Section 90 requesting that self-storage facilities, within existing buildings, be allowed within the Limited Industrial District. Motion Seconded by Mark Reeves. **Motion to Close public Hearing Passes. 6-1** (6 in favor: Russ Smith/ Jane Siris / Ralph Monaco/ Mark Reeves/ Robert Day III/ Gary Riggio) (1 opposed : Erin Borruso). **Motion Carried.**

7B. Zoning Commisison Application No. 20-11 now Planning and Zoning Commission Application 20-02 – Jaime Bickelhaupt. – An application for a Special Exception to locate a food service shop within a commercial space at 31 Main Street in Centerbrook.

Chairman Smith made a request for anything that was posted in the legal notices. Jane Siris reads the application into the record. It was noted by Joe Budrow that there was no referral required for this Application.

Jaime Bickelhaupt spoke with the Commission regarding the purpose of her Shop (to be called Elite Nutrition) . It will be a Nutrition Club associated with Herbalife Nutrition Products offering a healthy alternative to her customers for breakfast, lunch and dinner. It will offer powder-based shakes, smoothies and teas.

There was a question regarding parking. Mr. Budrow informed the Commission, The property owner Mr. Weinstein went to the ZBA a few years ago for a variance and the parking is Zoning Exempt for parking spaces.

Jamie is here because it is a change of use groups (it was a dry cleaners which was a personal service usage and is going to a food service shop) and any change of use requires a special exemption. Chairman Smith asked if the Sanitarian had any issues, they do not the B100 has been approved by the sanitarian.

Jane Siris had a question regarding the location and if the space had not been a food place previously. There was a discussion regarding “Debbies” an establishment that was there very long ago... in a different spot. This requires special exemption because this spot was not part of “Debbies”. “Debbies” was a different spot within the building.

Chairman Russ Smith opened the floor for anyone to speak (in the audience) on a statement of fact. If anyone would like to speak in favor of the proposal or if anyone was opposed. There was no comment.

MOTION by Mark Reeves to close public hearing on **7B. Zoning Commisison Application No. 20-11 now Planning and Zoning Commission Application 20-02 – Jaime Bickelhaupt.** – An application for a Special Exception to locate a food service shop within a commercial space at 31 Main Street in Centerbrook. Motion Seconded by Ralph Monaco. **All in Favor, Motion Carried. 7-0**

8. New Business.

- Discussion and possible vote on **Planning and Zoning Commission Application 20-01 – 35 Industrial Park Road, LLC.,** - A Petition for a Text Amendment to the Zoning Regulations Section 90 requesting that self-storage facilities, within existing buildings, be allowed within the Limited Industrial District. ***

Call for comment or Motion by Chairman Smith. Joe Budrow had one question based on Johns(Guszkowski) potential theory of some people building a new building and coming back in two months to request an exemption based on the structure being an existing building...should there be a certain date?

Ralph Monaco noted that “existing buildings” is not defined in our Zoning regulations. ‘that was confirmed by Joe

Chairman Smith asked if there is anything wrong with the fact someone might build a new building with only one door and create a storage unit? Other than the fact that location seems to be an issue. He stated that was an issue to be addressed at a future meeting on the individual project

Robert Day addressed the council. He doesn’t have an issue with a building being built then coming back a month later and requesting to turn it into some storage, that would be fine , but we

could either put in the date a building was constructed and not substantially renovated before such and such date or we could say a building that has not been construction or renovated in the year or five years prior to seeking special exemption. He ended by stating he is fine with it as it is.

Mark Reeves feels there are enough safeguards and other regulations in place and that we have the requirement to appear before the commission (therefore) we don't need to add anything to that .

Jane Siris spoke in favor of the Proposal stating that the building is obviously decaying and they have put a substantial amount of money into the project and allot of good faith effort into it, in terms of the drawings that they prepared. She feels that we would be lucky that someone would take this building on.

The chair asked if she would like to make a motion.

MOTION by Jane Siris that we accept the proposed zoning amendment for **Planning and Zoning Commission Application 20-01 – 35 Industrial Park Road, LLC.**, - A Petition for a Text Amendment to the Zoning Regulations Section 90 requesting that self-storage facilities, within existing buildings, be allowed within the Limited Industrial District. Motion seconded by Mark Reeves.

Chairman Smith opened the floor for Comments:

Jeff Lovelace expressed concern that this is a public facility for people to come in and store their articles or is this an opportunity for large companies coming in and turning it into a private warehouse. Jane Siris noted it says self-storage and the term is very specific.

Chairman Smith called for the vote:

Motion to Accept the proposed amendment Passes. 6-1 (6 in favor: Russ Smith/ Jane Siris / Ralph Monaco/ Mark Reeves/ Robert Day III/ Gary Riggio) (1 opposed : Erin Borruso).
Motion Carried.

- Discussion and possible vote on **Planning and Zoning Commission Application 20-02 – Jaime Bickelhaupt.** – An application for a Special Exception to locate a food service shop within a commercial space at 31 Main Street in Centerbrook. (Hearing to be closed by December 21st)

MOTION by Ralph Monaco to Approve **Planning and Zoning Commission Application 20-02 – Jaime Bickelhaupt.** – An application for a Special Exception to locate a food service shop within a commercial space at 31 Main Street in Centerbrook. Robert Day seconded motion.

Question from Jane Siris regarding the building plan being inadequate. Chairman Smith asked Joe Budrow if this is a final design. Joe Budrow stated that after they get an approval , there will be a Zoning permit required for the use and signage and then whatever interior improvements they have to make has to be approved by the building official, and explained that the current drawing is one that would not be accepted for a building permit. For a use going into a small commercial space we try not to have people do new surveys ... we have always accepted floor plans and the other plan is just a proximity showing the commission where in the building is the space.

Jane Siris expressed concern that the drawing is not to scale and that what they are showing will not fit. She feels the use is appropriate and feels that if it is a fire hazard, the Fire Marshall will handle it. Chairman Smith clarified that what we are approving is an application to locate a food service shop there. We are not approving the layout of the interior.

Chairman Smith Called for the Vote:

All in favor. Motion Passes 7-0

9. Receipt of new Applications.

- **Planning and Zoning Commission Application No. 20-03 – Rose Merola, 112 Mares Hill Road, Ivoryton.** An application for a site plan review to allow for an accessory dwelling unit above an attached garage.

Application for B100 a Plan review. Joe Budrow wanted to let us know this is an after the fact application. A Neighbor alerted him that such an apartment existed. He reached out to Rose. He did onsite assessment, and it does apply with Zoning regulations.

The Chair asked Attorney Royston how this situation is to be dealt with. Attorney David Royston suggested the way to deal with this is the way you would deal with any other application. To determine that it meets the site plan regulations and if it does, we can approve it. When asked Mr. Budrow confirmed that it does meet the site plan applications and noted that if this was a brand-new application today for an apartment over a garage with no exterior changes, all it would need would be a Zoning Permit, a B100A from the health department and whatever building approvals were required. Since it was after the fact, he felt uncomfortable giving it a building permit, because it was a violation. There was a question from John Guskowski , He stated current regulations say an attached accessory dwelling over a garage is essentially an “as of right use”. Wants to know why we would bring this to the commission. Mr. Budrow stated, It was brought before the commission because it was a violation.

John P Guskowski advised that we refer this back to the Zoning Enforcement Officer for review and approval. That advice was echoed by Attorney Royston, noting that Mr. Budrow was

acting out of an excess of caution and he wanted the board to see it, also that a motion is required to do so.

MOTION by Ralph Monaco to refer **Planning and Zoning Commission Application No. 20-03** – **Rose Merola, 112 Mares Hill Road, Ivoryton.** An application for a site plan review to allow for an accessory dwelling unit above an attached garage. Back to the Zoning Enforcement Officer (Joseph Budrow) for review and approval. Motion Seconded by Gary Riggio **All in favor. Motion Passes 7-0**

- **Planning and Zoning Commission Application No. 20-04** – **Industrial Park, LLC, 35-41 Industrial Park Road, Building 6 + 8.** – An application for a Special Exception to locate a self-storage facility within an existing building.

Chairman Smith opens the hearing on Application NO 20-04. He asked if this requires a public hearing. Joe Budrow states that this requires a public hearing if Russ feels the application is complete.

There is discussion to set this for the December meeting. John Guskowski wanted to know if he missed a motion on the text change approval and if it has an effective date. His concern is that the regulation is not changed until after the public hearing opens, He suggests moving it to the January Meeting. Chairman Smith agrees and asks for a motion to set the matter for public hearing in January.

MOTION by Mark Reeves to set **Planning and Zoning Commission Application No. 20-04** – **Industrial Park, LLC, 35-41 Industrial Park Road, Building 6 + 8.** – An application for a Special Exception to locate a self-storage facility within an existing building for the January 11, 2021 Meeting at 7:00 pm for public hearing. Motion seconded by Jane Siris. **All in favor. Motion Passes 7-0**

10. **Appointment of Committees.**

The By-Laws provide that Committees for specific studies relating to the business of the Commission shall be appointed by the Commission and that wherever possible, the Chairman of the Committees shall be members of the Commission.

Attorney Royston made the following recommendation on the committees to be set up. There are two matters he feels are for immediate attention:

- To appoint a committee to see if they can come up with a recommendation for a meeting schedule.

- To appoint a By-laws committee and that they be provided the draft John Guskowski has prepared immediately, as a starting point and it should be reviewed and vetted and it could be adopted at the December Meetings.

There was discussion that the Planning By-laws vary greatly from the Zoning By-laws and how many people are required to make a committee.

The Chair asked John Guskowski for help with the By-laws committee. John stated he would be happy to do so but would like Committee members to also be involved. He stated the By-laws draft was based on a merger of the existing Planning and Zoning By-laws that he and Joe Budrow worked on it together and the draft was run by Larry Shipman (Outgoing Zoning Chair) and Alan Kerr (Outgoing Planning Chair), So it has been vetted by staff and Committee Chairs.

The Chair asked for Volunteers for the By-laws committee, Robert Day and Tom Carroll Volunteered. They will be working on it with John and Joseph Budrow.

11. **Other Appointments.**

John Guskowski states that there are two appointments that we should be considering :

First: Regional Planning Commission of the Lower CT River Valley Council of Governments(River COG) The Chair appoints a Member and an Alternate. Generally, one must be a member of this commission and the other can be anyone. Current acting member representative is Sandra Childress who is not a member of this Commission; but has served on the regional planning commission of River Cog for several years very, very well and is enthusiastic about it. Mr. Guskowski encouraged the commission to retain her. But if anyone on the commission has interest in either serving as the member or as Sandra's alternate they could reach out to myself or Joe Budrow. Jane Siris addressed the Commission and informed John she would be the representative to River COG.

Second: Planning had a liaison to the Economic Development Commission and that was George Sexton who has stepped off (of the P&Z). Therefore, the Planning & Zoning Commission should appoint a liaison to EDC.

The chair requested to put those items on the December or January agenda. Joe Budrow and John Guskowski will be handling the agendas together.

12. **Adjournment.** To the next Meeting as determined by the Commission.

Chairman Smith Confirmed our next Meeting is set for Monday, December 14, 2020 @ 7:00pm. and then the Monday, January 11, 2021 Meeting at 7:00 pm.

MOTION to adjourn by Jane Siris. Seconded by Robert Day. **All in favor. Motion Passes 7-0**

Meeting Adjourned at 7:20 pm

Respectfully Submitted:
Sharon Marie
Essex Planning and Zoning Clerk