



TOWN OF ESSEX PLANNING and ZONING COMMISSION

29 WEST AVENUE – ESSEX, CT 06426
Essex Town Hall

REGULAR MEETING
Tuesday, March 1, 2022 7PM

DRAFT MINUTES

1. Call to Order and Seating of Members

Chairman Smith convened the meeting at 7:00 p.m. Seated for the meeting were Chairman Smith, Members Jane Siris, Gary Riggio, Robert Day, Chris Riley, and Mark Reeves. Seated for a vacant seat was Alternate Tom Carroll. Also in attendance was Alternate Jeff Lovelace, Alternate David Rosengren (joined at 7:03 p.m.), Commission Counsel Larry Shipman, Land Use Official Carey Duques, and Town Consulting Planner John Guskowski.

2. Approval of the Minutes: February 1, 2022 Regular Meeting

Motion to approve minutes of February 1, 2022 PZC meeting by Gary Riggio, seconded by Jane Siris. Motion carried unanimously.

3. Public Hearings

- a. **PZC Application 22-01 Proposed Zone Change** under Section 123 of the Essex Zoning Regulations proposing a zone change for **3 Pratt Street** (Map 47 Lot 115) from Village Residence District (VR) to Essex Village District (EV) *Applicant/Owner: Bushnell Management, LLC*

Presenting for the applicant was Joe Wren, PE. Mr. Wren discussed the application materials submitted and reviewed the proposed site plan, which highlighted the subject property at the western end of Pratt Street, which was under common ownership with the adjacent property (in the EV district) at the corner of North Main Street. The property currently has a single-family property with an accessory barn, and the property owner would like to convert the first level of the existing house to commercial use.

Tom Carroll asked about the future disposition of the barn, and Joe Wren stated that there was no current plan for the reuse of that structure, but any changes would have to be submitted as a Site Plan to the Planning and Zoning Commission. Jane Siris asked about the other structures alongside, to which Joe Wren explained that some future parking spaces depicted on the site to accommodate a future commercial use. Tom Carroll asked if commercial uses would be allowed in the VR district, and Carey Duques stated that it was possible only if the parcel was more than an acre in size. The subject parcel is less than one acre. Jane Siris expressed support for the proposal, noting that it was not a great residential spot. The Commission discussed the mix of residential and nonresidential uses on Pratt Street. Joe Wren noted that the properties on several sides of the subject property were already commercial structures. Carey Duques noted that the Gateway Commission submitted a letter with no objections to the proposal.

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

- b. **PZC Application 22-02 Proposed Zone Change** under Section 123 of the Essex Zoning Regulations proposing a zone change for **54 Main Street** (Map 47 Lot 23) from Waterfront Business District (WF) to Essex Village District (EV) *Applicant/Owner: Annelisa Santoro*

Representing the applicant was Attorney Terry Lomme. Attorney Lomme described that of the 100+ properties in Essex with water frontage, only 1 ½ are zoned as Waterfront Business. The subject property is one of very few that does not have sufficient size nor any existing water-dependent use. The property is only a storage structure located next to the Town boat launch at the foot of Main Street. The property is bounded on two sides by Essex Village zone. He stated that the property owners have been good stewards of the land, and that it is nonconforming in many ways for the Waterfront Business (WB) zone. A conversion to EV would bring it into greater conformity with the regulations. He reviewed the potential uses for the building within the WB zone, which are largely related to the marinas and boating industries. The owners would prefer to avoid those commercial uses for this property.

Jane Siris stated that the building is high visibility and was concerned about building expansion if the property were re-zoned. Attorney Lomme stated that expansion in either case would likely need a variance. Jane Siris generally expressed support for the change. Robert Day stated that he was wary about general expansion of EV, particularly for waterfront property. Attorney Lomme stated that the Gateway Commission issued an advisory position stating that they were concerned about building expansion enabled by a zone change. Attorney Lomme stated that the site is so small and hemmed in by the boat launch that there was very little opportunity to expand. Jane Siris asked what the zone change allows, and the Commission discussed potential uses and the building limitations, as well as application procedures for different changes of use.

Resident Tom Daniels, who is also President of the Dauntless Club, testified that the property is a garage, and the neighbors are fine with its continued use as a garage. He noted that the “abutting Village property” is the Town boat ramp and the Main Street right-of-way. He stated that Dauntless Club is concerned that the property could be converted to a residential use by future owners, which would be an inappropriate use of the property. Paul Riggio, Harbor Master, spoke on behalf of the Harbor Management Commission. The HMC opposes the conversion of a waterfront business property to a potential residential use, which would also be able to be expanded if in the EV zone. Woody Comstock, Essex resident and member of the Dauntless Club, stated that his grandfather had built the building for utility and storage purposes and did not want a residential use of that property. Annelisa Santoro, applicant, thanked the Commission for their service. She stated that she would not make any changes to the property that would harm the community. She was very concerned about higher-intensity commercial uses like marine repair facilities at the property in the future. She believed that converting the property to EV would help protecting its use as a non-commercial building. Greg Godbout, Essex resident and Dauntless Club member, spoke in opposition to the zone change. While he believed the property owners about their intent to protect the current use of the property, he believed the change would be spot zoning. Carey Duques read the statement from the Gateway Commission, which expressed a unanimous consensus that the zone change would not be supported by the Gateway preservation standards of the Connecticut General Statutes.

Attorney Lomme responded to the amendment opponents and the Gateway statement, discussing the oddly split zones in the immediate vicinity of the subject property. He stated that the Gateway opinion was based on a mistaken assumption that the building would be changed, which is not being proposed. Carey Duques also noted four letters of support and one letter of opposition submitted for the record. David Rosengren questioned the basis for opposition, stating that the current zone would allow for a less desirable expansion than would be allowed under the proposed zone. Tom Daniels responded that everyone was in

favor of the building staying exactly as it was, but that a zone change would allow for a more dramatic expansion in the future which would include zero-lot-line construction. Attorney Lomme and Tom Daniels discussed the potential redevelopment scenarios for the property.

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

- c. **PZC Application 22-03 Proposed Text Change** under Section 123 of the Essex Zoning Regulations proposing a **text amendment to Section 40.L** removing the sentence “except for maximum building coverage where portions of any lot are in different districts”, omitting the carve out for maximum building coverage and still requires a special exception permit *Applicant/Owner: Piage Management Corp.*

Attorney Michael Sweeney represented the applicant, along with Bob Doane, PE. He submitted a letter from the Gateway Commission concerning the text change. He stated that the applicants own property on Plains Road which spans two zoning districts. The redevelopment of their commercial property is hampered by the regulatory provision that lot coverage be determined by the more conservative regulation. The Commission would retain authority to determine the coverage, following a Special Exception process.

Robert Vitari, abutter on Plains Road, stated that a great deal of application materials seemed to be submitted very late in the process and was difficult to determine its effect. He was concerned how the change would affect his property. Carey Duques clarified that the application did not just apply to the property owner’s land, but would be generally applicable across Town. The Gateway Commission proposed that this potential exemption not apply to properties with split zones within the Gateway district. If this amendment is approved, a new Special Exception permit will be submitted by the applicant for their property. Mr. Vitari asked if there could be more time to review the proposed change.

Bob Doane distributed a map showing how the split zone affects all properties along Plains Road, particularly those with land behind the Business District zone line. There are a significant number of rear lots with industrial uses behind the district line that are hampered by the lower coverage ratios. Robert Day indicated interested in finding a solution for all properties so the Commission does not keep getting involved. Attorney Sweeney discussed a weighted coverage ratio with him. The Commission discussed split zones and ratios of areas. John Guskowski asked about the downside of just going with a 25% coverage for both zones. Jeff Lovelace stated that the Commission has already decided the issue. Attorney Shipman provided some historical consideration for the Commission. Bob Doane noted that everything would be a Special Exception, which gives the Commission control, but Robert Day would prefer it be more of a mechanical regulation. Jeff Lovelace stated that he thinks the Commission should deny the proposal. Robert Day asked about the subdivision/lot creation date of these properties.

Motion to continue the public hearing until April 5 by Mark Reeves, seconded by Robert Day. Motion carried unanimously.

4. Old Business/Action Items

- a. **PZC Application 22-01 Proposed Zone Change** under Section 123 of the Essex Zoning Regulations proposing a zone change for **3 Pratt Street** (Map 47 Lot 115) from Village Residence District (VR) to Essex Village District (EV) *Applicant/Owner: Bushnell Management, LLC*

Deliberation on this application will be taken up in the April meeting.

- b. **PZC Application 22-02 Proposed Zone Change** under Section 123 of the Essex Zoning Regulations proposing a zone change for **54 Main Street** (Map 47 Lot 23) from Waterfront Business District (WF) to Essex Village District (EV) *Applicant/Owner: Annelisa Santoro*

Deliberation on this application will be taken up in the April meeting.

- c. **PZC Application 22-03 Proposed Text Change** under Section 123 of the Essex Zoning Regulations proposing a **text amendment to Section 40.L** removing the sentence “except for maximum building coverage where portions of any lot are in different districts”, omitting the carve out for maximum building coverage and still requires a special exception permit *Applicant/Owner: Piage Management Corp.*

The public hearing on this application was continued.

5. **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, August 3, September 7, and November 9, 2021)*

Bob Doane had not received any new information on this project. Discussion on this matter will be taken up in the April meeting.

6. Discussion regarding outdoor entertainment and noise at **Scotch Plains Tavern 124 Westbrook Rd** (Map 66 Lot 19)

Carey Duques stated that she, Attorney Shipman, and John Guskowski were charged with considering options for this issue. The Selectmen expressed that they were not in favor of an ordinance, and the regulation of all outdoor performances was a very difficult and undesirable role for the Zoning Commission. The Selectmen submitted a letter in opposition to the outdoor music performances at Scotch Plains Tavern. Carey Duques stated that the team met with the owners of Scotch Plains Tavern, who have submitted some proposed improvements. She also noted several letters of support and in opposition.

Fred Autorino, the owner of the Scotch Plains Tavern presented a brief history of the outdoor performances at the venue, starting during the height of COVID, and only ran into significant public opposition in the last few months of last summer. He discussed the general concert schedule and the possibility of having a site engineer and sound engineer review the site and make suggestions about attenuating the sound impacts. He asked for a more formal opportunity to assess and reduce impact. He believed that there was time before music began again around Memorial Day. Robert Vitari spoke to the impact of the sound to the neighbors. The Commission discussed the performance standards regarding noise, vibration, and other objectionable elements, as well as the current permit status for outdoor music and future enforcement. Larry Shipman discussed other enforcement via police. The Commission had a general discussion about the property, the outdoor music use, and other similar venues.

David Rosengren stated that the fundamental fact is that the current use is not explicitly permitted and therefore should not proceed unless something else changes. The Commissioners generally agreed that there was no specific permit for the outdoor music activity. Larry Shipman stated that the Commission has never specifically authorized outdoor entertainment, so there was nothing to rescind. Fred Autorino stated he wished to work within the regulations and authorization parameters. The Commission discussed the differences between unpermitted uses and uses related to restaurant uses and the nuisance parameters of the regulations. The Commission reached a consensus that the burden was on the restaurant owner to prove that their outdoor music could be conducted without creating a prohibited nuisance, as well as the jurisdiction of the State's Liquor License. Chairman Smith asked if there could be a clarification from the Selectmen on their position relative to enforcement.

Motion to amend the agenda to add a new receipt of application by Mark Reeves, seconded by Robert Day. Motion carried unanimously.

7. Receipt of New Applications

- a. **PZC Application 22-04 Special Exception** under Section 101J of the Essex Zoning Regulations proposing demolition of the existing single-family residence and replacement with new single-family residence exceeding 4,000 sq ft at **11 Clark Lane** (Map 17 Lot 12). *Applicant: Brooke Girty, Architect; Owner: Douglas and Sharon Chan*

Motion to receive application and schedule a public hearing on April 5 by Jane Siris, seconded by Robert Day. Motion carried unanimously.

- b. **PZC Application 22-05 Special Exception** under Section 80 of the Essex Zoning Regulations proposing a fitness center to occupy approx. 4,250 sq ft of the 16,000 sq ft building at **35-41 Industrial Park Road Units 23 and 24** (Map 44 Lot 27-23 and 24) aka **40 Main Street, Centerbrook**. *Applicant: MPower Health and Fitness, LLC c/o David Mulford; Owner: Herbert T. Clark III*

Motion to receive application and schedule a public hearing on April 5 by Gary Riggio, seconded by Mark Reeves. Motion carried unanimously.

- c. **PZC Application 22-06 Special Exception** under Section 80 of the Essex Zoning Regulations proposing to relocate the Nutmeg Pharmacy from 33 Main Street, Centerbrook to 40 Main Street, Centerbrook, to occupy 4500 square feet of former FTD office. *Applicant: RX Specialty Consulting, dba Nutmeg Pharmacy; Owner: Herbert T. Clark III*

Motion to receive application and schedule a public hearing on April 5 by Robert Day, seconded by Jane Siris. Motion carried unanimously.

8. New Business

- a. Discussion regarding proposed storage of boats and vehicles at **35-41 Industrial Park Rd Unit 6** (Map 44 Lot 19-6), storage units approved under PZC Application 20-4
- Carey Duques stated that she had discussions with the property owner about the potential use of larger elements could be stored inside, including cars and boats. The Commission discussed the possibility of dangerous materials be stored inside, such as chemicals

within a boat or car. The property owner, CJ Bardy, stated that there were several boat storage facilities in the immediate vicinity and that this did not present a uniquely dangerous situation. Carey Duques stated that if the Health Director and Fire Marshal were satisfied with the proposed use and storage, this could be a minor modification of the original approval.

Motion to modify the Site Plan approval to include boats and cars within the storage facility in a manner that was acceptable to the fire marshal and did not include any outdoor storage of vehicles by Robert Day, seconded by Jane Siris. Motion carried unanimously.

9. Appointments/Reports from Committees and Officers

- a. Lower CT River Valley Council of Governments
 - o Regional Housing Plan Presentation scheduled for March 17, 2022

Carey Duques stated that there was a meeting on March 17

- b. Economic Development Commission

There was no report

- c. Plan of Conservation and Development

There was no report

- d. Cannabis Subcommittee

There was no report

10. Staff Reports

- o Town Planning Consultant – John Guskowski noted that the Harbor Management Commission was getting closer to completing a new draft of the Harbor Management Plan; that he had been coordinating with the Town and State on the recent announcement that the River Road sidewalk between North Main Street and Heritage Cove had been funded by the Connecticut DOT’s “Community Connectivity” program; and that the RiverCOG Affordable Housing Presentation for Essex was scheduled for March 17th. He also noted that his firm was co-hosting a PZC commissioner training session on Thursday, March 3 at 7:00 p.m.
- o Land Use Official – Carey Duques had no further report.

11. Correspondence

There was no correspondence of note.

12. Adjournment

Motion by Robert Day to adjourn the meeting, seconded by Mark Reeves. Motion carried unanimously. Meeting adjourned at 9:28 p.m.

Respectfully submitted,
John Guskowski, AICP
Town Planning Consultant.

Received For Record

Yvonne M. Rozial

03/02, 2022

Assist. Town Clerk, Essex, CT

11:55 A.M.