



TOWN OF ESSEX PLANNING and ZONING COMMISSION

29 WEST AVENUE – ESSEX, CT 06426
Essex Town Hall

REGULAR MEETING
Tuesday, June 7, 2022 7PM

DRAFT MINUTES

1. Call to Order and Seating of Members

Chairman Smith called the meeting to order at 7:01 p.m. In attendance at the meeting were Regular Members Jane Siris, Mark Reeves, Robert Day, and Chris Riley. Seated for Gary Riggio was Alternate Jeff Lovelace. Seated for the vacant member seat was Alternate Tom Carroll. Also in attendance were Alternate David Rosengren (arrived at 7:10), Attorney Larry Shipman, Land Use Official Carey Duques, and Consulting Planner John Guszowski.

2. Approval of the Minutes

- May 3, 2022 Regular Meeting

Motion to approve minutes of May 3, 2022 by Jeff Lovelace, seconded by Jane Siris. Motion carried unanimously.

3. Public Hearings

- **PZC Application 22-09 Special Exception** under Section 70A.2.A of the Essex Zoning Regulations proposing changing approx. 800 sq ft from commercial/retail to business/office at **6 Ferry St** (Map 47 Lot 45). *Applicant: Stephen Fennell; Owner: Essex Light and Power, LLC*

Applicant Stephen Fennell presented the application, providing a brief history of the property in question, describing the interest in allowing a rental tenant that has an office use. Carey Duques noted that this change of use required the Special Exception/Public Hearing process. She discussed the challenges of on-site parking in Essex Village. The applicant stated that the space would possibly accommodate three workers, and has a driveway available, as well as on-street parking. Attorney Shipman noted that the property in question has a current variance for required parking spaces. There were no comments or questions from the public or the Commission.

Motion to close public hearing by Chris Riley, seconded by Jane Siris. Motion carried unanimously.

- **PZC Application 22-10 Proposed Text Change** under Section 123 of the Essex Zoning Regulations proposing a **text amendment to Section 90A.1** adding (U) **Waste Collection and Container Storage Facility** *Applicant/Owner: All Waste, Inc.*

Attorney Terry Lomme represented the applicant. He provided a brief history of the application. In prior versions of the Zoning Regulations (up to 2014), the allowance for Waste Collection and Container Storage was present, and the use has been continually practiced in the Limited

Industrial Zone. The regulations changed, but the use remained, which makes it now a pre-existing, non-conforming use. Carey Duques noted that the proposed text change would restore the use as a permitted use via administrative permit, not a Special Exception process. She asked Attorney Lomme about how many properties were potentially affected. Attorney Lomme described fifteen properties of 3.5 acres or more across four Limited Industrial areas, most of which are well developed under different uses. In practicality, there are very few properties that might engage this use. Jane Siris discussed the use and potential for expansion, which was clarified by Carey Duques would just require administrative approval. Attorney Lomme stated that he had no objection to making it a Special Principal use. Carey Duques stated that if there were enforceable conditions on expansion, an administrative review could be reasonable. If it were to be a Special Exception, some additional language may have to be built into the Regulations.

Robert Day noted the difference between a 24-hour storage vs. an overnight storage and the potential for neighbor concerns. He supported the idea of moving the use into a Special Exception category. Attorney Shipman stated that the Special Exception approach allowed the Commission wider latitude to examine the site plan and place conditions. Russ Lallier, from All Waste, explained that the solid waste on their site is construction and demo materials not household waste. The Commission discussed the definitions of solid waste and storage container management. Jane Siris stated that this was an important matter to move forward on for the Town's waste management needs.

There was no public testimony on this application. Carey Duques stated that if this were to be migrated to a Special Exception, the new section would be added as **90.A.3.(G) Waste Collection and Container Storage Facility**

Motion to close the public hearing by Jeff Lovelace, seconded by Mark Reeves. Motion carried unanimously.

4. **Unfinished Business/Action Items**

- **PZC Application 22-09 Special Exception** under Section 70A.2.A of the Essex Zoning Regulations proposing changing approx. 800 sq ft from commercial/retail to business/office at **6 Ferry St** (Map 47 Lot 45). *Applicant: Stephen Fennell; Owner: Essex Light and Power, LLC*

Motion to approve Application 22-09 by Mark Reeves, seconded by Tom Carroll. Motion carried unanimously.

- **PZC Application 22-10 Proposed Text Change** under Section 123 of the Essex Zoning Regulations proposing a **text amendment to Section 90A.1 adding (U) Waste Collection and Container Storage Facility** *Applicant/Owner: All Waste, Inc.*

Motion to approve Application 22-10, adding the new text as Section 90.A.3.(G) Waste Collection and Container Storage Facility and adding the clarification that only construction and demolition debris would be allowed, with an effective date of July 1, 2022 by Jane Siris, seconded by Mark Reeves. Motion carried unanimously.

5. **Receipt of New Applications**

- **PZC Application 22-12 Special Exception** under Section 101J for construction of a new single family home exceeding 4,000 sq ft within the Gateway Conservation District at **14 Mill Road** (Map 17 Lot 11). *Applicant/Owner: Jonathan and Kaitlyn Weiss*

Carey Duques requested that the application be received and scheduled for July 5th. She will distribute updated plans prior to the public hearing.

Motion to receive application 22-12 and schedule a public hearing for July 5th by Mark Reeves, seconded by Jeff Lovelace. Motion carried unanimously.

- Carey Duques asked for another new application receipt by added to the agenda, application #22-13 for a new dog grooming facility.

Motion to receive application #22-13 for a Special Exception for a Dog Grooming Facility at 12 Plains Road, Unit C and schedule the public hearing for July 5th by Jane Siris, seconded by Jeff Lovelace. Motion carried unanimously.

6. **New Business**

- **PZC Application 22-11 Site Plan** under Section 101J for modifications to the existing residence including removal of an existing two-story addition and reconstruction of a new two-story addition including an interior connection to the existing garage at **22 Main Street** (Map 27 Lot 67). *Applicant/Owner: David Dick and Mary Alice Godfrey*

Tom Carroll recused himself from this matter. Attorney Ed Casella represented the applicant, who required Site Plan approval under the Gateway Commission regulations. He described the construction project, which also received a variance for lot coverage. The total project is approximately 4,500 square feet, which is why the Gateway Commission is involved. He presented the view from the River. The views of the building will not change from the Connecticut River. A letter had been received from the Gateway Commission stating that they had no concerns with the proposal. The Commission members discussed the site and the neighborhood, as well as previous development projects in the immediate area. Attorney Casella stated that the neighbors were well informed about this proposal. The Commission discussed the details of the construction approach, including the preservation of a large existing wild cherry tree.

Motion to approve application #22-11 by Jeff Lovelace, seconded by Mark Reeves. Motion carried unanimously.

- **Discussion of Cannabis Regulation**

Carey Duques reminded the Commission that they had some different proposal options presented by the subcommittee, which included either a prohibition, an allowance for medical-only distribution facilities, and also one for an allowance (via Special Exception) for medical and recreational distribution facilities. She asked the subcommittee to present their viewpoints. Jeff Lovelace stated that he was very much opposed to allowing the use and distributed a handout of his presentation. Chris Riley presented a counterpoint, contrasting the Town's allowance of alcohol consumption and retail facilities. David Rosengren contested the addictive nature of marijuana. Jeff Lovelace continued with his presentation, outlining concerns and advocating for the prohibition of the sales of cannabis in Essex. The Commission discussed the State's legalization of recreational use. David Rosengren stated that he supported allowing the commercial retail sales as a use, finding it non-addictive and consistent with the State's approach.

Tom Carroll discussed focusing on what is good for Essex, not seeking to engage in a broader topic about social justice. He stated that he has seen marijuana as a gateway drug and as a detrimental drug. He questioned whether the use was appropriate for Essex. Robert Day discussed the matter and recommended limiting the number and location of potential dispensaries to be a Special Exception process that mirrors the liquor store process. Jane Siris stated that she favors allowing a medical marijuana facility to start and to see how that proceeded. She also recommended that they be limited geographically to Route 154 and Route 153 and called for a civil discourse. Mark Reeves asked whether the Board of Selectmen has taken any action on this matter, and Carey Duques said that they discussed the public use at Town parks. He further asked about policing and driving under the influence. Carey Duques attempted to refocus the discussion to a land use question. Attorney Shipman discussed the proposed allowance, which would have limited the facility location to main roads in the Business and Commercial Districts. The Commission continued a general discussion on the use. Attorney Shipman discussed the procedure for making a proposal and getting public input. He and Carey Duques suggested a public hearing in early fall. Carey Duques stated that the subcommittee was not interested in allowing cultivation. Chairman Smith stated that the discussion would continue at the July meeting. Jeff Lovelace requested that his summary be included as a part of the minutes.

7. Appointments/Reports from Committees and Officers

- Lower CT River Valley Council of Governments Regional Planning Committee
Carey Duques noted that the update to the Town's affordable housing plan had been adopted by the Board of Selectmen on June 1 and transmitted to both the COG and the State for inclusion in the overall Regional Housing Plan, which should be finalized next month.
- Economic Development Commission
Robert Day reported that the last EDC meeting was cancelled.
- Plan of Conservation and Development
Carey Duques noted that no discussions had been held on this matter.

8. Staff Reports

- Town Planning Consultant John Guskowski noted the completion of the Affordable Housing Plan update. He also noted that the DEEP and ACOE are currently reviewing the draft update to the Harbor Management Plan. Finally, he stated that he and Carey Duques would be working with the First Selectman's office on an upcoming STEAP grant application.
- Land Use Official
 - o Essex Glen Update – Carey Duques stated that she is working with Town Engineer Bob Doane on overseeing the completion of the remainder of the development and the management of the public improvement bond, which expires in October. They hope to encourage the developer to complete the road paving this summer, as well as installing the required road-side rail.
 - o Update on outdoor seating at restaurants – Carey Duques stated that the state had allowed an extension of outdoor dining through April 30, 2023. She is working with the Health Director on bringing restaurants into compliance with this provision. Total seating capacity on septic systems is an important consideration.

9. **Correspondence**

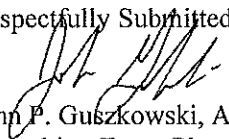
There was no correspondence.

10. **Adjournment**

Motion to adjourn by Mark Reeves, seconded by Jeff Lovelace. Motion carried unanimously.

Meeting adjourned at 8:41 p.m.

Respectfully Submitted,


John P. Guskowski, AICP
Consulting Town Planner

Reasons for Prohibition of Medical & Recreational Marijuana Sale in the Town of Essex, CT

Since the 1930's, federal law has declared the use, sale, and distribution of marijuana illegal. Current federal drug laws are codified in the Controlled Substances Act (CSA). The CSA classifies and regulates illegal drugs and places listed drugs on a schedule according to their medicinal value and potential for abuse.

1. Under the CSA, marijuana is a Schedule I controlled substance because it is classified to have a high potential for abuse, lack of any medical value, cannot be safely prescribed and is considered to have a high potential for dependency. Anyone growing, marketing, or distributing marijuana is likely violating multiple federal laws.
2. Medical marijuana: Currently, it is actually against federal law for a physician to “prescribe” medical marijuana, a schedule 1 drug.
3. Recreational marijuana is legal in only 18 states, Washington DC and Guam. Users must be adults over 21.
4. Essex Zoning Regs 70A.2(C), 80.A.1(C), 80.A.1 (D) and 105.F.3 ban sale of “adult entertainment products” in Village, Commercial and Route 9 Special Development (R9SDD) Districts.
5. Experienced recovery coach for drug addicts advises against commercial cannabis because of (1) its increased THC levels and (2) it is a gateway to abuse, related personal, social and cultural debilitating issues. He notes that legalizing has been very good for his business.
6. Remarks of council member of small town regarding their ban of medical and recreational of marijuana: “We’re not missing anything.” Most towns want it because of the revenue. (CT Marijuana Tax: 3% in addition to 6.35% sales tax.) Regarding medical marijuana: “Once you open the door, you can’t close it.” Underage children get exposed because parents bring their underage children into the stores as they shop. The gummy bears laced with THC are very enticing. Security guards are stationed to check IDs, but their main purpose is to protect the cash for this cash-only business.
7. Medical and recreational marijuana will be available in other towns close to Essex should our residents seek it “prescribed” or want to use. Hemp with CBD is readily available now in Old Saybrook on Boston Post Rd and at the Westbrook Outlets. Hemp has the same therapeutic/medicinal value, but doesn’t need a prescription (or doctor’s “recommendation”) as marijuana does and can be bought by credit card.

CANNABIS PROHIBITED IN FOLLOWING 25 CT TOWNS

As of May 26, 2022, CT Insider reports cannabis is banned in 25 towns: Avon, Bethel, Bethlehem, Bridgewater, Clinton, Cromwell, Darien, Eastford, Haddam, Greenwich, Groton, Kent, Lebanon, Middlefield, Milford, Monroe, New Canaan, Newtown, Old Lyme, Prospect, Southington, Wallingford, Westport, Weston, Woodbury (Source: CT Insider May 26, 2022 [Map: Where legal cannabis businesses aren't welcome in CT \(ctinsider.com\)](https://www.ctinsider.com))

CT SENATE BILL 1201:

It is interesting to note that even though cannabis/marijuana is now legal in CT, the use or possession is prohibited in public areas, on state owned lands or waters managed by the DEEP. [Summary of Connecticut's S.B. 1201 — An Act Concerning Responsible and Equitable Regulation of Adult-Use Cannabis \(mpp.org\)](https://www.mpp.org)

CONCLUSION FOR PROHIBITION:

The sale of Medical and Recreational Marijuana, and its cultivation, SHOULD BE PROHIBITED within the Town of Essex. Prohibition will minimize any adverse impacts from dispensaries on our commercial districts, property values and quality of life. Furthermore, prohibition of cannabis/marijuana sale in our Town will support U.S federal anti-drug laws which Town Commission Members have a responsibility to uphold.

The director of PZC of a CT town that banned the sale of marijuana reports the commission based their decision on when there is a legal conflict between state and federal law in that state law permits such uses and federal law does not, in such instances, federal law takes precedent. <https://www.ctinsider.com>

Source: Doctrine of Pre-Emption, Supremacy Clause, Article VI, The U.S. Constitution; Source: <https://www.Findlaw.com>

Respectfully submitted,

Jeffrey C. Lovelace, Alternant Member
Planning & Zoning Commission
June 6, 2022

Received For Record

Yvonne M. Rozia

06/08, 2022

Assist. Town Clerk, Essex, CT

11:52
A.M.