

**ESSEX ZONING COMISSION**  
**29 WEST AVENUE**

**Monday, February 25, 2013**  
**Town Hall – Meeting Room A**  
**Essex, Connecticut 06426**

**MINUTES**

**PUBLIC HEARING**

Chairman Al Wolfgram called the meeting to order at 7:00 p.m.

Seated for the first group of public hearings are Al Wolfgram (Chair), Larry Shipman, (Secretary), Jim Hill, Bill Reichenbach (core reg. members at last special meeting) and Barbara Zernike (for Susan Uihlein, Vice Chair). Also in attendance were Attorney Peter Sipples and Zoning Enforcement Officer Joe Budrow. Absent: Susan Uihlein/Vice Chair and Jeffrey Lovelace.

Al Wolfram, Chair discussed from the last special meeting the first two **Applications No. 12-19 - Essex Zoning Commission** and **Application No. 12-21 - Essex Zoning Commission** that were open for discussion at last meeting. Joe and Al have not sat down and review the Planning Commission comments and would like to have a motion to extend the discussion of these two items to the March meeting.

**Motion** made by Larry Shipman, seconded by Jim Hill. All in favor. None opposed.  
**Motion carried.**

**Application No. 12-23 – Bestway 2, LLC** – to convert a former service station to a convenience store at 1 Saybrook Road, Essex. Public hearing is to be completed by March 4 at special meeting.

Clint Brown, with Dicesare Bentley Engineers on behalf of applicants. Plan changes have been made with regards to parking. The grocery vendor parking requirements of 14 parking spaces have been satisfied in new site plan. Driveway closures have been also been addressed in that the Plaza Drive entry has now been closed. Applicant would like to leave two existing drives open, however, they have been narrowed based on recommendation from DOT. Truck loading space and delivery doors have been addressed. Encroachments in town right of way on lighting, venting and flag poles have been addressed and will be pulled back on property. There should be no impact with these changes on local streets. Joe Budrow will enter pages 5-10 of transportation study that Mr. Brown sited. He will also check on the front sign on property to see if the variance was granted. A petition was submitted by a business man in town – Caleb Kahn, Mgr. of Mobil in Centerbrook is opposing another convenience store in town, signed by 75 people also opposing.

Al Wolfgram also requested that the Dunkin Donuts Memo of Understanding be in record as other commission members may want to review. Specifically regarding the “no advertising on Route 9”. Al requested it be mailed in the next mailing

Questions from Commission: Al Wolfgram asked how gas delivery truck will get in and out for delivery. Mr. Brown determined that the driver will circulate around pumps. Al Wolfgram indicated that there will be no backing out allowed. He also inquired about environmental issues and confirmed with Mr. Brown that Sunoco will be replacing the tanks. Barbara Zernike asked if they would be selling Sunoco gas. Mr. Brown responded the name of the gas will be called Bestway at this location.

Questions of fact from audience on application – no in favors, none against

Mr. Brown asked the commission if they could move the application approval long with regards to the signage. The applicant will comply with requirement as they are feeling pressure from Sunoco. Al Wolfgram indicated that the condition was based on MOU for special exception #0107 again stating that standard petroleum would be approved with certain conditions. One condition of that approval was that no advertising would be placed on Route 9. Al Wolfgram wants the Commission and applicant to be aware of this stipulation.

Al Wolfgram reviewed several options with the Commission to proceed on this application. It was decided a special meeting be set. Keep public hearing open to the Zoning Commission and to move this application forward – Monday, March 4, 2013 as well as sign a consent for the 45 days.

**Motion** made by Larry Shipman to keep public hearing open on **Application 12-23, Bestway, LLC** and set special hearing on March 4, 2013. Seconded Jim Hill. All in favor. None opposed. **Motion carried.**

**Application No. 12-24 – New England Commercial Properties, LLC** – A petition to amend section 90 (Limited Industrial District) of the Town’s Zoning regulations. Attorney Chris Smith from Shipman & Goodwin representing Joseph Armenia, principal owner of NECP, LLC at 46 Plains Road. Attorney Smith distributed packet in Support of Petition & Application to commission members. Attorney Smith reviewed the requests to; **a)** Proposed New Contractor’s Office use for Limited Industrial zone associated with a trade business and **b)** New Proposed Commercial Kitchen Use for Limited Industrial zone – no retail associated with it. Larry Shipman read Memo to Al Wolfgram dated 2/22/13 from Tom Danyliw, Chairman Essex Planning Commission agreeing that the amendments proposed by the applicant and his attorney were reasonable and appropriate additions to the proposed amendments and the text or spirit of the 2005 Essex Plan of Conservation and Development.

Questions from audience on application – no in favors, none against. Al Wolfgram asked Commission if this can be taken up at Special Meeting on March 4, 2013.

**Motion** made by Larry Shipman to extend hearing on **Application 12-24 – New England Commercial Properties** and to go to Special Meeting on March 4, 2013. Seconded by Bill Reichenbach. All in favor. None opposed. **Motion carried.**

**Applications No. 13-1 and 13-2 – AT&T Mobility** – there was no sign up on property in time, therefore, request to extend and open at next meeting to March 18, 2013. Joe Budrow indicated they need 15 days prior to display sign on each site. Application was received by January 22, therefore, there is enough time.

**Motion** made by Bill Reichenbach to postpone the opening hearing to March 18, 2013. Seconded by Barbara Zernike. All in favor. None opposed. **Motion carried.**

## **REGULAR MEETING**

Called to order at 7:45 p.m.

Seated for regular meeting were Al Wolfgram (Chair), Larry Shipman, (Secretary), Jim Hill and Bill Reichenbach, Barbara Zernike (for Susan Uihlein/Vice Chair). Also in attendance were Attorney Peter Sipples and Zoning Enforcement Officer Joe Budrow. Absent: Jeffrey Lovelace

### **1. APPROVAL OF THE AGENDA**

Approval of the agenda to receive two new applications to Agenda:

- 1) **Application No. 13-5 – Diane Bell, 3 Southwinds Drive** – convert attic above garage into an in-law apartment.
- 2) **Application No. 13-6 – Barbara Nair and NairCo, LLC** – to amend the text of Section 80 of Essex Zoning regulations in particular to add “Art Studios” as a use.

**Motion** made by Jim Hill to approve the acceptance of two additional applications to evening’s agenda. **Application No.13-5 – Diane Bell** and **Application No. 13-6 – NairCo, LLC**. Seconded by Al Wolfgram. All in favor. None opposed. **Motion carried.**

### **2. NEW BUSINESS**

**1. Application 12-19 – Essex Zoning Commission** –A petition to amend Section 20 (Definitions) of the Essex Zoning regulations (Decision to be made at the discretion of the Commission). Moved to next meeting.

**2. Application 12-21 – Essex Zoning Commission** – A petition to amend Section 40 (General Prohibitions) of the Essex Zoning regulations (Decision to be made at the discretion of the Commission). Move to next meeting.

**Motion** made by Larry Shipman to extend hearing on **Application No. 12-19(EZC)** and **Application No. 12-21 (EZC)** and set for public hearing for March 18, 2013. Seconded by Jim Hill. All in favor. None opposed. **Motion carried.**

**3. Application 12-23 – Bestway, LLC** – an application to convert a former service station to a convenience store at 1 Saybrook Road, Essex. (If closed, decision must be made by May 1<sup>st</sup>).

**Motion** made by Larry Shipman to keep public hearing open on **Application No. 12-23, Bestway, LLC** and set special hearing on March 4, 2013. Seconded by Jim Hill. All in favor. None opposed. **Motion carried.**

**4. Application No. 12-24 – New England Commercial Properties, LLC.** A petition to amend section 90 (Limited Industrial District) of the Town's zoning regulations (If closed, decision must be made by May 1<sup>st</sup>).

**Motion** made by Larry Shipman to extend hearing on **Application No. 12-24 – New England Commercial Properties** and to go to special hearing on March 4, 2013. Seconded by Bill Reichenbach. All in favor. None opposed. **Motion carried.**

**5 & 6. Application No. 13-1 and 13.2 – AT&T Mobility** – An application to modify previous approval that allowed 6 antennae to be attached to water towers at 6 Main Street, Centerbrook and 158 Main Street, Ivoryton. (If closed, decision must be made by May 1<sup>st</sup>).

**Motion** made by Bill Reichenbach to move opening to keep public hearing open on **Applications 13-1 and 13-2, AT&T Mobility** to March 18, 2013. Seconded by Barbara Zernike. All in favor. None opposed. **Motion carried.**

**3. OLD BUSINESS** – Visitor from Gateway in audience – Wally Schieferdecker, was present at meeting to report back to Gateway anything that may have been discussed the recent meeting with Gateway. Al Wolfgram and Larry Shipman met with Gateway and reviewed their comments with them. It was left that Gateway will go back to their commission and report back to us.

#### **4. RECEIPT OF NEW APPLICATIONS**

Two applications received late and did not make meeting material distribution however, submitted at this meeting.

**Application No. 13-3 – George and Susan Baker.** An application for a Coastal Area Management Site Plan Review for a single family dwelling at 9 South Cove Lane, Essex. (No public hearing required).

Joe Budrow indicated this is a site plan review, there is a house proposal to demo existing house & detached garage and rebuild a new one of each. Each has a non conforming characteristic. They were given approval by ZBA in December for new

locations. Next step to come here for an approval of CAM site plan review. Plan was approved by State of LI Sound on 2/4. Gateway has approved this and it has also been approved by ZBA and the Wetlands Commission per Attorney Terrance Lomme. Attorney Lomme described new proposal and seeks approval from Zoning Commission. Al Wolfram stated for the Zoning Commission's record, that Gateway Commission reviewed and commented on the proposal as statutes require them to do. Al Wolfram asked what the comments are. Attorney Lomme read Gateway's Commission comments that they reviewed and that they would not have opposed the granting of the variance.

**Motion** made by Larry Shipman to approve **Application No. 13-3 – George and Susan Baker** for Coastal Area Management site plan and that it is in conformance with section 102E sub par 1 and 2 with Zoning. Seconded by Barbara Zernike. All in favor. None opposed. **Motion carried.**

**Application No. 13-4 – Jessica Smith.** An application for a change of use from a retail use to a food service shop at 1-3 North Main Street, Essex.

Al Wolfram reviewed requests, street map and space map. Joe Budrow wants to get this as close to the truffle shot business approved a few months ago. Joe Budrow indicated a full blow site plan was not necessary. Al requested a motion to accept as shown in writing on waiver request and application.

**Motion** made by Larry Shipman to accept waiver request and present at public hearing on March 18, 2013 for **Application 13-4 – Jessica Smith.** Seconded by Jim Hill. All in favor. None opposed. **Motion carried.**

**Application No. 13-5 – Diane Bell** – convert attic above garage into an in-law apartment at 3 South Winds Drive.

Need a public hearing request. Joe Budrow indicated a portion of large scale plan will be added to record. No waiver requests. No structural changes to outside.

**Motion** made by Larry Shipman to accept **Application No. 13-5 – Diane Bell** and set public hearing date for March 18, 2013. Seconded by Bill Reichenbach. All in favor. None opposed. **Motion carried.**

**Application No. 13-6 – NairCo, LLC** – to amend the text of section 80 of the Essex Zoning regulations, in particular to add “Art Studios” as a use at 61 Main Street, Centerbrook.

Need to refer to Planning Commission. No waivers.

**Motion** made by Larry Shipman to accept **Application No. 13-6 – NairCo, LLC** and set public hearing date of April 15, 2013. Seconded Bill Reichenbach. All in favor. None opposed. **Motion carried.**

## **5. VISITORS AND GUESTS** – Gateway visitor (refer to Old Business).

## **6. REPORT FROM LEGAL COUNSEL AND ZONING ENFORCEMENT AGENT**

Attorney Sipples discussed Joe Budrow's denial to Dunkin Donuts for their permit and they will be appealing to the Zoning Board of Appeals. They will be at the meeting in March; however, Attorney Sipples will not be present.

## **7. OTHER BUSINESS**

Commission needs to go back and look at the Commercial/Industrial definitions and change those 6 lots and bring to closure.

## **8. APPROVAL OF MINUTES**

**Motion** made by Jim Hill to approve minutes with the following changes:

1<sup>st</sup> sentence should read "Chairman Al Wolfgram called the "special" (added) meeting to order at 7:00 p.m.

7 lines up from bottom of 1<sup>st</sup> page remove the word "blithe" replace with "blight" (delete "of" vacant lot since 2005.

**Seconded** by Bill Reichenbach. All in favor. None opposed. **Motion carried.**

## **9. CORRESPONDENCE AND PAYMENT OF BILLS**

**Motion** made by Larry Shipman to approve payment of legal fees to attorney based on availability of funds in the amount of \$2,880. **Seconded** by Larry Shipman. All in favor. None opposed. **Motion carried.**

## **10. ADJOURNMENT**

**Adjournment – 8:40 p.m.**

**Motion** made by Bill Reichenbach to adjourn meeting at 8:40 pm. **Seconded** by Jim Hill. All in favor. None opposed. **Motion carried.**

Respectfully submitted,

Yvonne M. Roziak  
Recording Secretary