

**ESSEX ZONING COMMISSION
29 WEST AVENUE – ESSEX, CT 06426**

**Monday, May 16, 2011
Town Hall - Auditorium
Essex, Connecticut
7:00 p.m.
DRAFT MINUTES**

PUBLIC HEARING

The Public Hearing was called to order at 7:06 p.m. by Chair Al Wolfgram.
The Chair read the following applications into the record.

- 1) **Application 11-1** (Continued from April 25th) – Petition submitted by the Essex Zoning Commission to amend a district boundary for three (3) properties along industrial Park Rd. and for a newly created Business District along a portion of Plains Road.

Application 11-2 (Continued from April 25th) - Petition submitted by the Essex Zoning Commission to amend text in Section 90 of the zoning regulations and add “Manufacturing – Light” to definition.

Application 11-3 (Continued from April 25th) – Petition submitted by the Essex Zoning Commission to establish a new section to the zoning regulations for a newly created Business zone.

Seated for the Public Hearing were Chairman Al Wolfgram, regular members Susan Uihlein, Larry Shipman, and Lillian Mosa.

Also in attendance were Attorney Peter Sipples, Former Zoning Enforcement Officer Marian Staye, and current Zoning Enforcement Officer Joe Budrow.

Motion was made by Susan Uihlein and **seconded** by Larry Shipman to adjourn the Public Hearing and proceed to the Regular Meeting. **Motion carried.**

Seated for the Regular Meeting were Chair Al Wolfgram, regular members Susan Uihlein, Secretary Larry Shipman, and Lillian Mosa.

Motion by Lillian Mosa and **seconded** by Susan Uihlein to amend the agenda to go to item 6. OTHER BUSINESS. **Motion carried.**

Alternate Jim Hill was recommended to fill the position left vacant by Hope Proctor. According to town ordinance, the Zoning Commission has the right to fill a vacancy with an alternate.

Motion by Larry Shipman and **seconded** by Susan Uihlein to move alternate Jim Hill up to a regular member of the Zoning Commission. **Motion carried unanimously.**

Motion by Susan Uihlein to adjourn the Regular Meeting and go back to the Public Hearing. **Seconded** by Lillian Mosa. **Motion carried unanimously.**

Jim Hill was seated for the Public Hearing.

A Subcommittee of the Zoning Commission has met and made changes after considering comments from the last Public Hearing.
The changes have been accepted by the applicant, Essex Zoning Officer Joe Budrow.

Marian Staye presented the changes. The map with the three properties being discussed, North Plains Rd, Westbrook Rd. and Main St. in Centerbrook was previewed. The proposed new zone tried to go along property lines, excluding three parcels that are long pieces of property. Another application will have to take care of the properties that are requesting to be included.

The following new changes to Section 90 were reviewed–

B. Publishing replaced newspaper plant

C. Added – excluding storage facilities

E. Light manufacturing including (or similar to):

E.3 non-atomic powered (clocks)

H. Artisan (fabrication of) decorative (glass)

J. ~~Specialty~~ tool

L.customary small construction equipment (lumber and building materials on site) but excluding the storage of construction machinery such as cranes and other derelict (unusable) machinery and/or vehicles. Permanent outside storage areas shall be located in the rear yard and be fenced to the height allowed and/or otherwise screened from view from the property's public service road and/or adjacent properties.

O.(no animals) shall be (kept for) any (commercial or retail purpose.)

90A.3. SPECIAL PRINCIPAL USES – add the standards of Section 120G. and (the conditions of Section 130 hereof)

B. above or below ground (storage tanks)

D. ~~Sales, storage and distribution of propane.~~ Propane sales, distributions, and/or storage of not more than two tanks not to exceed 30,000 gallons each. The on-site storage of propane for the purpose of heating the property's residential or commercial structure is allowed as a general principal use subject to the local building code constraints.

E 1.and rehearsals

90B.7. STORMWATER. All new buildings, additions, new site plans and/or revised site plans involving a cumulative total increase in impervious surfaces of 10% shall

provide a stormwater management plan that meets the recommendations of the "2004 CT Department of Environmental Protection Stormwater Quality Manual".

90B.8. BEST MANAGEMENT PRACTICES. All new applications shall include a Best management Practices Plan for the use and storage of hazardous materials that are used on the site that meets current federal, state, and local standards. In addition, the applicant shall provide an Incident Action Plan that will be utilized in the case of an accident spill or other calamity.

Best management practices were debated. The Subcommittee felt it was important to have best management practices but added that they must be approved by the appropriate authority, i.e. Fire Marshall. It is important to have this environmentally.

82 A.2. In response to Planning Commission concerns, second floor multi family has been change to multi family.

Non-retail has been struck from financial institutions to respond to Essex Savings Bank, but original language has been kept in LI zone.

82 A.2.J. (martial arts) **studios** and (musical or theatrical instruction and) rehearsals.

82 A.2R – Electrical, plumbing, heating, landscaping, tree service contractors and similar businesses (excluding earth moving contractors). This includes storage (subject to the provisions of Section 90C.2) and off-site delivery of related products and materials.

Slides showed how they are attempting a balancing the fit between Limited Industrial/Commercial and more of a business type zone.

The definition of Corporate Headquarters was asked for. Like other definitions, it is not specific. Unless regulations prohibit specifically, the use will tend to be allowed. Michael Bellinger, 70 Plains Rd., asked if existing properties would be forced to change to new regulations. An existing use would become a non-conforming use.

The propane Issue was discussed. Under current regulation 90A.3. (E), a specific business in town requested protection to maintain business. It has tanks moving in and out, Joe Budrow is trying to craft regulations after a site visit. Attorney Campbell Hudson made some suggestions and offered 3 conditions for having such a business: (1) no more than two tanks having a capacity of greater than 1,000 gallons shall be permitted, (2) No tanks having a capacity of greater than 30,000 gallons shall be permitted, and (3) not more than two acres shall be used for the storage of propane and propane tanks. (Property not to have more than two primary fueling tanks of 30,000 gallons each.)

Joe Budrow wants to continue looking around at area towns, but so far no one has specifically named propane, but some use petroleum. Campbell Hudson was asked for input in trying to avoid tank farms. 30,000 gallons is the ultimate size. 10,000 gallons is a good size tank. Trying to stay within limits, no one tank shall have a capacity of over 30,000 gallons. This attempts to limit, but leaves in place current business. A language recommendation was 2 bigger than 10,000 gallons but no

more than 1 at 30,000 gallons or more. Currently there are many temporary tanks, but for storage only.

Business is cyclical so at times there are many, and in winter there are a very small number. Any future propane business will be in front of the Zoning Commission, so it will be up for discussion. There are no retail sales. As per regulations, Perrico standard practice, and the Fire Dept., inspections occur regularly. This business has existed in the current space for about 15 years.

Joe Budrow will continue to research and look at property lines and setbacks.

Existing regulations should stay as is until further research is done and go forward when the 6 properties are addressed.

Attorney Tom Cronan on behalf of Migration LLC asked if retail sales are included in proposed retail uses. Only banking is allowed. If it is an accessory to the primary use then it is allowed, for example, salons selling hair product. He also requested the definition of food service establishment, grocery store, farm truck or nursery, as in the Zoning regulations. Marian Staye referred to page 6 of the Zoning Regulations. Farm truck falls under farm stand. 82A.2.R. states off-site delivery of product, but the status of on site delivery was asked. Mulch was used as an example. LI Zone Sec. 90, Attorney Cronan asked if it was trying primarily to accommodate existing uses. The committee tried not to create non-conforming uses. He then asked how the subcommittee worked and what the process was. This meeting is only a discussion of what was presented at the last Public Hearing. The revisions will be in the Town Clerk's office for the next 30 days as the Public Hearing is not closing tonight.

Chairman Al Wolfgram called for questions of fact.

Attorney Campbell Hudson discussed the language added to Section 82, and compared it to the language in LI district 90A.3.L. The intent is to be more liberal in the Limited Industrial District. The Business district seems more limited in Section 82 than in Section 90. LI district did not strike non-retail. Several current uses that are legally being carried on are allowed under "similar" language. He noted suggested changes in his memorandum.

Attorney Chris Smith for Bombaci asked why tree service was not included in the LI zone when it is included in new Business district. It was implied, but inadvertent that it was not included. The intent is to have the manufacturer of the product drive it out of the business.

Offices associated with a particular business are always allowed.

The Chair asked for those wishing to speak in favor.

Attorney Campbell Hudson is generally in favor of the changes.

The Chair asked for those wishing to speak against.

Attorney Chris Smith submitted a letter into the record and spoke against.

Exhibit A requests that the word "manufacturing" be added to Section 90A.1 (E) so that wood product such as mulch, firewood, wood chips and compost material associated with the Bombaci business would be permitted.

Exhibits B and C provide that the Bombaci's existing "tree service and care" contracting business continues to be permitted in the Limited Industrial and the new Business District.

Attorney Campbell Hudson was not in opposition but asked to clarify points. He asked for possible clarification under construction/contractors in LI zone, to possibly create a definition of construction contractor or construction. Al Wolfgram responded that the language allows the Commission to refer applications to another entity.

Attorney Bill Childress, New England Commercial Properties LLC, noted a letter he submitted. He wanted to clarify issues of non-conformity to be sure that approval includes all uses in all buildings.

Al Wolfgram noted that not many existing uses have been eliminated, but there has been some name changing. Self-storage units were given as example. Marian Staye doesn't feel they would have been allowed under the old regulations.

Attorney Tom Cronan, representing Hydration, LLC Properties, presented a letter that questions adequacy of legal notice, and statutory compliance and lack of conformity with the Plan of Conservation and Development.

The proposed amendments are premature and replete with traffic considerations. Before wholesale change is done, traffic should be looked at. It is in contradiction to the Plan of Conservation and Development. These amendments may be premature. Because of the five properties along Rt. 153, this could be considered spot zoning. Amending the proposed amendments to the Zoning regulations calls into question the validity of the proceedings.

Motion was made by Susan Uihlein and **seconded** by Larry Shipman to continue the Public Hearing to June 20. **Motion carried.**

REGULAR MEETING

1. NEW BUSINESS

None

2. OLD BUSINESS

None

3. RECEIPT OF NEW APPLICATIONS

Discussion and possible vote on:

Application 11-4 – Application for a martial arts studio to be located at 46 Plains Road, Unit #6, Map 52 Lot 3. New England Commercial Properties, LLC is the applicant.

This should be under new business.

It is owned by Joe and Cynthia Armenia. There is one waiver request, for 120C.8. They will be asking for the request sooner than 3 months. Discussion took place as to whether change in use requires change in parking. There doesn't appear to be an issue with waivers.

Motion by Susan Uihlein and **seconded** by Lillian Mosa to receive, the application, accept the waivers as provided but with clarification, and set the Public Hearing date. **Motion carried unanimously.**

4. VISITORS AND GUESTS

Linda Netsch, 124 Mares Hill, Ivoryton was the spokesperson for neighbors of Mr. Gualazzi's property. 18 wheel trucks, garbage trucks, Cold Park Quarry construction trucks, flat beds, and junk cars go in and out of the property. Loads of stone have been dumped and spread on the property. Nights and weekends the equipment is running in and out. In 1987, there was a ruling that it could not expand, but it has expanded. It is supposed to be a residential garage. A Rhode Island Quarry company is running its business out of there. Neighbors can't open windows due to diesel fumes. The butler building has an apartment with a bathroom.

There are many long-standing issues and Joe Budrow will be looking into this before the next meeting. Sarah Joyce, 71 Walnut St. asked if it is grandfathered in. Attorney Sipples will have input. Don Netsch, 124 Mares Hill, has taken pictures. Most of the activity is on weekends.

Neighbors have a copy of the Superior Court order that says it can only be a residential garage. On weekends there are bulldozers and backhoes, and heavy equipment moving in and out. The Town may take pictures if necessary.

5. REPORTS FROM LEGAL COUNSEL AND ZONING ENFORCEMENT AGENT

The Rite Aid plaintiff brief is due at the end of the month and then Essex brief is due on July 1.

Joe Budrow, ZEO, reported on Enforcement Updates.

On Eagle Ridge Drive, construction equipment is being stored on site. Based on home occupation, storage of construction equipment is illegal.

Standard Petroleum is parking and off-loading on Dennison Rd.

A house at the bottom of Walnut St., occasionally off-loads pallets from a tractor-trailer. The product sometimes stays in view for days.

On Pond Meadow Road, in the apartment units, someone decided to dig out a front lawn. This will be passed on to the Health Dept.

Essex Warehouse is a retail outlet, but it is not allowed. Mr. Lombardi, owner, will get paperwork to be wholesaler. Most of his clients are retailers, but all should be

6. OTHER BUSINESS

Filling the open position of regular member

7. APPROVAL OF MINUTES

Motion to approve the minutes of the April 25, 2011 was made by Larry Shipman and **seconded** by Lillian Mosa. **Motion carried unanimously.**

8. CORRESPONDENCE AND PAYMENT OF BILLS

Attorney Lomme submitted a letter requesting 2 properties be included into the district.

Two bills were presented.

Motion by Susan Uihlein, and **seconded** by Lillian Mosa to approve payment of bills pending availability of funds. **Motion carried unanimously.**

9. ADJOURNMENT

Motion to adjourn by Susan Uihlein and **seconded** by Lillian Mosa at 9:10 p.m. **Motion carried unanimously.**

Respectfully submitted,

Sandra Meinsen
Acting Recording Secretary