

ESSEX ZONING COMMISSION
29 WEST AVENUE

Monday June 20, 2010
Town Hall – Auditorium
Essex, Connecticut
7:00 p.m.

PUBLIC HEARINGS

CALL TO ORDER AND SEATING OF MEMBERS:

Chair Alvin Wolfgram called the meeting to order at 7:00 p.m.

Applications were read by Chair Al Wolfgram:

1. Application 11-1 (Continued from May 16th) – 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 May 16th) - 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 May 16th) – Petition submitted by the Essex Zoning Commission to establish a new section to the zoning regulations for a newly created Business zone.

Seated were Chair Al Wolfgram, Vice Chair Susan Uihlein, Secretary Larry Shipman, Lilian Mosa and Jim Hill. Alternates Bill Reichenbach and Bob Connelly were present.

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

The memorandum from Attorney Sipples RE: Applications 11-1, 11-2, 11-3 re: Proposed Amendments to the Essex Zoning Regulations and Maps was read by Secretary Larry Shipman. Attorney Sipples researched legal issues raised at prior public hearings regarding these applications.

Former Essex ZEO Marian Staye reviewed the newest changes to Section 82 - Business District and Section 90 - Limited Industrial Districts. Changes to Section 82 were: (D) exclude fast food type establishments and/or drive up window service, (J) 1. adding studios and rehearsals and (R) adding tree care and service contractors and similar businesses (excluding earth moving contractors).

Changes to Section 90 were: (E) 4. and 7. manufacturing (L) landscaping, tree care service was addressed (O) commercial and retail purposes.

Call for questions of fact:

Attorney Chris Smith representing Judith and Ken Bombaci proposed language to allow sale of recycled forestry products associated with the principal use of tree care service such as wood chips, mulch and compost material and have this be included as an accessory use allowed on a seasonal basis only. This use was not put in Business District but the change was made in the Limited Industrial Zone. The question of light industrial uses permitted in Limited Industrial zone also being permitted in Business Zone was raised.

Ken Bombaci also spoke to this request. He noted that he recycles 100% of his material. Attorney Smith explained it would be a burden to have it as non-conformity. The Commission would have more control over it as a permitted use and enforcement would be easier. It is a seasonal operation. Comparable language should be included in the Business District to allow it as an accessory use. The sale of firewood is wholesale and that is permitted. The Plan of Conservation and Development does not encourage retail in that area.

Donna Hyde questioned the changes and why they were being made.

Marian Staye explained that the purpose is to unite parcels on Plains Rd. and to try to promote more of a business district. Proposals take into account what it is there now, allowing it to continue and accommodating that, and also looking to the future to make it a business zone vs. a retail zone.

Strickland Hyde made comments regarding current difficulties in making a living.

Call for those to Speak against:

Attorney Tom Cronan (Madison) on behalf of Robert Vitari, raised concerns for the traffic impact. On site sales brought up by Attorney Smith will add to traffic, that may be part of the concern for retail in general. Accessory uses could add to traffic.

The owner of the Essex Warehouse commented that his wholesale business with some walk-ins also attracts people to the community. Comments reflected how difficult it is to make a living and attract new businesses with the restrictions.

Joe Shea asked about the buffer zone as he owns 2 parcels that abut each other and is concerned about the proposed sidewalks. Marian Staye said they would ultimately be on both sides. The Transportation Study will serve as a guide and provide recommendations. This is also a state road so that will be worked out at development. The degree of change to a property will affect getting a permit. Mr. Shea asked about restaurants and how these changes affect that possibility. Any use has to be approved by the Health Dept.

Motion was made by Susan Uihlein to close the Public Hearing for Application 11-1. Seconded by Larry Shipman. Motion carried.

Motion was made by Susan Uihlein to close the Public Hearing for Application 11-2. Seconded by Lillian Mosa. Motion carried.

Motion was made by Susan Uihlein to close the public hearing for Application 11-3. Seconded by Larry Shipman. Motion carried.

Larry Shipman read the Public Notice for **Application 11 – 4** – Application for a special exception for a martial arts studio to be located at 46 Plains Road, Unit #6. New England Commercial Properties, LLC is the applicant. (Public Hearing to be closed by July 25.) This was published in the Hartford Courant on June 9 and June 16, 2011.

Seated for this Public Hearing were Chair Al Wolfgram, Larry Shipman, Lilian Mosa, Jim Hill and Robert Connelly for Susan Uihlein.

Joe Armenia spoke on behalf of the application. It is Unit 28 of Bldg. 1 on the site plan. A letter from the Sanitarian gave approval. It is a martial arts studio for instructor training with limited use, approximately 4 hrs per week and 1 Saturday per month.

The application is ready for a vote. Joe Budrow noted that the statement of use came in on Friday 6/17/2011.

There is plenty of parking. Clarification was made that it is going into Unit 28 rather than Unit 6. There is waiver request for the Memorandum of Decision to do this quickly, but it is necessary to wait until the appeal period is over.

Motion by Larry Shipman to close the Public Hearing. Seconded by Lillian Mosa. Motion carried.

REGULAR MEETING

Seated for the Regular Meeting were Chair Al Wolfgram, Larry Shipman, Lillian Mosa, Jim Hill and Bob Connelly for Susan Uihlein.

1. NEW BUSINESS

Discussion and possible vote on **Application 11-1** (Continued from May 16th) – 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.

Discussion and possible vote on **Application 11-2** (Continued from May 16th) – Petition submitted by the Essex Zoning Commission to amend text in Section 90 of the zoning regulations and add “Manufacturing – Light” to definition.

Discussion and possible vote on **Application 11-3** (Continued from May 16th) – Petition submitted by the Essex Zoning Commission to establish a new section to the zoning regulations for a newly created Business zone.

The vote on these Applications will take place at the July 18th meeting.

Discussion and possible vote on **Application 11 – 4** – Application for a martial arts studio to be located at 46 Plains Road, Unit #6. New England Commercial Properties, LLC is the applicant.

Motion was made by Larry Shipman to approve Application 11-4 for a martial arts studio. Seconded by Lillian Mosa. The motion was amend to add compliance with 120G and 130. The motion carried.

Motion by Larry Shipman and seconded by Lillian Mosa to sign the Memorandum of Decision after the appeal period if it is appropriate. Motion carried.

Motion by Lillian Mosa to amend the agenda to discuss Mares Hill. Seconded by Larry Shipman. Motion carried.

Joe Budrow explained current issues and action on the Gualazzi property. A letter went out, and a meeting was held at the property. The biggest question is whether the non-conforming use has expanded. Mr. Gualazzi is using the workshop for automotive work. A Copar truck was parked as well as a backhoe, bulldozer, and other vehicles. There was gravel for parking and additional piles of gravel. The Wheeler Construction element is recognized by the town as being part of the non-conforming use. The next step is to determine what is allowed. Mr. Gualazzi has to connect himself to those 2 businesses. Mr. Gualazzi bought the business and moved trucks there temporarily. Twin Oaks is defunct. If a business ends the nonconformity still exists on the property. Joe Budrow is assessing the “expansion”. Neighbors to the property spoke. It was abandoned at one point and the lot was “vacant”. The garbage business has reappeared, and there is a significant increase in traffic. Mr. Wheeler brings cars in on flatbeds.

Attorney Sipples noted that the state statute says that if intent for use is there, even though it ceased for a period, it is not abandonment. It is necessary to show intent to abandon. Other businesses can’t move in. Mr. Gualazzi has to be connected to whatever is operating there.

The neighbors recalled past history of the property and read a 1986 statement re: residential barn as a non-conforming use. The topsoil has been stripped and gravel brought in. This has caused mud and sitting water on neighbors’ properties. Copar had 3 trucks there and garbage trucks have been there. Wheeler is an excavating business. Several people have been seen unlocking the gates. Joe Budrow needs to look at the site plan that is on file and see what was approved.

This issue is an on-going process and legal decisions have to be made.

All information needs to be verified by ZEO Joe Budrow.

**Motion by Lillian Mosa and seconded by Jim Hill to go back to Old Business.
Motion carried.**

2. OLD BUSINESS

No old business

3. RECEIPT OF NEW APPLICATIONS

Application 11 – 5 – Application for an accessory apartment to be located at 33 Eagle Ridge Drive, Essex. Diana and Joel Marchese are the applicants. (Public hearing to be opened by August 24).

33 Eagle Ridge complies with the site plan application. Health Dept. approval has been signed. It is ready to be received for a public hearing.

There are no waiver requests. This is an in-law apartment. The site plan needs more detailed parking.

Motion by Lillian Mosa to accept the application and set the Public Hearing for July 18, 2011. Seconded by Larry Shipman. Motion carried.

4. VISITORS AND GUESTS

5.REPORT FROM LEGAL COUNSEL AND ZONING ENFORCEMENT OFFICER

Joe Budrow reported on the violation at bottom of Walnut. St. An 18 wheeler was dropping off shipments. There can't be wholesale distribution from a residential lot. This has been resolved.

Attorney Sipples reported that Rite Aid is still proceeding. The Plaintiff brief is due 6/24, and the reply brief is due July 22.

Individuals have brought up alternative Energy, such as wind turbines and other green energy sources.

The next meeting (July) will set priorities on that and other issues.

Essex Warehouse submitted a permit for wholesaling and warehousing. The majority of his business is wholesale but occasionally walk-ins arrive. It is a matter of how to regulate and not doing retail (part time). Definitions of retail and wholesale could be inserted. If there are receipts with sales tax then it is a retail business and not allowed in that zone. Al Wolfgram believes there should be strict enforcement of regulations. A second notice has been sent. The business with the retail piece doesn't conform to the regulations. An official complaint came in so a response is needed.

6. OTHER BUSINESS

7. APPROVAL OF MINUTES

**Motion by Larry Shipman to approve the minutes of the May 16, 2010 meeting.
Seconded by Lillian Mosa. Motion carried.**

8. CORRESPONDENCES AND PAYMENT OF BILLS

A memo from Attorney Peter Sipples on use variances was reviewed and discussed.

Two bills were received.

**Motion by Larry Shipman to pay the invoice pending availability of funds.
Seconded by Lillian Mosa. Motion carried.**

Lillian Mosa reported that she attended the EPA meeting. A report from that meeting will be given to John Guskowski, Planner.

9. ADJOURNMENT

**Motion by Lillian Mosa to adjourn at 9:20 p.m. Seconded by Larry Shipman.
Motion carried.**

Respectfully submitted,

Sandra Meinsen
Recording Secretary