

**ESSEX ZONING COMMISSION**  
29 WEST AVENUE

Monday, July 18, 2011  
Town Hall – Conference Room A  
Essex, Connecticut  
7:00 p.m.

**PUBLIC HEARING**

In attendance were: Chair Alvin Wolfgram, Susan Uihlein, Larry Shipman, Lillian Mosa, Jim Hill, and alternate Bill Reichenbach. Alternate Robert Connelly was absent. Also in attendance were Zoning Enforcement Officer Joe Budrow, Attorney Peter Sipples, and former Zoning Enforcement Officer Marian Staye.

Chair Al Wolfgram opened the Public Hearing at 7:00.  
Seated were Chair Al Wolfgram, Susan Uihlein, Lillian Mosa, Larry Shipman, and Jim Hill.

The Notice was read by Zoning Secretary Larry Shipman.

**Application 11-5** – Application for an accessory apartment to be located at 33 Eagle Ridge Drive, Essex. Diana and Joel Marchese are the applicants. Assessor's Map 24, Lot 4-9, RU district. (Public Hearing to be opened by August 24). It was published in the Hartford Courant On July 8, 2011 and July 15, 2011.

Attorney Peter Sipples indicated that the publishing dates did not meet the timeline for a legal public hearing. It will be rescheduled to the August meeting.

**Motion by Susan Uihlein to commence the Public Hearing for Application 11-5 on August 15, 2011. Seconded by Lillian Mosa. Motion carried unanimously.**

**REGULAR MEETING**

**NEW BUSINESS**

Seated for the regular meeting were Chair Al Wolfgram, Susan Uihlein, Lillian Mosa, Larry Shipman, and Jim Hill.

**Motion by Susan Uihlein to go to Item 4., Visitors and Guests. Seconded by Lillian Mosa. Motion carried unanimously.**

John Lombardi, from Essex Warehouse, was present to discuss his business and the retail issue. He explained that his business is mostly wholesale but occasionally there are walk-ins. He is open Friday, Saturday, and Sunday from 10 – 3. He is hoping to come to an agreement or he may have to relocate. That small part of the business, the walk-ins, is still necessary to help cover bills. Al Wolfgram referred to the letter of July 14, 2011 to Tuscarora Plastics regarding retail business in the Light

Industrial zone. There was an official complaint referring to the retail business. Enforcement actions are a result of an official complaint. ZEO, Joe Budrow, reported that a Notice of Violation was sent out. Mr. Lombardi came into the office with a zoning permit for a wholesale and warehouse business, which is a permitted use. A second Notice of Violation was sent. The final notice was sent last week. Owners and managers of property were sent letters and Mr. Lombardi was CCD. Owners of the property want something to happen fast. A cease and desist will be issued next week. There was discussion on what part of the business is taxable. Signs outside saying Estate Sale/Tag Sale were noted. When there is a complaint, it is investigated and in this case, the regulations prohibit retail. If it were to be allowed in this case, it would set a precedent for retail in a wholesale use area. Attorney Sipples clarified that under Limited Industrial, wholesale distributing establishments and storage warehouses are allowed. Zoning is bound to enforcement of the regulations. The option is to seek a variance through ZBA and prove hardship.

**Motion was made by Susan Uihlein to go to Item 5, Report from ZEO – Enforcement Updates. Seconded by Jim Hill. Motion carried unanimously.**

Zoning Enforcement Officer Joe Budrow, reported on Mares Hill and the Gualazzi property. Joe Budrow reported two areas of concern. Mr. Wheeler is using a flatbed to bring in vehicles to work on cars, and then they are hauled off the property. This is auto repair use, and requires a K. 7 application from the State and then approval by ZBA and then that is approved by the State. It needs to be determined how often that is happening and photographed. Two companies are operating up there, Wheeler and Copar. Neither is registered in the Clerks office. It also needs to be determined if Mr. Gualazzi is legally part of those companies. If he is, then is he leasing the land? There should not be work on cars there. Successor businesses (from Twin Oaks) can continue a nonconforming use. Increase in volume and intensity is allowed, but expansion is not. If it were not permitted as part of the original nonconforming use, it would be considered illegal expansion of a nonconforming use. The lot has been covered lot with gravel, but that is acceptable. The use is more critical than ownership. The waste removal business no longer exists. Linda Netsch, a neighbor, discussed the issues for those living in the area. 18-wheelers come in. The stone is there to support the trucks. The area covered by stone has expanded as well as piles of stone and scrap metal. Photos were submitted from a year ago, as well as present photos. ZEO Joe Budrow, will continue to investigate and should have the final opinions within the week.

## **NEW BUSINESS**

**Motion by Susan Uihlein to resume the regular meeting with the New Business Item 1. portion of the meeting. Seconded by Lillian Mosa. Motion carried unanimously.**

Al Wolfram read the following 3 applications:

**11-1 – (Closed on June 20<sup>th</sup>) Petition submitted by the Essex Zoning Commission to amend a district boundary for three (3) properties along Industrial Park Road and for a newly created Business District along a portion of Plains Rd.**

**11-2 – (Closed on June 20<sup>th</sup>) Petition submitted by the Essex Zoning Commission to establish a new section to the Essex Zoning Commission to establish a new section to the zoning regulations for a newly created Business zone.**

**11-3 – (Closed on June 20<sup>th</sup>) Petition submitted by the Essex Zoning Commission to establish a new section to the zoning regulations for a newly created Business zone.**

Application 11-1 – discussion, and possible vote on zoning map modification. Marian Staye, former Essex ZEO, reviewed the proposed modifications to the zoning maps and the proposed changes. Modifications were made to 3 properties in the zone to make it more consistent.

The Centerbrook Cemetery property currently has a portion in the Limited Industrial zone and will become all Rural Residence. Map 44 Lot 19 would become Business Zone. Map 54, Lot 13, where the zone line goes through the building, will become Limited Industrial. One area (shown in blue) is a combination of Limited Industrial and Commercial and will be in the new Business zone. There were some requests to have certain properties along Plains Rd. included in the Business Zone but that must be done separately.

There was no public testimony against these changes.

Under 8-3.b. of the Connecticut General Statute changes must be consistent with the Plan of Conservation and Development.

Seated for the vote were Chair Al Wolfgram, Susan Uihlein, Larry Shipman, Lillian Mosa, and Jim Hill

**Motion made by Susan Uihlein to approve Application 11-1 - Petition submitted by the Essex Zoning Commission to amend a district boundary for three (3) properties along Industrial Park Road for a newly created Business District along Plains Road as being consistent with the Plan of Conservation and Development with an effective date of September 1, 2011. Seconded by Lillian Mosa. Motion carried unanimously.**

Application 11-2 – discussion on Section 90.

Wording in 90 (L) was reviewed. Al Wolfgram noted that seasonal sales for this issue were determined to be April 1 through September 30<sup>th</sup> by Attorney Sipples. Al Wolfgram read Exhibit A, a letter from Attorney Chris Smith, dated June 15.

There was discussion as to whether to allow accessory use on a seasonal basis, in Section 82 or Section 90 or both. Susan Uihlein felt tree care use was appropriate but clarified “tree care and service”, to “tree care and **tree** service” be included in both 82A.2.R and 90. L.

Marian Staye noted that mulch would not be brought off site to sell, but put to use on site or an adjacent site. The letter is asking to allow as accessory use, on a seasonal basis, the sale of recycled forestry products. Section 90 (Industrial) would allow large loads and for it to be hauled off, and Section 82 (Business) would be for small loads. Larry Shipman, discussed the impact and the effect for the Bombaci business, would be that he would be grandfathered, giving him the ability to increase the business by making it a permitted use, and expand on his own property. Attorney Chris Smith wants everything being done there to be compliant. Limiting it to recycled forestry products is recommended, and some associated retail is allowed in Business district. It was discussed if associated retail should be allowed in Limited Industrial zone.

In Section 82 A.2.R, selling is inferred by “accessory use”.

The Bombaci business is allowed to process in Limited Industrial and sell in the Business zone.

Changes to Section 90.L were as follows: Earth-moving, landscaping, tree care and **tree** service, and construction contractors...Landscaping and tree care and tree service businesses only are allowed storage (subject to the provisions of Section 90C.2) and off-site **storage** of landscape-related products. A tree care service contractor shall include the on site processing of forestry products **limited to** mulch, firewood, wood chips and compost materials.

The propane issue will be revisited when there is more time to develop better language for larger supply tanks etc.

90.B.8 & 82 B.3- The last sentence of BEST MANAGEMENT PRACTICES will read: Plans shall be approved by the appropriate authority.

The Manufacturing - Light industrial” definition was read as proposed and reviewed by Marian Staye. It is part of Application 11-2. The definition is meant to distinguish it from heavy industrial and is now 90.A.E.

**Motion** was made by Larry Shipman to approve 11-2 Petition submitted by the Essex Zoning Commission to amend Section 90 of the zoning regulations and add “Manufacturing – Light” to definitions, including changes made in this discussion to 90A.1.L, and to 90.B.8. and that this is consistent with the Plan of Conservation and Development effective September 1, 2011. **Seconded** by Lillian Mosa. **Motion carried unanimously.**

Discussion went to Application 11-3.

82A USES PERMITTED now reads: In the Business District there shall be permitted: 82.2.A eliminated “second floor”.

82A.2.D excludes fast-food type establishments and/or drive up window service.

Referring back to the letter from Attorney Smith 82 A.2.R will read, “tree care and **tree** service”.

Added to 82A.2.R will be: A tree care and tree service contractor use shall include as an accessory use and on a seasonal basis only, April 1 through September 30 inclusive, the sale of recycled forestry products associated with the tree care and tree service use limited to mulch, wood chips and compost materials.

**Motion by Larry Shipman to approve Application 11-3 – Petition by the Essex Zoning Commission to establish a new section to the zoning regulations for a newly created Business zone including the revisions of: 82A changing “mixed use Business zone” to “Business District”, replace 82B.3 BEST MANAGEMENT PRACTICES with the provisions included in 90B.8, and the change 82 A.2.R, and this is consistent with the Plan of Conservation and Development, effective September 1, 2011. Seconded by Susan Uihlein. Motion carried unanimously.**

## **OLD BUSINESS**

### **RECEIPT OF NEW APPLICATIONS**

There were none.

### **REPORT FROM LEGAL COUNSEL**

Attorney Sipples reported that he received a motion for permission to withdraw the Rite Aid appeal on Friday. It cannot be withdrawn without permission from the court. This is likely to be granted.

A Memorandum of Decision was read by Al Wolfgram for an application for a special exception, Application 11-4, New England Commercial Properties LLC, pursuant to 90A.3.F.1 of the Essex zoning regulations a special exception is hereby granted for establishment of a self defense training facility in the area of 1200 square feet known as Unit 28, Bldg 2. This complies with all the regulations.

**Motion by Larry Shipman to approve Memorandum of Decision on Application 11-4. Seconded by Lillian Mosa. Motion carried unanimously.**

## **OTHER BUSINESS**

Susan Uihlein brought up the circus that is coming to the train station in the near future. She is requesting Joe Budrow look into this. Marian Staye noted that traditionally only health permits have been issued for events such as Lobster Bake. If a tent is involved the Fire Marshall would be involved. This goes along with the Memorandum of Law from Attorney Sipples of June 28, 2011. This is related to the restaurant issue on the same property. If no federal and state regulations apply then Essex takes over control. The ZEO should look at this along with the restaurant and the circus. That property is zoned commercial. Joe Budrow will look at the properties and see how our regulations affect the uses. Attorney Sipples recommended it be approached as the zoning question of whether the lobster bake is considered an accessory use to a fraternal organization or is it an accessory use to

the park? Would this also apply to the railroad site? Or is this an accessory use to the railroad?

#### **APPROVAL OF MINUTES**

The minutes of the June 20, 2011 meeting weren't sent out. They will be voted on next month.

#### **CORRESPONDENCE AND PAYMENTS OF INVOICES**

Motion by Susan Uihlein to pay invoices pending availability of funds. Seconded by Lillian Mosa. Motion carried unanimously.

Appreciation was expressed by all to Marian Staye for her hard work on the new regulations.

**Motion to adjourn at 9:00 by Larry Shipman. Seconded by Susan Uihlein. Motion carried.**

Respectfully submitted,

Sandra Meinsen  
Zoning Clerk