

Essex Zoning Commission

29 West Avenue - Essex, CT 06426

REGULAR MEETING MINUTES – April 20, 2015

Public Hearings

Seated: Larry Shipman, Chairman
Alvin Wolfgram, Vice-chairman,
Bill Reichenbach, Secretary
Regular member, Jim Hill
Regular Member, Susan Uihlein
Alternate member, Adrienne Forrest
Alternate Member, Jeffery Lovelace

Joe Budrow, Zoning Enforcement Official
Peter Sipples, Commission legal counsel

CALL TO ORDER: Larry Shipman called the Public Hearing to order at 6:59PM. Seated for the public hearings were Larry Shipman, Alvin Wolfgram, Bill Reichenbach, Jim Hill, Susan Uihlein, **Adrienne Forrest (Alternate Member) Jeffery Lovelace (Alternate Member)**

Larry Shipman, Chairman stated they are going to move out of order and discuss **Application 15-5** first.

Application No. 15-5 – Essex Glenn, LLC. An application for a special exception for a 22 dwelling unit active adult community on Lot 1 of the Essex Glenn subdivision (Public hearing to be closed by May 25th).

Larry Shipman, Chairman stated his understanding is there is an application for special exception which needs to be received and there is currently a site plan which has been received and Peter Sipples, Commission legal counsel has made some comments as to procedurally how to handle this. Alvin Wolfgram, Vice-chairman stated his concern is last month the application was withdrawn, then after that it was resubmitted. If it is resubmitted as a special exception, it is received at the following meeting and the public meeting is set after that. He said public hearing is not set before you receive an application. Alvin Wolfgram, Vice-chairman said it was out of order and if they are going to receive Application 15-5 it should be as a special exception for us to set a public hearing possibly at the next month. Peter Sipples, Commission legal counsel said there was a timing issue with a regulation amendment compared to the regulation and he was concerned about doing it right way. Attorney Terrance Lomme stated he brought several experts with him here tonight and he is ready to present it. Alvin Wolfgram, Vice-chairman stated this is why they are discussing first thing. Larry Shipman, Chairman stated he doesn't have an objection to proceeding, he doesn't think anything will change. Alvin Wolfgram, Vice-chairman doesn't want to set the precedent. He stated procedure has to be followed. Attorney Lomme stated they received information that they could possibly move forward this evening. Mr. Budrow stated he did not want to accept the application, but was urged to ask Attorney Sipples. He didn't want to do it, he didn't advise because he knew it was a grey area. Susan Uihlein, Regular member agreed with Alvin Wolfgram, Vice-chairman she wants to stick with procedure.

Joe Budrow, Zoning Enforcement Official noted the town engineer, fire department and health director have not yet responded. Attorney Terrance Lomme spoke about it being noticed and the said signs are up. He said he just wants the commission to be slightly accommodating due to an error that was made before (**in regards to notice**). Bill Reichenbach, Secretary stated he wants to stay with procedure.

Alvin Wolfgram, Vice-chairman made a motion to have **Application 15-5** submitted under new business as a special exception application not as a public hearing, Susan Uihlein, Regular Member seconded, Larry Shipman, Chairman opposed. Motion carried.

Application No. 14-06 Essex Zoning Commission – A petition to amend Section 111 (Signs and Lights) of the Essex Zoning Regulations.

There was no discussion on this application. A date was set for a public workshop as Wednesday before the June meeting – June 10th 7PM. Joe Budrow, Zoning Enforcement Official said he needs 6 weeks because he needs to get the word out for people to come to discuss (i.e. Essex Events, website)

Application 15-1 – David Facchini, 6 North Main Street, Essex. An application for a Special Exception to change the use of a property from retail to professional office use.

Seated for the public hearing: Larry Shipman., Chairman, Alvin Wolfgram, Vice-chairman, Bill Reichenbach, Secretary, Susan Uihlein, Regular member and Jim Hill, Regular Member

Attorney Terrance Lomme said that there was a memo from Lisa Fasulo, Director of Health and Registered Sanitarian regarding B100A review, Bill Reichenbach, Secretary read the memo from Mrs. Fasulo. The memo stated Health Department has approved but with stipulations as follows: Volume of water discharge limited to 220 gallons per day, No dentist or doctor or any business that uses more water, Absolutely no residential use. Parking is a concern, 1st floor for storage and utilities only, 2nd floor - 2 professional offices and limited to 5 employees

Alvin Wolfgram, Vice-chairman asked about handicap access and asked about the handicap bathroom on first floor. Alvin Wolfgram, Vice-chairman asked about parking and variance not being granted. Allow for 3 spaces. Peter Sipples, Commission legal counsel asked Attorney Terrance Lomme if they are willing to abide by terms of sanitation letter. No business use on first floor for storage and mechanical only. Sherry **Athay**, a business owner on Main Street, spoke about some concerns about parking. 5 people employed there plus their clients who will need additional parking spaces as well. She states customers may leave town if they have no places to park. She said the Main Street merchants would rather have retail, as retail brings in more retail business and most business owners are concerned (with the exception of Posies). She was able to present a few signatures of merchants who were opposed to the application.

Signed by 4 retail owners:

Truffles

One North Main

Sensibles

Poe Interiors

Alvin Wolfgram, Vice-chairman made a comment that parking in the village is a problem and that it is an issue for the selectman and we don't want to raise the issues here. Larry **Athay** from Truffle Shots spoke about parking and delivery trucks, ground floor not being used for business use and bringing more cars and parking for a longer length of time. Ms. **Susan** Malin spoke about parking and the issue that employees are parking for longer time periods than retail patrons. Attorney Terrance Lomme stated there was a possibility for off street parking for employees

Alvin Wolfgram, Vice-chairman made a motion to close Public Hearing for **Application 15-1 – David Facchini, 6 North Main Street, Essex**, Bill Reichenbach, Secretary seconded, opposed none, motion carried.

Application No. 15-2 – Under the Bark, LLC. An application for a special exception to allow a tree service contractor with outside storage to be located at 36 Plains Road, Essex, CT. (Public hearing to be closed by May 25th).

Bill Reichenbach, Secretary, read the notice of public hearing. Drew Finkeldey spoke on behalf of Under the Bark, LLC. They are requesting storage for byproducts of the business. They want to be environmental friendly. There are no intentions for electricity, water or septic. Joe Budrow spoke about a variance granted to them November 2013 for outside storage on the side of building (rather than in the rear because of wetlands in the rear). Joe Budrow, Zoning Enforcement Official read a letter from Lisa Fasulo which stated no negative activity, therefore no B100A was needed by the applicant. **Alvin Wolfgram, Vice-chairman stated the variance is for just storage not for processing - only storage. Are you doing processing there? Mr. Finkelday answered we are doing some processing there. Alvin Wolfgram, Vice-chairman stated only allow for storage there. Joe Budrow, Zoning Enforcement Official clarified stated they are coming here on tonight's application to get an approval for the processing – to be there.** It was suggested a condition be added no crossing through wetlands. Mr. Bombaci of Ingham Hill Road spoke in favor of the business stating it is doing a good thing, including recycling. A question was asked about material coming in and going out of the property. Mr. Finkeldey stated they try and manage the byproducts of their tree work – firewood, lumber building material and pallets.

Alvin Wolfgram, Vice-chairman made motion to close **Application 15-2 – Under The Bark, LLC**, Bill Reichenbach, Secretary seconded, no opposed, motion carried

Regular Meeting

Seated: Larry Shipman, Chairman
Alvin Wolfgram, Vice-chairman,
Bill Reichenbach, Secretary
Regular member, Jim Hill
Regular Member, Susan Uihlein
Alternate member, Adrienne Forrest
Alternate Member, Jeffery Lovelace

Joe Budrow, Zoning Enforcement Official

1. **CALL TO ORDER:**

Larry Shipman called the regular meeting to order at 7:42PM and **seated the same members as earlier.**

2. **APPROVAL OF THE AGENDA:** Alvin Wolfgram, Vice-chairman made the motion to Change **Application 15-5** to receive **Application 15-5**, Susan Uihlein, Regular member seconded the motion, all in favor, opposed none, motion carried,

3. **NEW BUSINESS:** none

4. **OLD BUSINESS:**

Application 15-1 – David Facchini. An application for a special exception for a change of use from retail to professional office for a property at 6 North Main Street, Essex, CT (Decision to be made within 65 days of closing the public hearing).

It was noted there were 2 conditions regarding this application 1. the sanitarian language 2. about no activity on first floor. It was stated 1st floor is for storage only, Parking continues to be non-conforming, No changes to the outside of the building and question on 3rd floor use.

Alvin Wolfgram, Vice-chairman, made a motion to approve **15-1** with conditions of conformance as noted in letter dated March 16, 2015 from sanitarian which stipulated no 1st floor activity only storage, access to 2nd, mechanicals and handicap bathroom (noted on plan) and no activity on third floor. Susan Uihlein, Regular member seconded to motion, all in favor, none opposed, motion carried.

Application No. 15-2 – Under the Bark, LLC. An application for a special exception to allow a tree service contractor with outside storage to be located at 36 Plains Road, Essex, CT. (Decision to be made within 65 days of closing the public hearing).

It was noted there were 2 conditions regarding this application 1. stake out wetland regulated area for no activity and 2. Processing and screening only to be as required by zoning enforcement officer.

Al Wolfgram, Vice-chairman made motion to approve with conditions **Application No. 15-2 – Under the Bark, LLC** with conditions, Susan Uihlein, Regular member seconded, all in favor, none opposed, motion carried.

Application No. 15-6 – MacBeth Ventures. An application for site plan review to allow a new driveway access at 6 Main Street, Centerbrook. (No public hearing required but if application is of public interest one may be held).

Attorney John Bennet represented the applicant for this site plan review. He stated the applicant wants a road cut from Main Street as the existing access from the Valley Railroad property was an issue. He spoke about the denial from years ago and the fact that things

have changed since then including the building being leased out. He read from the Nov 21, 2005 minutes. It was determined the basis of the denial back then was because of traffic concerns. He has an updated traffic report. He stated the State of DOT approved it then and has again has approved this. Attorney Sipples produced a memo of the March 17, 2004 meeting re a motion re access to RT 154 would be a major change in this project. Attorney Bennet states there is no other way out of the property except over the railroad tracks and he thinks they been lucky no one has gotten hurt. He believes it makes all the sense in the world to separate the uses. Their Insurance Company doesn't like it, the railroad doesn't like it, and tenants don't like it. Mr. Bennet stated, yes the environmental issues that need to be cleaned up can occur without a driveway, but it is a nice conscience of events to allow to make the improvements. He believes it does not compromise commission's regulations. Bill Reichenbach, Secretary asked about what could also be a better means to access the property. There was some suggestion years ago about coming out through the Burdick property years ago but that is even closer to the railroad tracks. **Peter Sipples, Commission legal counsel stated at issues is it a minor change if it is a minor change there is no public hearing and this issue can be dealt with tonight.** If this is determined not to be a minor change then there needs to be an amendment to the concept plan. Attorney John Bennet states we now have 10 years' worth of experience and he believes this is a minor change. Susan Uihlein, Regular member stated having some memory of the decision back then it was based on knowledge. She would prefer to have it go to public hearing as a major change. Alvin Wolfgram, Vice-chairman stated quite a bit more information which is needed to help the commission make a safety review. He also stated the DOT had given review comments but not final approval. Larry Shipman, Chairman comments he views as a minor modification. Not changing anything internally. He says he sees it a common sense public safety issue. Susan Uihlein, Regular member she is not sure right or wrong, safe or not, but would rather see it go to public hearing. Alvin Wolfgram, Vice-chairman – Because it was denied before he believes it should go to public hearing. Question was asked for Peter Sipples, Commission legal counsel – Site plan approvals should be done within 65 days of application. 65 days of this application would make it necessary for a decision tonight if it is a site plan. Norman Needleman, First Selectman ex officio spoke as a person who frequently gets complaints from occupants of the building about getting in and out of the building especially when train is busy. He states this not a black and white situation. You do know a lot more now than you did ten years ago. Mr. Needleman states the property is pretty much developed. He believes the safety of the children out weighs the difficulties of the site line and having multiple driveway cuts there. There is no perfect solution. It was a single property for 100 plus years and now there are multiple uses on this property. He believes it is about time the town addresses this. He goes on to say somebody stepped in a bought a property and spent millions to improve their property and they deserve to have a driveway out of the property. He has received many calls about safety. Applicant has made their case and he thinks it is the right thing to do. He says don't make the perfect be the enemy here. Susan Uihlein, Regular member states she is not opposed to road, she doesn't think it is a small change, she wants it done the right way. Bill Reichenbach, Secretary wants to understand the issues better and to see if there is a better way or an alternate way, he wants some hand holding. He agrees the current situation is awful. Alvin Wolfgram, Vice-chairman wants to understand it better. He is concerned about blind spots. Commission really needs to understand the safety pluses and minus. Alvin Wolfgram, Vice-chairman stated he is concerned now is if they are in the 65 day limit. From his standpoint additional information has to be submitted. It is then noted for the record as Application having been received as March 9th, 65 days would be May 14th

Discussion took place regarding procedurally how the commission should proceed.

Alvin Wolfgram, Vice-chairman made a motion on **Application 15-6** denied without prejudice as site plan review, Bill Reichenbach, Secretary seconded, Larry Shipman, Vice-chairman opposed, motion carried.

Alvin Wolfgram, Vice-chairman made a motion to accept **Application 15-6** as an amendment to the concept plan as a public hearing and Public Hearing for May 18th, 2015, Susan Uihlein, Regular member seconded, all in favor, none opposed, motion carried.

Requested was a note for the record: no one has said whether they are in favor or not in favor of this cut through but the majority on the commission have said that they are in favor being dealt with as an amendment and public hearing

5. RECEIPT OF NEW APPLICATION(S):

Application 15-7 – Bell Power Systems. An application to allow an outside storage area of approximately 13,000 square feet in the rear of the building (Public hearing to be commenced by June 22nd)

Joe Budrow, Zoning Enforcement Official stated nothing new on this applicant since they submitted the application.

Alvin Wolfgram, Vice-chairman made motion to accept **Application 15-7** as a special exception application, no waivers to vote on, Susan Uihlein, Regular member seconded, all in favor, opposed none, motion carried.

Public Hearing set for next meeting, May 18th, 2015

Application No. 15-5 – Essex Glenn, LLC. An application for a special exception for a 22 dwelling unit active adult community on Lot 1 of the Essex Glenn subdivision (Decision to be made within 65 days of closing the public hearing).

Attorney Terrance Lomme spoke on behalf of Essex Glenn, LLC. Tom Metcalf, Town Engineer can review it because he is familiar of the property. Alvin Wolfgram, Vice-chairman said Fire Marshall should look at it.

Alvin Wolfgram, Vice-chairman made a motion to accept **Application 15-5** as a special exception, Susan Uihlein, Regular member seconded the motion, all in favor, opposed none, motion carried

Public Hearing set for May 18th, 2015

6. VISITORS AND GUESTS:

CT River Gateway Commission

The group came to this meeting to basically close the loop in conversations since two years ago the subcommittee of the zoning commission and the Gateway Commission to sit down and talk about Gateway standards. The two sub committees worked out a set of standards that was

agreeable to both parties Alvin Wolfgram, Vice-chairman, Larry Shipman, Chairman and Jeff Lovelace all were involved with this. They took the standards to other 7 towns and present them and get their opinions, comments and concerns and bring them back to this Commission as final of the eight member towns. Spoke to you two years ago J.H. Torrance Downes stated he is the staff of the Gateway Commission, also in attendance were Nancy Fischbach Deep River and Essex Representatives, Claire Mathews and Jeri MacMillian, newly appointed alternate. Copies of the Standards and Summary pages were handed out. They are looking to gather comments from this commission. This is not set in stone yet. It was comments the towns could always be more restrictive but not less restrictive once the standards were adopted They are looking for comments It is not ready for public hearing yet. Looking for the Town to adopt standards. Torrance went through the standards from handouts. They will bring the revisions back to the commission and it will go to public hearing. The Gateway's mission has been to write standards that fits all 8 Towns. The Commission thanked Gateway for all their hard work of 2 plus years. Alvin Wolfgram, Vice-chairman asked about the scheduling and it was they are looking for comments so they can hold Public Hearings in September, October or November.

Commission is keeping on the agenda for next month

7. REPORT FROM LEGAL COUNSEL AND ZONING ENFORCEMENT OFFICIAL:

Nothing from Peter Sipples, Commission legal counsel

Joe Budrow, Zoning Enforcement Official stated Cumberland Farms is going for a visit to ZBA hopefully next month and it will be coming to us as a retail store greater than 1800 feet. Alvin Wolfgram, Vice-chairman asked about a traffic study.

8. OTHER BUSINESS:

Route 9 signs - Joe Budrow, Zoning Enforcement Official looked at signs. State is enhancing tourism. Joe Budrow, Zoning Enforcement Official found a Regional office on State level as to who to call if they are exempt from zoning or not. It is a question on if the commission is going to reinforce them or not.

Alvin Wolfgram, Vice-chairman wants to keep Calamari's and Finkeldey's on the other business list because they are waiting for information on both of them

Discussion and possible vote on updated Zoning Commission bylaws was held off to allow commission members to review

Signage workshop...scheduling a date June 10th (Special Public Meeting) at 7pm

9. APPROVAL OF MINUTES: March 16, 2015 –

Correction needed noted by Adrienne Forrest. She suggested to change wording under **Application 15-1 David Facchini, 6 North Main Street, Essex** from “parking requirements were not as demanding for retail” to “parking requirements were not as demanding as for retail

Alvin Wolfgram, Vice-chairman noted correction under receipt of new applications **Application 15-3 and 15-4** need to know who made motions to approve.

Taken from Record of the Vote

Bill Reichenbach made a motion to approve **Application 15-3 Interstate Sheet Metal LLC**. Adrienne Forrest seconded the motion. All in favor, opposed none. Motion carried

From ROV Bill Reichenbach made a motion to approve Application **15-4 River Valley Stairs, LLC**, Jim Hill seconded the motion. All in favor, opposed none. Motion carried

Correction to include under receipt of new applications **Add 15-5 Essex Glenn, LLC**. Add the statement Application was withdrawn

Larry Shipman made a motion to approve the minutes as corrected and Bill Reichenbach, Secretary seconded the motion, all in favor, none opposed, motion carried.

10. CORRESPONDENCE AND PAYMENT OF BILLS:

Motion made by Alvin Wolfgram, Vice-chairman to recommend payment for submitted legal bills, seconded by Bill Reichenbach, Secretary, all in favor, opposed none, motion carried.

11. ADJOURNMENT:

Motion made by Larry Shipman, Chairman to adjourn the meeting at 9:35 PM, seconded by Bill Reichenbach, Secretary, all were in favor, none, motion carried

Respectfully submitted,

Gayle Capezzzone
Essex Zoning Board Clerk