

ESSEX ZONING COMMISSION
29 WEST AVENUE – ESSEX, CT 06426

Monday, June 18, 2012
Town Hall - Conference Room A
Essex, Connecticut
7:00 PM

PUBLIC HEARINGS

Application 12 – 4 – River Properties, Inc.

- Petition to amend the text to zoning regulation 71 by adding a new section, 71A.5 (Continued from May 21st. Public hearing to be closed by June 25th.)

Deferred to later on the agenda

Application 12 – 6 – William Von Ahnen

- An application to convert a food retail business at 55 Main Street, Centerbrook to a food service shop.

The applicant has still not met with the Health Department so he has requested that this Public Hearing not be opened until July to cover a state statute.

Motion by Al Wolfram and **seconded** by Larry Shipman to defer the Public Hearing for **Application 12 – 6 – William Von Ahnen - An application to convert a food retail business at 55 Main Street, Centerbrook to a food service shop.** until July 16. **Motion carried unanimously.**

Application 12 – 7 – Essex Glen, LLC

- An application to modify a previous application. No: 21-07 (Public Hearing to be closed by July 23rd)

Secretary Larry Shipman read the legal notice. It was published in the Hartford Courant on June 7th and June 14th.

Seated were Chair Al Wolfram, Barbara Zernike for Susan Uihlein, Larry Shipman, Jim Hill, and Jeff Lovelace for Bill Reichenbach.

Attorney Terry Lomme presented for the applicant. The application was approved in November of 2007. A traffic study was done for 100 condominium units not age restricted properties. This is a zoning text/language change from active adult to unrestricted. An updated traffic report was submitted. The market for active adult projects has diminished significantly. They are 2 bedroom condos so the likelihood of having more than 1 child is remote according to expert Planner. A demographics report would be made to the Zoning Officer each year. The potential for a school bus was discussed. There will be underground parking, and plenty of parking. Three important factors are that there are no amenities (for children); units are expensive and only two bedroom.

No one from the public spoke in favor or against the application.

Motion to continue the Public hearing until July 16th by Jim Hill and **seconded** by Jeff Lovelace. **Motion carried unanimously.**

Application 12 – 10 – Kevin Geenty for Charles Domier

- **An application to allow a music school within a commercial space at 24 Main Street, Centerbrook.**

Application 12 – 11 – Kevin Geenty for Dr. David Roberts, MD

- **An application to allow a medical office within a commercial space at 24 Main Street, Centerbrook.**

Application 12-12 – Kevin Geenty for Howard Tingle, Jr.

- **An application to allow a delicatessen within a commercial space at 24 Main Street, Centerbrook.**

Secretary Larry Shipman read the legal notices for Applications 12-10, 12-11 and 12-12. They were published in the Hartford Courant on June 7th and June 14th. Seated were Chair Al Wolfram, alternate Barbara Zernike for Susan Uihlein, Larry Shipman, Jim Hill and Jeff Lovelace for Bill Reichenbach.

Joe Budrow reviewed the Health Department memo, which states that all uses are compliant with health code. There was also a letter from Herb Clark regarding the right of way for secondary access to the Industrial Park in the rear. The full width (25 ft.) needs to be left open, and no portion of the right of way should be counted as parking spaces in connection with the use of the Rolls Royce building.

Kevin Geenty representing the three applicants presented. Also in attendance were Attorney Howard Gould of Gould and Gilliam and Howard Tingle. This is an application for special exception. All tenants are long-term tenants. Mr. Tingle has been a tenant for 20 years, Dr. Roberts for over 10 years and the music school for two years. Mr. Tingle reported that he was permitted when he opened 20 years ago. His use falls under special principle use. The focus is on the right of way and the parking.

Attorney Gould has done a title search and is unable to find a title for the right of way in the land records. There is a subdivision map of industrial park. The lots are reversed on the existing map. It is not properly recorded.

Hours of operation were reviewed, and some are part time. The biggest part of traffic is going to industrial buildings. The new owner is willing to put a stripe and signage if it is a problem. There is a good amount of parking to the rear of the building.

Herb Clark representing Valley Industrial Park spoke. The right of way was created at request of Planning and Zoning for emergency access. It has become more of a primary access over time. The right of way was granted as part of the deed for the property from Dave O'Neill. Howard Gould noted that the deed exists but map does not. The present map was not recorded. The important point is that there is no problem with traffic and parking.

There were no public comments for or against these applications.

Motion by Larry Shipman and **seconded** by Barbara Zernike to close the Public Hearings. **Motion carried unanimously.**

Application 12-13 – Sherri Athay -

- **An application to allow a food service shop to be located in a commercial space at 1 and 3 North Main Street, Essex.**

Secretary Larry Shipman read the legal notice for Applications 12-13. It was published in the Hartford Courant on June 7th and June 14th.

Seated were Chair Al Wolfgram, Barbara Zernike for Susan Uihlein, Larry Shipman, Jim Hill and Jeff Lovelace for Bill Reichenbach.

Sherri Athay presented her application. She has created a chocolate confection and the space is approved as food retail. She is requesting to prepare the product on site. It requires a hot plate and a microwave. Health department approval has been received after review of the water usage. The product will not be eaten on site. There will be minimal water usage. Sanitarian approval is based on no more than 100 gallons a day. This business would use less than the florist there previously. A water meter will be installed. Quarterly reports are already being done. There were no public comments for or against.

Motion by Larry Shipman and **seconded** by Jim Hill to close the Public Hearing. **Motion carried unanimously.**

Application 12 – 4 – River Properties, Inc.

- **Petition to amend the text to zoning regulation 71 by adding a new section, 71A.5 (Continued from May 21st. Public hearing to be closed by June 25th.)**

Seated for the Public hearing were Chair Al Wolfgram, Larry Shipman, Barbara Zernike for Susan Uihlein, Jim Hill, and Jeff Lovelace for Bill Reichenbach
The application needs to close by June 25th.

Motion to close the Public Hearing by Larry Shipman and **seconded** by Barbara Zernike. **Motion carried unanimously.**

Application 12 – 8 – Zoning Commission

- **Petition to adopt the town's digital map as the Official Town of Essex Zoning Map, a computer based version of the paper map, that shows the newly created business district as well as the re-zoned parcels approved on June 20, 2010.**

Application 12 – 9 – Zoning Commission

- **Petition to add zoning regulation 121A6 and 140L and to remove the text of the current regulation 121I.**

Secretary Larry Shipman read the legal notice. It was published in the Hartford Courant on June 7th and June 14th.

Seated were Chair Al Wolfgram, Barbara Zernike for Susan Uihlein, Larry Shipman, Jim Hill and Jeff Lovelace for Bill Reichenbach.

Joe Budrow, ZEO presented. All approved zoning maps and wetland maps are now on line. Upon adoption of the new business district and the other two properties Attorney Sipples recommended this be adopted so there is no question as to which is the official map. The appeal is 10 days away from dropping.

Zoning permit lot line revision is not in the zoning permit requirement. It is referred to in ordinances under subdivision regulations but needs to be in the regulations.

Adding 121A.6 would have all lot line revisions that are not deemed a subdivision or a resubdivision come before ZEO Joe Budrow.

It would be enforced with the following procedure: When filing a Zoning permit, the applicant would then submit an A2 survey to Joe Budrow for review. He would work with their surveyor if necessary and then resubmit the final A2. If this were accepted then Joe Budrow would sign off lot line revisions in coordination with the town clerk and sanitarian before filing.

It is state law that anyone who gets a zoning permit has the right to do a legal notice in the paper and if no one appeals within 15 or 30 days, no one can ever appeal what was granted to that person. Based on this, Joe Budrow is proposing to take out 121I. This puts the power in the hands of recipient to squash appeals. Replacing this would mean Zoning wouldn't have to send letters. Under 121I the town has to send the letter. There was consensus that the abutter letters are important. The town has to send a letter that they approved the zoning permit.

There was no public comment for or against.

Motion to close the Public Hearing by Barbara Zernike and **seconded** by Jeff Lovelace. **Motion carried unanimously.**

REGULAR MEETING

NEW BUSINESS

Seated for the regular meeting were Chair Al Wolfgram, Larry Shipman, Barbara Zernike for Susan Uihlein, Jim Hill, and Jeff Lovelace for Bill Reichenbach.

Discussion and possible vote on Application 12-1 – Petition to amend the text to zoning regulations sections 63A.2(J), 63A.2(J)(1), 63B.1, 63B.3, 63B.3(D), 63B.3(H), 63-2(title), 63-2A, 63-2A.2(A), 63-2B.1, 63-2B.3 (Public Hearing closed on April 16th.)

A letter on April 12, 2012 added 63.2B4 as a waiver. This is a waiver to a regulation change to make over 55 more flexible. This is a waiver of existing over 55, and then the waiver of that is the request of the applicant case by case. This is only in the active adult zone.

Motion by Larry Shipman and **seconded** by Jim Hill to approve Application 12-1, a petition to 63-2.B 4, the waiver as presented by the applicant. This is consistent with CT Statute sections A.2 and A.3. **Motion carried unanimously.** It was **amended** by Larry Shipman to be in effect no later than July 10. **Seconded** by Barbara Zernike. **The amended motion carried unanimously.**

Discussion and possible vote on Application 12-13 – Sherri Athay -

- **An application to allow a food service shop to be located in a commercial space at 1 and 3 North Main Street, Essex.**

Motion by Larry Shipman to approve Application 12-13 subject to the restrictions in the Health Department letter dated June 12, 2012 and grants the Chair approval to sign the Memorandum of Decision. **Seconded** by Jeff Lovelace. **Motion carried unanimously.**

Application 12 – 4 – River Properties, Inc.

- **Petition to amend the text to zoning regulation 71 by adding a new section, 71A.5 (Continued from May 21st. Public hearing to be closed by June 25th.)**

Motion by Jim Hill and **seconded** by Larry Shipman to postpone the vote until the July meeting. **Motion carried unanimously.**

Application 12 – 6 – William Von Ahnen

- **An application to convert a food retail business at 55 Main Street, Centerbrook to a food service shop.**

This application was deferred until July.

Application 12 – 7 – Essex Glen, LLC

- **An application to modify a previous application. No: 21-07 (Public Hearing to be closed by July 23rd)**

This application was deferred until July.

Application 12 – 8 – Zoning Commission

- **Petition to adopt the town's digital map as the Official Town of Essex Zoning Map, a computer based version of the paper map, that shows the newly created business district as well as the re-zoned parcels approved on June 20, 2010.**

This will be deferred until the appeal period for the industrial park has passed.

Motion by Jim Hill and **seconded** by Larry Shipman to move this application to the July 16th meeting. **Motion carried unanimously.**

Application 12 – 9 – Zoning Commission

- **Petition to add zoning regulation 121A6 and 140L and to remove the text of the current regulation 121I.**

These changes include approval of the lot lines by the ZEO. 121I shall read: Written notification of issuance of a zoning permit shall be mailed within 7 days to property owners listed within 60 ft. of the applicant's property line.

Motion by Larry Shipman to approve Application 12-9, withdrawal of the revision 140L, and approval of 121A.6 and 121I consistent with the applicable State statutes effective July 15th. **Seconded** by Barbara Zernike. **Motion carried unanimously.**

Application 12 – 10 – Kevin Geenty for Charles Domier

- **An application to allow a music school within a commercial space at 24 Main Street, Centerbrook.**

There was discussion on the parking situation.

Motion by Larry Shipman and **seconded** by Jim Hill to approve Application 12-10 and find that it complies with Sections 120G and 130A of the regulations. **Motion carried unanimously.**

Application 12 – 11 – Kevin Geenty for Dr. David Roberts, MD

- **An application to allow a medical office within a commercial space at 24 Main Street, Centerbrook.**

Motion by Larry Shipman and **seconded** by Barbara Zernike to approve Application 12-11 and find that it complies with Sections 120G and 130A of the regulations. **Motion carried unanimously.**

Application 12-12 – Kevin Geenty for Howard Tingue, Jr.

- **An application to allow a delicatessen within a commercial space at 24 Main Street, Centerbrook.**

Motion by Larry Shipman and **seconded** by Jim Hill to approve Application 12-12 and find that it complies with Sections 120G and 130A of the regulations. **Motion carried unanimously.**

OLD BUSINESS

There was none. Gateway will be on the agenda in July.

RECEIPT OF NEW APPLICATIONS

No new applications.

VISITORS AND GUESTS

There were none.

REPORT FROM LEGAL COUSEL AND ZONING

Joe Budrow reported that the appeal for nonconforming use at 52 Plains Rd. was published in the paper on May 30, 2012. If no one appeals by June 30 then on July 1st there will be a new district.

Calamari Recycling has expanded the use and that requires a special exception. A meeting will take place.

Gather has had a non-written complaint. Since it is a public sidewalk, the Selectmen should take over.

Scotts Farm Market has had a complaint that they are bringing in outside product. There is no violation but they will update their inventory list.

28 Sunset Terrace has arborvitae that blocks the view on the corner. They will be contacted.

The Art school in Centerbrook is not an approved use. The sign will be removed.

The Ivoryton Inn has been issued a cease and desist. Since then there has not been a flea market or signs.

APPROVAL OF MINUTES

Motion by Jeff Lovelace to approve the minutes of the May 12, 2012 meeting with change that the date for closing the hearing for Application 12-4 should be June 21st.

Seconded by Jim Hill. **Motion carried unanimously.**

CORRESPONDENCE AND PAYMENT OF BILLS

There was an invoice from Attorney Sipples. **Motion** by Larry Shipman to approve payment of bills pending availability of funds. **Seconded** by Barbara Zernike.

Motion carried unanimously.

Motion by Jim Hill and **seconded** by Barbara Zernike to approve the Memorandum of Decision for Application 12-5 (barber shop). **Motion carried unanimously.**

Motion by Jeff Lovelace and **seconded** by Jim Hill to adjourn at 9:17 p.m. **Motion carried unanimously.**

Respectfully submitted,

Sandra Meinsen
Recording Secretary