

TOWN OF ESSEX ZONING COMMISSION

29 WEST AVENUE – ESSEX, CT 06426

REGULAR MEETING MINUTES – June 19, 2017

PUBLIC HEARINGS

Present: Alvin Wolfgram, Chairman
Larry Shipman, Vice-chairman
Bill Reichenbach, Secretary
Susan Uihlein, Regular Member
Jim Hill, Regular Member
Russ Smith, Alternate Member
Jeffrey Lovelace, Alternate Member
Adrienne Forrest, Alternate Member

Also present: David Royston, Commission Legal Counsel
Joe Budrow, Zoning Enforcement Official

CALL TO ORDER: Alvin Wolfgram, Chairman called the Public Hearing to order at 7:00 PM. The hearing took place at the Essex Elementary School. Seated for the public hearing were Regular Members Alvin Wolfgram, Larry Shipman, Bill Reichenbach, Susan Uihlein, and Jim Hill. Alternate Members Russ Smith, Jeffrey Lovelace and Adrienne Forrest were also present.

Hearing had to close by 9:30 pm, due to a custodial conflict at the school.

MOTION made by Larry Shipman, Vice-chairman to hire Dzialo Pickett & Allen, Town Attorneys and David Royston, Town Legal Counsel to assist the Zoning Commission with these applications. Bill Reichenbach seconded the motion. All in favor, **Motion carried, 5-0.**

The following applications were deliberated on together:

Application 17-7 – Essex Boat Works, LLC, 9 Ferry Street – An application for a Special Exception to construct a new building for a marina along with accessory site work on a lot known as Assessor's Map 47, Lot 21-1, Main Street, Essex.

Application 17-9 – Essex Boat Works, LLC – An application for Special Exception to allow a restaurant as an accessory use at a marina located on a lot known as Assessor's Map 47, Lot 21-1, Main Street, Essex.

Seated were Regular Members Regular Members Alvin Wolfgram, Larry Shipman, Bill

Reichenbach, Susan Uihlein, and Jim Hill. Alternate Members Russ Smith, Jeffrey Lovelace and Adrienne Forrest were also present.

Attorney Chris Smith from Shipman & Goodwin first presented. He gave an overview of who was on their team and what they were presenting.

Engineer Chuck Muller from Centerbrook Architects presented. He showed a video presentation of the project and discussed in more detail what the most current plans were.

Engineer Tom Daly from Milone & MacBroom gave a presentation on parking. 70 parking spaces are required for the summer months. 58 parking spaces are required during the winter months. (This includes both properties).

Mr. Muller showed the view easements in a three dimensional presentation, along with seating. The maximum number of seating, based on parking and septic is 55 seats.

Every boat slip on both properties (even including those that have boats to be repaired) must be counted toward parking and septic, as stated by the Town Sanitarian.

The second floor will be reserved for Boat Works offices and a mechanical room. There will be no accommodations for restaurant patrons on the second floor.

Mr. Daly handed out a packet to the Commission, putting together most of the documents that the Commission already has. This packet included:

- Parking plan (summer and winter parking plans), letter from Traffic Engineer David Sullivan, letter from Town Sanitarian giving her approval of the revised plans for the septic system, letter from owner of Geomatrix (septic system company that the owner will be using).

- Review letter from Indigo Design on behalf of CRM to do a review of the application.

- A letter from Scott Bighinatti, Flood Plain Manager from Milone & MacBroom.

- A letter from a resident with a certified intervention from the adjacent neighbor. Their belief being that reasonable harm could be brought upon the environment.

- Letters from the team at Milone & MacBroom stating that it is their opinion that the claims from that intervention are incorrect and they do not see any reason for environmental concern. The Coastal Area Management application is included in this packet, showing positive remarks. The marina use should not have an impact on the restaurant use.

Attorney Smith gave a recap of the presentation and discussed legal issues. Attorney Smith showed the cross easements that are allowed. He discussed the shared parking and how it's allowed as long as there is a special exception review. The 200-foot separation distance relative to the requirement of the sale of alcoholic beverages should not matter since the marina, restaurant, and museum all have different uses. Therefore, different permits should be required.

Attorney Smith gave a supplemental handout to the Commission with three exhibits regarding the staircase that connects the River Museum and Essex Boat Works. There is a fiduciary deed dated September 11, 2012 from the prior owner of the property. Attorney Smith read a letter from the prior owner that he had sent to Mr. Carlson (current property owner) about a year ago.

Applicant Rick Carlson stood up and talked about how he offered to move the stairs for the Museum, but the Museum did not accept the offer and decided to hire an Attorney to handle the issue instead.

Attorney Smith stated that there is only a license agreement pertaining to the stairway, not an easement. Therefore, it is revocable at will. The CRM wrote a letter asking the Commission to impose as a condition that the stairway still remain. Therefore, asking the Commission to impose a permanent easement in favor of the museum and the public for the applicant's property.

Correspondence:

Letters of support:

Chris Anderson Photography
John Bombardi, River Road Drive
DePaulo Jewelers
William Cecil Lyon
Essex Yacht Sales (Peter Amos, town resident)
Stuart Littler
Al Rubenstein
Annelisa Santoro, 48 Main Street

Storm water letter from DEEP which Mr. Budrow said he would discuss later on in the meeting.

Mr. Reichenbach read the next letter from the Town Sanitarian, Lisa Fasulo. The Health Department has received a Site Development Plan from the applicant. They support the proposed use of the property as stated on the Zoning application, but it is not an approval to construct a septic system or development of the parcel. It is an acknowledgement that the septic system is available to support a marina and restaurant use on the parcel. The applicant is still required to submit additional documentation to the Health Department as per Connecticut Department Health Code.

Mr. Budrow mentioned that the updated Statement of Use was given to the Commission in their folders.

Mr. Budrow said that Robert Friedman from Old Saybrook, a consultant for the Zoning Commission on behalf of the CT River Museum submitted a revised assessment on June 15, 2017 of the most recent site plans submitted by the applicant.

Mr. Reichenbach does not understand why the applicant is against keeping the stairway on the property. Mr. Wolfgram stated that this should be an issue between the applicant and the abutter of the property only.

Mr. Wolfgram shared his concerns. He did not see a walkway access from Main Street which was discussed at the last meeting and he thought was going to be added to the blueprint. Attorney Smith concluded that this point in time it was not included on the blueprint because they feel that the driveway is already adequate. However, Attorney Branse said that one of the sections of the driveway on the Main Street side is less than a minimum driveway width and he thinks that the driveway width to the handicap parking spaces is less than 10 feet width which does not meet the town's requirement. Mr. Wolfgram also has concerns about a section of the leaching system. He thinks there should be some kind of stabilization such as a trench box on one side of the property. He would like to see an expanded view of this area, as there are some electrical lines through there. He would like to see how excavators, etc. will be able to work in that area with these challenges.

Mr. Daly stated that the applicant would be willing to do some kind of walkway on the side, such as a paver. His thought was that the two areas going down the driveway that are now on the plans as being 10 feet in width and 12 feet in width could be made into a 14 foot width instead. Geotechnical engineer helped with redoing the plan, and they have no problem installing a trench box or whatever may be needed for the leaching field.

Mr. Shipman asked a question about the liquor permit for the River Museum. Attorney Smith clarified what the applicant's position was on this and how this is considered to be a "same use" according to the town's regulation.

Questions of fact from the audience:

Attorney Mark Branse from Halloran and Sage asked who on the Commission recommended the six-foot-high silt fence that had recently been installed on top of the bank of the proposed driveway. The applicants answered by saying that one of the Commission's in town requested it.

Attorney Branse asked a question regarding the bar room and what the long thin rectangle piece is for that is located to the left of the bar. Mr. Muller said that the State Liquor Commission has strict conditions that a bar be separated from areas such as hallway space. Therefore, that piece is a low glass shelf for separation and confirmed that it is not a bar.

Attorney Branse asked if the size of the deck has changed. He is wondering why the original plans showed 13 seats but now shows only 8 seats. Mr. Muller confirmed that the deck is being made physically smaller than before.

Attorney Branse asked about the original plans that showed a chain link fence on top of a retaining wall between the lighthouse and the restaurant parcel. The next set of plans showed a hedge, but the new plans do not show the hedge and Attorney Branse is unclear what is going to be there. Mr. Muller confirmed that it is to be a hedge on top of the retaining wall on the Boat Works property.

Attorney Branse asked if the dumpster is still located between the restaurant and Main Street. Mr. Muller pointed out on the plan that it's to the South of the existing building's back corner, while currently being located on the waterfront. Attorney Branse is wondering what

side is considered to be the front of the property. No one present at the meeting gave an answer at the meeting.

Attorney Branse asked what the use indicated in these plans would be for Section 71 A-1. The applicant's team will review the regulation and then respond.

Attorney Branse asked Mr. Daly if there are reserved spaces for Essex Island Marina and if they are on the current plan. The applicants clarified that all the vacant space to the left of the building is space that they rent out, and at the present time is being rented out by Essex Island Marina. Mr. Muller pulled the plan up and demonstrated which area is used for Essex Island Marina and assured that this area is not considered part of the restaurant's parking calculation.

Attorney Branse asked Attorney Smith why there was such a resistance by the applicant to merge the two properties together. Attorney Smith referred to regulations that if a use is a principal use, it cannot have an addition that is an accessory use. Attorney Smith does not understand why the River Museum has such an interest in the applicant merging the lots. He does not see a reason for it. Mr. Smith reminded Attorney Branson that the applicant, in the future, cannot sell off the Main Street property and keep the marina property because the Main Street property is an accessory to the marina property. There are cross easements in place for this which gives protection for the neighbor.

Attorney Smith then addressed the concern of the silt fencing by mentioning that it's being put up along the property line and meets all requirements, therefore should cause no concern for anyone.

Bob Robinson, town resident asked how long the project would take to complete. Attorney Smith said it would take about 11 months to complete the project from time of final approval.

Caroline Field, town resident asked what the applicant is proposing for signage on Main Street and Ferry Street. Mr. Muller said that signage is not part of the application and will be a separate discussion that will come later on. Mr. Wolfgram paraphrased by saying that the location is shown on the plan and an additional permit will be made later for the actual design of the sign.

Joe Wren, Engineer and Owner of Indigo Land Design referred to a letter from last month that had several comments about site engineering and septic. The applicant responded to this letter, and Mr. Wren has some questions remaining out of the original 20 questions from that letter.

Mr. Wren's Questions/Concerns:

There was previously a concern regarding a regulation that does not allow septic systems in flood prone areas. Therefore, he is wondering if the Commission feels that this complies with their regulation.

When looking at the plans, it is unclear what the storm water run-off accommodations are. He would like to make sure that the volume is sized correctly for at least one inch of

run-off and that there is enough separating distance for efficient water quality.

There is confusion with if any air conditioning condensers are in the plan, which are needed for flood zones. Geometric soil air blowers are also needed for the leaching system, and nothing has been mentioned about this. These blowers will need to be located off the ground as well since it is an electrical piece of equipment in a flood zone. Mr. Wren would like to see where they are located and what they look like.

Is it necessary to have such a large size propane tank and if they can't fit on the location, he would like to know where else the tanks would be located.

Mr. Wren is confused about a septic system being located inside the building area, which he finds unusual.

Mr. Wren said that on the last version of the plan there was a catch basin from the Main Street driveway, and without that catch basin (which was tied into another that was filled with water), he wants to make sure that not too much water runs off toward 67 Main Street.

Mr. Wren had question about if the DEEP had reviewed the most recent storm water design and does it meet their requirements.

The applicant's team addressed Mr. Wren's concerns:

Mr. Muller responded to the issue of the propane tanks by saying that he thinks Mr. Wren is misreading the code for these. He has consulted with numerous propane companies including Daniels Energy, and the applicant has followed all regulations.

Mr. Daly talked about the storm water packet that was released. A two-foot galley was added based on the town health's recommendation.

Attorney Smith said that Ms. Fasulo said that a connection and catch basin had to be removed from plan, which is what the applicant did.

The applicants legal team confirmed that that the septic system for Essex Boat Works is located inside the building. There is a main part of building and two outside areas that do have open air and is where the septic system is located. Ms. Fasulo is aware of this. Currently there is parking on top of this area and in the winter, boats are stored there.

With regards to the flood ordinance, the regulations do not say that a septic system is prohibited from this area. There will be a check valve as to prevent the septic from pushing sewage into a flooded area, should a flood occur.

A Branford resident had concerns regarding his wedding that is taking place at the River Museum in July 2017. The applicant's team addressed his concerns and assured him that this project would not affect his wedding day. Mr. Muller further confirmed this.

Mr. Budrow asked the applicant what the results were from the Harbor Commission regarding storm water drainage to the river. The Harbor Commission had also required water testing which they have not received yet. Attorney Smith explained there is an existing drainage and it can be re-located if necessary, but he thinks that it may not be necessary. The applicant still needs to investigate the drainage pipe and discharge, plus provide a water sample. Attorney Smith mentioned that the Harbor Commission did not ask for a referral, the applicant went there and did a presentation on their own.

Mr. Budrow said that The Harbor Master requested a copy of the DEEP permit for the non-water discharge. The Commission got a letter from CMG pointing to 9 Ferry Street, which does not mention anything about Main Street. Therefore, they are hoping the discharge can remain where it is today and but need to see a water test before they will write their declaration. Attorney Smith said that the discharge would be covered with the drainage in the DEEP storm water permit. The applicant is following up with the Harbor Master pertaining to all permits that they need. This will also be covered under their general storm water permit.

Attorney Branse discussed a recent letter from DEEP that addresses storm water and parking. It was said by Mr. Muller that Mr. Daly already addressed that issue in his presentation that evening.

Amy Trout from the River Museum had a question about the Oliver Cromwell historic marker because it seems to be a pretty tight turn there. She also asked if the electrical poll was going to be removed. The applicant responded by saying no to both. She was also concerned about entering and exiting the building because the staircase is located right where the property line is.

(Mr. Wren left the meeting).

Laura Walker asked if she could submit a letter to the Commission due to the evening's time restraint.

Mr. Wolfgram asked for people who already gave statements of support at last month's meeting to please hold their comments at the present meeting due to lack of time.

Public in favor of the application:

Jonathan Scalzi, town resident
Amy Cameron, town resident and business owner, President of Essex Board of Trade
Jim Wydell, town resident
Eric Glidden, town resident

Public in favor but also with concerns:

Maureen Wilty-O'Grady, business owner and board member of the River Museum
Bob Osborne, town resident, board member and volunteer of River Museum

Mr. Wolfgram asked that the applicant and River Museum work on resolving their issues and come up with some type of agreement before the next scheduled meeting.

Attorney Royston asked that the hearing be continued to the next meeting due to a time limitation and to allow for more time for visitors to attend another hearing and express their point of view. Therefore, he is requesting to leave the application open and conclude at the next meeting.

Attorney Smith stated that the applicant agrees to continuing the application to July 17, 2017 and would like to be able to continue on to July 18, 2017 if necessary. The Commission agreed.

Attorney Royston asked what the latest date was for the revision to the plans. Attorney Smith said that according to Mr. Daly it was June 8, 2017.

Attorney Royston requested that any further revisions pursuant to some of the comments made, have plans that are on file in the Land Use office 10 days prior to the next public hearing if possible. Attorney Smith said they will make every effort to do so within a minimum of 10 days. Attorney Royston requested that staff make a list the exhibits and label everything. Attorney Smith will provide the plans to the Commission, River Museum and Attorney Branse. Attorney Royston said a sign must be posted on the property. Mr. Budrow confirmed that the applicant had picked up 2 signs from the Town Hall. Attorney Smith has pictures of the signs on site that he will provide to the Commission. Attorney Royston asked if there was a copy of the video in form that can be part of the record. The applicant answered yes.

Mr. Wolfgram asked that the section that shows the leaching system and electrical issues be included in the new plans to clear any confusion. The applicant's team confirmed that they would do that.

Chris Dobbs, Executive Director of the River Museum spoke by saying that the initial discussion between the River Museum and the applicant unfortunately broke down, and the museum did hire a lawyer to help them ask the questions that they weren't able to ask. They are not trying to attack the applicant, but they are very concerned about the impact this will have on the employees and visitors that come to the Museum. He is hoping to have some additional discussions with the applicant before the next meeting.

Public opposing the application:

Mike Polito, Essex resident

Kendall Perkins, River Museum employee, read a letter from Jennifer Dobbs, Educational Director of Museum.

Mr. Wolfgram asked that there be no more comments from the audience due to the time. He announced a date for the next meeting of July 17, 2017, at 7 PM. A sign will be posted stating where the tentative meeting place will be. Attorney Royston asked if either party had any objection of the next meeting being held at Valley Regional High School being that it is not located in the town of Essex. Both parties agreed that they had no issue with that.

MOTION made by Alvin Wolfgram to continue these applications to the next public hearing on July 17, 2017. The hearing will take place at Valley Regional High School, subject to availability. Larry Shipman seconded the motion. All in favor, **Motion carried, 5-0.**

REGULAR MEETING

1. **CALL TO ORDER:** Alvin Wolfgram, Chairman called the Regular Meeting to order at 9:28 PM. Seated for the meeting were Regular Members Alvin Wolfgram, Larry Shipman, Bill Reichenbach, Susan Uihlein, and Jim Hill. Alternate Members Russ Smith, Jeffrey Lovelace and Adrienne Forrest were also present.
2. **ADJOURNMENT**

The next scheduled meeting is July 17, 2017.

MOTION made by Bill Reichenbach to adjourn the meeting at 9:30 pm. Susan Uihlein seconded the motion. All in favor, **Motion carried, 5-0.**

Shannon DeLorso,
Zoning Board Clerk