TOWN OF ESSEX ZONING BOARD OF ADJUSTMENT
MEETING MINUTES
January 2, 2020

ZONING BOARD (ZBA) MEMBERS PRESENT: Nick Martin, Vice-Chair; Hubert Norton;
Tracey Delphia and Michael Plageman.

OTHERS PRESENT: Sharon Kelley, Zoning Administrator; Jason Adams; and Ken Purvey.

Nick Martin, Acting Chairman, called the meeting to order at 6:02 p.m., and provided the oath to the public.

AGENDA ITEM 1: CONDITIONAL USE: ADAMS REAL PROPERTIES IS PROPOSING A RESEARCH AND TESTING LABORATORY IN A 2,495SF UNIT LOCATED AT 39 RIVER ROAD IN THE MIXED USE (MXD) DISTRICT. TAX MAP 64, PARCEL 2, LOT 1.

Sharon Kelley, Zoning Administrator, reported on this application. Kelley provided a copy of State Fire Marshall, Jesse Dobiecki’s written fire inspection results which indicated that occupancy of the unit was granted. She informed the ZBA that they will need to amend Finding 8 of the staff report. Kelley did not have any other changes to report.

Kelley explained that the tenant was issued a use permit for the office portion of the business, and the only component of the application under ZBA review was for the tenant’s ability to test the designs he created.

Jason Adams, landowner; and Ken Purvey, tenant, provided comments on the proposed use.

Mr. Purvey stated that he was limited in what kind of information he can disclosed. He stated that he has two contracts with the Department of Defense, as follows:

1. To develop a HD version of a thermal imager; and
2. Develop a new type of laser for the army. He noted that this component would be constructed in a different state.

Purvey stated that he just finished a contract with the Marine Corp. That project was to submit a design, with no construction. However, he noted this could lead to Phase 2 wherein he would build the design. He noted they develop next generation sensors. Purvey stated that 90% of his business is designing and 10% is testing.

Jason Adams clarified that architects design and then build models.

Board Member Norton noted that the applicant was doing work for the government. He asked what kind of security measures would be taken and if it would affect local services, such as the police.

Purvey stated they will install an alarm system and update the cyber security. He stated that there was a possibility that they may install “marine level” security.

Board Member Plageman asked where the business was previously located prior to going into this unit. Plageman suggested that 2500 s.f. was a generous space for two employees. Purvey
replied that he has had offices in Burlington and Colchester. He was also in Mr. Adams property years ago. He stated that he wanted less space, but this unit was all that was available for his needs.

Board Member Martin asked if the applicant was in the unit less than a year, and if he planned on having signage. Purvey replied he has been in since December however is still moving in furniture. He does not plan on any signage.

Board Member Plageman asked if a wet lab or dry lab would be used. Purvey replied dry, and the only cleaning would be to clean lenses.

Jason Adams noted that the unit was ready for occupancy, no plumbing work, etc. was done.

Board Member Martin asked if they had an emergency plan while work with lasers. Purvey replied that his designs will be small, like a DVD player. Purvey stated that no manufacturing will be done at the site other than taking piece parts and putting them together. It will not generate noise.

Board Member Delphia asked if the applicant was a developer. Purvey replied that he does research and development. He stated it usually takes about 6 months to develop a design. Purvey stated that they have a company, he can’t say who, that would develop the design in mass amounts.

Board Member Delphia said that it sounded like the work was proof of concept. Purvey agreed.

Board Member Delphia MOVED and Board Member Plageman SECONDED a MOTION to Open the Fact Finding/Public Hearing. The MOTION passed 4-0.

There was no public comments.

Board Member Plageman MOVED and Board Member Delphia SECONDED a MOTION to Close the Fact Finding/Public Hearing. The MOTION passed 4-0.

Board Member Norton MOVED and Board Member Delphia SECONDED a MOTION to approve the application for 39 River Road, as warned, subject to the following Findings and Conditions:

FINDINGS:

1. The landowner is Jason Adams, d/b/a Adams Real Properties, LLC.

2. The property is located at 39 River Road in the Mixed (MXD) Zoning District. Tax Map 64, Parcel 2, Lot 1. The parcel has three structures situated on the lot. Building 3, known as 39 River Road, consists of 15,000 sq. ft. and leases the following businesses:

   Suite 1, 3,600 SF area: JPs Restaurant: restaurant;
   Suite 2, 1,200 SF area: Danielle’s Hair Haven: hair salon;

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3. Proposal-Research & Testing Laboratory, defined as follows:

A private commercial enterprise engaged exclusively in the pursuit of scientific research and development, including research related to and development of manufactured, processed or compounded products.

4. The tenant, QuantaSpec, was issued a Use Permit( #2019-206) for the allowance of office space to support administrative and computer work involving installation of necessary communication lines and cyber security measures. A conditional use approval will allow for the design and development of next generation sensors for the Department of Defense and Homeland Security. Once a design is created prototypes are assembled and tested. There are no proposed exterior changes to the site, therefore, Planning Commission review is not required. Currently, the tenant is on a month-to-month lease and awaiting a decision on the conditional use request.

5. This application is being reviewed pursuant to the Zoning Regulations, Section 5.7-Conditional Use. The Zoning Board must render a decision on the proposed application within 45 days from the close of the public hearing.

6. The applicant submitted the following plan as drawn by O’Leary-Burke Civil Associates, PLC, and dated 11/18/98, last revised 11/19/19:

Sheet 1: “LOTS #1 AND #2 SITE PLAN –ADAMS REAL PROPERTIES, LLC 39 RIVER ROAD, ESSEX, VERMONT.”

7. The Fire Chief requested that State Fire Marshal Jesse Dobiecki inspect the premises to determine what the tenant will be testing or the processes used in order to determine the impact to the adjoining tenants.

8. On 12/31/19, the State Fire Marshall inspected the premises and provided a report indicating that the use met the State requirements.

9. In an email dated 12/26/19, Public Works said, “Public Works takes no exception to the proposed change of use for Suite 4, at 39 River Road.”

10. In an email dated 11/27/19, the Police Chief said, “No feedback from Essex Police Department on this application.”

11. In an email dated 12/13/19, the Recreation Director said, “No comments from EPR.”

12. The abutting property owners were notified by certified mail by the Community Development Office, and statutory notice requirements were met.

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13. Jason Adams and Ken Purvey spoke on behalf of this application. There were no public comments.

14. **FINDINGS OF FACT ANALYSIS (SECTION 5.7-CONDITIONAL USE REVIEW)**

In reviewing applications for conditional use approval, the Board of Adjustment shall consider and may impose conditions and safeguards only with respect to criteria specified below.

1) **CAPACITY OF EXISTING OR PLANNED COMMUNITY FACILITIES:** The Board shall consider the demand for community services and facilities resulting from the proposed development in relation to the available capacity of affected services and facilities, the Town’s adopted capital improvement plan, official map and any impact fee ordinance in effect. Conditions, including project phasing or improvements necessary to accommodate the proposed development, may be imposed as necessary to ensure that the demand for facilities or services does not exceed existing or planned capacity.

**APPLICANT’S RESPONSE:** Suite 4 was previously approved as office space for 10 employees. QuantaSpec will have 2 employees and based on their current contracts it has does not anticipate hiring additional staff. QuantaSpec will require no additional plumbing and will not increase the demand for water or sewer services and since no additional imperious surface is created it will not impact the stormwater demand.

2) **CHARACTER OF THE AREA AFFECTED:** The Board shall consider the location, scale, type, density and intensity of the proposed development in relation to the character of the area likely to be affected, as defined by the purpose(s) of the zoning district(s) within which the project is located, and specifically stated polices and standards of the municipal plan.

**APPLICANT’S RESPONSE:** Because this is in an existing building and there are not changes to the exterior it will not change the character of the area. By adding a new use to the building it will increase number of uses which is one of the main purposes of the district.

3) **TRAFFIC ON ROADS AND HIGHWAYS IN THE VICINITY:** The Board shall consider the projected impact of traffic resulting from the proposed development on the existing and planned capacity, safety, efficiency and use(s) of affected roads, bridges and intersections. A traffic impact study may be required. The Board will rely on generally accepted transportation standards and the Town’s adopted road and public works standards in evaluating traffic impacts, and shall not approve a project that will result in the creation of unsafe conditions for motorist, pedestrians, or cyclists, or unacceptable levels of service for local streets, highways and intersections. The Board may impose
conditions as necessary to avoid or mitigate undue adverse effects resulting from the proposed development, including improvements to the street network and/or traffic management strategies and control devices.

**APPLICANT’S RESPONSE:** As noted in a traffic analysis done by Lamoureux & Dickinson for the Suite 4 office use approval in 2016, trip generation for the existing and proposed occupancies is less than anticipated in 1990 when the building was originally permitted. When the traffic was analyzed for Suite 4 being a 10 person office, “AM and PM peak hour trips are calculated at 64 vph and 61 vph respectively. In comparison, the 1990 values used for AM ad PM peak hour traffic were 150 vph and 149 vph respectively...Given that River Road has both exclusive right and left turn lanes into this site, and turning lanes for exiting the site, we do not anticipate an significant change in the capacity or level of service at the project access road/River Road intersection...A review of VTrans traffic volumes along River Road at this general location indicates that from 2002 to 2013, volumes along River Road have dropped from 8,700 vpd to 6,600 vpd.” Since QuantaSpec has less employees than the pervious occupancy impact on traffic should actually decrease.

4) **BYLAWS AND ORDINANCES IN EFFECT:** The Board shall consider whether the proposed development complies with all municipal bylaws and ordinances in effect at the time of application, including other applicable provisions of these Regulations. No development shall be approved in violation of existing municipal bylaws and ordinances.

**APPLICANT’S RESPONSE:** It is my understanding that if approved, this proposed conditional use complies with municipal bylaws and ordinances.

5) **UTILIZATION OF RENEWABLE ENERGY RESOURCES:** The Board shall consider whether the proposed development will interfere with the sustainable use of renewable energy resources, including the existing and future availability of and access to such resources, on adjoining properties.

**APPLICANT’S RESPONSE:** Because this is in an existing building and development the change in use shouldn’t interfere with the sustainable use of renewable energy resources.

**SPECIFIC STANDARDS:**

1) **CONFORMANCE WITH THE TOWN PLAN:** Applications for conditional use approval shall conform to specific, applicable policies and objectives of the Town Plan of record.

**APPLICANT’S RESPONSE:** It is my understanding that if approved, this
proposed conditional use conforms to specific, applicable policies and objectives of the Town Plan of record.

2) SITE PLAN REVIEW CRITERIA: The Board of Adjustment may apply any applicable site plan review criteria under Section 5.6 in its review of conditional use applications that do not require site plan review and approval as it deems necessary to fully evaluate a proposed conditional use under the criteria of this section.

APPLICANT’S RESPONSE: It is my understanding that a site plan review is not necessary for this proposed conditional use because the site and building are existing and there are no proposed changes to the site plan. However, a site plan with the location of Suite 4 outlined has been provided with this narrative.

3) CONFORMANCE WITH COMMUNITY CHARACTER: The Board of Adjustment may consider whether the development has an undue adverse effect on the character of the community as specifically expressed in the policies and objectives of the Essex Town Plan.

APPLICANT’S RESPONSE: The proposed conditional use shouldn’t have an undue adverse effect on the character of the community since there will be no physical changes to the site or building.

15) Pursuant to Section 5.7 of the Zoning Regulations, the Zoning Board finds the following:

a. There will be no adverse effect on the capacity of the existing or planned community facilities;
b. There will be no adverse effect on the character of the area/neighborhood affected;
c. There will be no adverse effect on traffic on roads and highways in the vicinity;
d. The proposed use will be in compliance with the bylaws now in effect;
e. The proposed use will not adversely affect utilization of renewable energy resources;
f. The proposed use is in conformance with the Town Plan;
g. The proposed use does not require site plan review; and
h. The proposed use is in conformance with community character.

CONDITIONS:

1) A Certificate of Occupancy inspection shall be scheduled with the Town Zoning Administrator upon completion of the fit-up.
2) All signage shall be approved by the Zoning Administrator.
3) All conditions from previous approval shall remain in effect except as modified herein.
4) By acceptance of the conditions of this approval without appeal, the applicants confirm and agree for themselves and all assigns and successors in interest that the conditions of

Approved 2/6/2020
this approval shall run with the land and the land uses herein permitted, and will be
binding upon and enforceable against the applicant and all assigns and successors in
interest.

AGENDA ITEM 3: MINUTES: DECEMBER 5, 2019:

Board Member Delphia MOVED and Board Member Plageman SECONDED a MOTION
to approve the 12/5/19 minutes with changes. The MOTION passed 4-0.

AGENDA ITEM 4: DISCUSSION ON MOTIONS & RE-REVIEW OPERATING
PROCEDURES

Sharon Kelley reported that she made changes to the Operating Procedures as requested by the
Board at its last meeting and asked the Board for its comments.

After discussion, it was decided to make additional changes and to bring it back for adoption at
the next ZBA meeting.

The meeting adjourned at 6:43 p.m.

ZONING BOARD OF ADJUSTMENT

By: _______________________, Acting Chair
    Nick Martin

Approved 2/6/2020