



32 **Findings**

33 **I. Article V, Section 5.5 of the Zoning Regulations: Site Plan Amendments**

34 The applicant has requested a Site Plan Amendment pursuant to Section 5.5 of the *Town of Essex*  
35 *Outside the Village of Essex Junction Official Zoning Regulations (ZR)*. The Zoning  
36 Administrator has determined that the proposed changes qualify as substantial amendments  
37 because they will result in changes to curb cuts, internal circulation patterns, screening, and the  
38 general location of structures and parking areas. ZR Section 5.5(B) requires submission of a  
39 revised application for review under the relevant site plan criteria.

40 The applicant has submitted the following plans:

- 41 • Plan Sheet #1, “Site Plan Amendment, Jason Leo’s Automotive, 124 Colchester Road,  
42 Essex, VT,” prepared by O’Leary-Burke Civil Associates, PLC, dated 01/17/20;
- 43 • Plan Sheet #2, “Existing Conditions Plan, Jason Leo’s Automotive, 124 Colchester Road,  
44 Essex, VT,” prepared by O’Leary-Burke Civil Associates, PLC, dated 01/17/20;
- 45 • Plan Sheet #3, “Details + Specifications (1 of 2), Jason Leo’s Automotive, 124  
46 Colchester Road, Essex, VT,” prepared by O’Leary-Burke Civil Associates, PLC,  
47 dated 01/17/20;
- 48 • Plan Sheet #4, “Details + Specifications (2 of 2), Jason Leo’s Automotive, 124  
49 Colchester Road, Essex, VT,” prepared by O’Leary-Burke Civil Associates, PLC,  
50 dated 01/17/20;
- 51 • Plan Sheet #5, “Photometric Plan, Jason Leo’s Automotive, 124 Colchester Road, Essex,  
52 VT,” prepared by O’Leary-Burke Civil Associates, PLC, dated 01/17/20;

53 **(A) ZR Section 5.6(A), General Requirements**

54 **1. Conformance to the Essex Town Plan**

55 The project complies with the following goals and objectives of the *2016 Town Plan*:

56 ***Goal 1a:*** *Essex West is developed as a sub-regional growth center that provides*  
57 *employment opportunities, a diversity of housing opportunities, and retail and*  
58 *personal services.*

59 ***Goal 6b:*** *Flood damage and fluvial erosion are reduced by protecting and*  
60 *restoring vulnerable areas.*

61 ***Specific Policy 2(S).1:*** *Infill development within existing industrial and*  
62 *commercial zoning districts shall be supported.*

63 ***Specific Policy 2(S).2:*** *The retention and expansion of businesses at existing*  
64 *industrial and commercial sites shall be supported...*

65

66 **2. Dimensional limitations and provisions of the Zoning Regulations**

67 This project is located in the Mixed-Use Development (MXD) district, and must  
 68 conform to the standards listed in Table 2.13 of the *Zoning Regulations*. Automotive  
 69 repair shops are listed as a conditional use within this district; the current use was in  
 70 existence prior to the establishment of local zoning bylaws, and has received  
 71 conditional use approval for motor vehicle sales on February 2, 2017. The proposed  
 72 addition and new building will conform to the district’s purpose and allowed uses.

73 Nonresidential development within the MXD district must conform to the  
 74 dimensional requirements of Table 2.9, the Retail-Business (B1) district, which are  
 75 listed in the table below. The existing building is located within the front setback,  
 76 which is an existing non-conformity, but the proposed improvements will conform to  
 77 all dimensional requirements.

Dimensional Requirements	Required (with off-site water or sewer)	Existing	Proposed
Minimum Lot Area – Nonresidential	30,000 sf	219,542 sf	219,542 sf
Minimum Lot Frontage	150 ft.	1,077 ft.	1,077 ft.
Minimum Front Setback (from ROW)	50 ft.	40 ft.	50 ft.
Minimum Side Setback	None	N/A	N/A
Minimum Rear Setback	None	N/A	N/A
Minimum Buffer/Residential Districts	30 ft.	30 ft.	30 ft.
Maximum Lot Coverage – All	70%	9.5 %	18.1 %
Maximum Height	40 ft.	<40 ft.	<40 ft.

78 **3. Protection of public health, safety, and welfare**

79 The proposed changes will not impact public health, safety, or welfare. In an e-mail  
 80 dated January 21, 2020, the Police Chief stated that there were no concerns with the  
 81 proposal. Fire and life safety considerations are further reviewed in Finding I(I).

82 **4. Outstanding violations**

83 The property does not have any outstanding zoning violations.

84 **(B) ZR Section 5.6 (B): Natural Features**

85 The *Zoning Regulations* state that “site layout and design, to the extent feasible, shall  
 86 incorporate and protect significant natural features as identified on the Significant  
 87 Features and Water Resources Maps contained in the Town Plan of record or through site  
 88 investigation.”

89 **1. Topography**

90 The *Zoning Regulations* call for minimal changes to a site’s topography and  
 91 vegetation, specifying that a site “shall be planned to retain, insofar as possible, the  
 92

93 natural contours and to conserve the natural cover and soil.” Both the existing and  
94 proposed development is located on the western side of the property on a fairly flat  
95 plateau with a mix of lawn and forest cover. The proposal involves minimal grading  
96 for buildings, access drives, stormwater infrastructure, and the septic disposal area.  
97 No other topographical changes would occur.

98 **2. Steep Slopes**

99 The *Zoning Regulations* and the *Town Plan* discourage development on slopes of  
100 15% or greater and prohibit development on slopes of 20% or greater. The  
101 embankment leading down to Indian Brook has steep slopes ranging from  
102 approximately 25-62%. None of the proposed development would occur on these  
103 slopes except for the stormwater overflow outfall.

104 **3. Surface Waters and Wetlands**

105 Indian Brook flows south to north through the property with extensive areas of  
106 floodplain wetland on both sides of the channel. Except for a short stretch at the  
107 northern part of the site adjacent to the existing parking and waste storage area, the  
108 50-foot-wide riparian buffer required under ZR Section 3.12(C)(2)(a) is completely  
109 within the 50-foot-wide wetland buffer required under ZR Section 3.12(C)(2)(c). The  
110 edge of the wetland buffer extends partly up the embankment for most of the  
111 property, but towards the north extends west beyond the top of the embankment.

112 All of the proposed development would take place outside the required buffers except  
113 for the stormwater overflow discharge, would be directed to a stone outfall within the  
114 wetland buffer. This has been reviewed and approved by Public Works staff.

115 **4. Renewable Energy**

116 The applicant has not proposed utilization of renewable energy at this time. The  
117 proposal would not impact the ability of neighboring properties to use renewable  
118 energy, as it would not create light or wind shade over property lines.

119 **5. Open Space**

120 Though the southern portion of the site is proposed for development, there is no  
121 scenic view in the background, and site is not located within the Scenic Resource  
122 Overlay Protection (SRPO) district.

123 **(C) ZR Section 5.6 (C): Access**

124 Pedestrian and vehicular access to the site must meet applicable design standards in the  
125 *Zoning Regulations* and Public Works specifications. The Planning Commission can  
126 impose conditions related to on- or off-site improvements meant to mitigate the impact of  
127 traffic, or to maximize pedestrian and vehicular safety.

128 The site has two existing curb cuts: one on Pinecrest Drive approximately 70 feet west of  
129 the intersection with VT-2A, and another on VT-2A approximately 150 feet south of the  
130 intersection with Pinecrest Drive. The proposal includes an additional curb cut on VT-2A  
131 approximately 480 feet south of the existing curb cut, which requires review and approval  
132 from the Vermont Agency of Transportation (VTrans).

133 There is a recently-constructed sidewalk running along the north side of Pinecrest Drive,  
134 but no direct pedestrian or bicycle access is proposed or required given the use of the site.

135 Based on the Institute of Traffic Engineers (ITE) Trip Generation Rates (9<sup>th</sup> ed.), the  
136 applicant's engineer estimates that the proposed 4,000-square-foot addition would  
137 generate an additional 18 daily vehicle trip ends (VTEs) exclusively in the PM peak hour;  
138 the proposed storage building would generate an additional 36 VTEs (also in the PM  
139 peak hour) for a total of 54 VTEs.

140 In a memorandum dated February 12, 2020, Public Works staff stated:

- 141 *1. As the proposed development includes a new drive entrance on to VT RT 2A, the*  
142 *applicant will require a 1111 Permit from VTrans. Public Works will require a copy*  
143 *of this application and approval letter prior to any construction.*
- 144 *2. All drives internal to the project shall meet the requirements of the Town of Essex*  
145 *Standard Specifications for Construction.*

146 **(D) ZR Section 5.6 (D): Site Circulation**

147 The *Zoning Regulations* require the Planning Commission to consider on-site vehicular  
148 and pedestrian circulation, and allow the Commission to impose conditions to ensure  
149 adequate circulation as well as safety and accessibility.

150 The proposal involves converting the existing gravel parking area into a two-way, 20-  
151 foot-wide driveway extending south through the site to access the parking area for the  
152 addition and new storage building. South of the storage building, the driveway narrows to  
153 18 feet wide and becomes one-way exiting onto VT-2A, with a turn-around just south of  
154 the building.

155 The layout of the site would allow adequate emergency vehicle access, facilitate traffic  
156 movements (including waste pickup), and prevent traffic conflicts along public streets.  
157 Given the proposed use and location of the site, little pedestrian or bicycle traffic is  
158 anticipated, and the proposed layout will not create hazards for non-motorized users.  
159 Snow storage areas sufficient to serve the site are shown north and south of the proposed  
160 storage building.

161 In an e-mail dated February 12, 2020, the Fire Chief asked whether a guardrail would be  
162 installed on the west side of the new parking area and driveway; this would prevent  
163 vehicles falling down the ravine and is strongly recommended.

164

165 **(E) ZR Section 5.6 (E): Parking**

166 Parking must be provided in accordance with Section 3.9 of the *Zoning Regulations*.  
167 Parking areas should be located to minimize their visibility, and no more than 50 percent  
168 of a front-yard setback can be devoted to parking. ZR Section 3.3(B) states that the  
169 parking space requirements for automobile repair shops are 1 space per 200 square feet of  
170 gross floor area.

171 In addition to the 16 existing spaces on the site, the applicant has proposed 13 new  
172 outdoor spaces and 18 indoor spaces within the 5,400-square-foot storage building for a  
173 total of 47. In an e-mail dated February 12, 2020, the applicant's engineer stated that 7 of  
174 those indoor spaces would be dedicated for long-term storage of customer vehicles.

175 The proposed amount and layout of parking meets the standards of ZR Section 3.9,  
176 including the required amount of ADA-accessible parking. Due to the automobile-  
177 oriented use of the site, bicycle parking is not required.

178 **(F) ZR Section 5.6 (F): Landscaping and Screening**

179 The Planning Commission can require landscaping to achieve the objectives of the  
180 *Zoning Regulations* and the *Town Plan*. The landscaping objectives for commercial uses  
181 in the MXD District relate to street trees, parking areas, and a planting strip.

182 **1. Street Trees**

183 The landscaping objectives require one street tree for every 50 feet of road frontage;  
184 with 909 feet of frontage along VT-2A and 167 feet of frontage along Pinecrest  
185 Drive, 22 street trees (rounded up from 21.5) are required under this provision.

186 The landscaping plan on Sheet 1 shows four existing mature red maple (*Acer rubrum*)  
187 trees along VT-2A, as well as a forested area at the very southern boundary of the  
188 property. Though not depicted on the landscaping plan, there are several additional  
189 street trees on the property – one is a red maple on the northeast corner of the  
190 property and lies within the VT-2A right-of-way. There is also red maple west of the  
191 Pinecrest Drive curb cut that is in poor health; west of this, there is a cluster of honey  
192 locust (*Gleditsia triacanthos*) trees along the top of the bank to Indian Brook.

193 Of the trees along VT-2A, all would be retained except one to allow construction of a  
194 stormwater retention pond, which would include two new shadblow serviceberry  
195 (*Amalanchier canadensis*) trees. Five additional red maples would be planted south  
196 along VT-2A frontage for a total of 12 street trees for the site.

197 Though the total number of street trees proposed for the site is less than the minimum  
198 requirement, the layout of the site and the need to maintain sight distances along VT-  
199 2A limits suitable locations for additional trees. Additional landscaping for the  
200 planting strip should compensate for the reduced number of street trees.

201 At their meeting on February 11, 2020, the Conservation and Trails Committee and  
202 the Tree Warden indicated that red maple generally is intolerant of salt, making them  
203

204 susceptible to damage from salt spray along VT-2A. Salt-tolerant species suitable for  
205 street trees include common hackberry (*Celtis occidentalis*) and honey locust.

206 **2. Parking Areas**

207 The landscaping objectives require screening of parking areas from roadways and  
208 landscaped islands to break up and provide shade on large expanses of parking.

209 The landscaping plan meets these requirements for the new parking area by using  
210 three Austrian pine (*Pinus nigra*) trees as screening from the road, as well as a red  
211 maple within the parking lot island. However, the Conservation and Trails Committee  
212 and Tree Warden noted that Austrian pine is a poor screening tree when open-grown  
213 due to its tendency to be flat-topped and prune lower limbs; it is also non-native  
214 susceptible to many pests and diseases. Alternative suitable species include red cedar  
215 and white spruce.

216 The existing parking area is screened and enhanced only by two existing street trees,  
217 one of which is in poor condition and should be replaced.

218 **3. Planting Strip**

219 The landscaping objectives call for a planting strip including shrubs, bushes, and/or  
220 trees that covers 30% of the front yard setback along the front of the lot; this area  
221 must be kept free of buildings and parking areas.

222 The applicant has proposed 12 Japanese yew along the west side of the proposed  
223 storage building to screen and enhance it from the road. This does not constitute a  
224 planting strip because it does not extend along the entire length of the two frontages,  
225 and is less than the required 30% depth of the front yard setback.

226 However, a full planting strip along VT-2A may not be necessary to screen the site  
227 given the site's isolation from adjoining properties, and would not provide significant  
228 enhancement from the road given travel speeds along VT-2A and the lack of  
229 pedestrian facilities. Therefore, the street trees and Japanese yew will meet the intent  
230 of the landscaping objectives for the VT-2A frontage.

231 Additional plantings along the Pinecrest Drive frontage are required to screen the  
232 property from the road and enhance the area planned for a sidewalk.

233 **(G) ZR Section 5.6 (G): Lighting**

234 The *Zoning Regulations* call for an exterior lighting plan that provides "site lighting and  
235 lighting levels that are appropriate for the anticipated activities on the site and the  
236 property's surrounding context, and that maximize the efficiency of site lighting and  
237 energy demand, while minimizing up-light glare, and unnecessary spillover light or light  
238 diffusion onto adjacent properties."

239 The lighting for the new buildings meets the standards of ZR Section 5.6(G) and provides  
240 sufficient lighting for the anticipated activities while blending with the surrounding  
241 context and maximizing efficiency. All lighting will be LED-powered, downcast, and

242 building-mounted at a height of 20 feet for the repair shop addition and 8 feet for the  
243 storage building. No light trespass beyond the property lines will occur.

244 However, the applicant did not provide a lighting plan for the existing building, and there  
245 are several fixtures that are out of conformance with current regulations. These fixtures  
246 must be replaced with fixtures that are fully cut-off and down-shielded, with a maximum  
247 illumination of no more than seven (7) foot-candles.

248 **(H) ZR Section 5.6 (G): Utilities and Services**

249 **6. Water Supply and Sewage Disposal**

250 In a memorandum dated February 12, 2020, Public Works stated:

251 2. *The project as proposed will require an additional 45 GPD of water allocation (3*  
252 *employees X 15 GPD / employee). The municipal water connection fees for the*  
253 *project as proposed will be as follows:*

254 *a. Water: (45 GPD X \$5.73) = \$257.85*

255 *The \$1,000 water service connection fee will be waived due to this being an*  
256 *existing water service connection.*

257 3. *The Town of Essex will require that the applicant install a backflow protection*  
258 *device on the existing water service to the building. In addition, the Town will*  
259 *require that a new water meter be installed prior to issuance of a certificate of*  
260 *occupancy.*

261 4. *The proposed sewer will be constructed on site and will not be utilizing municipal*  
262 *sewer systems. Public Works has no further comment.*

263 **7. Stormwater Management**

264 In a memorandum dated February 12, 2020, Public Works staff stated:

265 1. *This project is located within the Indian Brook watershed. This has been*  
266 *identified as an impaired watershed by the State. The applicant shall make every*  
267 *effort to contain any additional storm water generated by this project onsite. This*  
268 *site will require a State General Permit for construction as the area of*  
269 *disturbance will be more than one acre.*

270 2. *The applicant's engineer has met with Public Works staff previously regarding*  
271 *the storm water design during development of these plans. All comments have*  
272 *been addressed to the satisfaction of staff.*

273 3. *Public works staff would like to review and offer input before any storm water*  
274 *application is made to the State for a storm water permit.*

275

276 **8. Utilities**

277 A Green Mountain Power electric line runs along VT-2A for the length of the  
278 property. No natural gas lines are present on the property, though one runs along the  
279 north side of Pinecrest Drive. Finally, a 30-inch diameter stormwater pipe owned by  
280 \_\_\_\_\_ runs east to west under the site just north of the existing wasted storage area  
281 and discharges into Indian Brook.

282 **(I) ZR Section 5.6 (G): Fire Protection**

283 As noted in Finding I(D), aisle widths and turning radii are sufficient to allow access to  
284 all sides of the building by emergency vehicles, though larger vehicles may be required to  
285 back into the new parking area to access the addition.

286 In an e-mail dated February 12, 2020, the Fire Chief stated that the building must  
287 conform to state fire codes; it should also meet the 2015 Essex Fire Department Building  
288 Standards (attached). Though not required for either building at this time, future uses may  
289 require installation of a sprinkler system, in which case the landowner should coordinate  
290 the location of the Fire Department Connection with staff. In addition, the proposed  
291 driveway should be designated as a fire lane and kept clear of obstructions at all times;  
292 pavement markings should be maintained to ensure proper parking and site circulation.

293 **II. Additional Findings by the Planning Commission**

294 •

295 **Conditions of Approval**

296

- 297 1. All conditions from previous approvals shall remain in effect except as modified herein.
- 298 2. All construction shall be in conformance with the plans listed above as may be amended  
299 herein.
- 300 3. Prior to the issuance of a zoning permit, the plans shall be revised as follows:
- 301 a) On Sheet 1, additional landscaping constituting a planting strip under Section 5.6(F) of  
302 the *Zoning Regulations* shall be added along the Pinecrest Drive frontage, to be reviewed  
303 and approved by staff;
- 304 4. An electronic copy of the plans as may have been revised shall be submitted to the E911  
305 coordinator in .PDF file format. Another copy shall be submitted in geodatabase or shapefile  
306 in Vermont State Plane Meters, NAD83 (NSRS or most current); alternatively, coordinated  
307 CAD data – Vermont State Plane Coordinates, US Survey Feet, Grid Zone 4400, NAD 83  
308 (2011) epoch 2010.0, NAVD 88 (geoid12b); alternatively, paper showing three (3) values of  
309 State Plane Coordinates.

- 310 5. Prior to the issuance of a zoning permit, the applicant shall obtain any and all applicable state  
311 approvals and permits required as a result of this approval and shall submit copies to the  
312 Community Development Department for review.
- 313 6. Prior to the issuance of a zoning permit, the applicant shall pay a water connection fee of  
314 \$277.85.
- 315 7. All water, sewer, and storm water infrastructure shall be installed in accordance with the  
316 specifications and details provided within the *Town of Essex Standard Specifications for*  
317 *Construction*, January 2017.
- 318 8. The proposed building shall conform to all standards listed in the *Essex Fire Department*  
319 *Building Standards*, January 2015 (attached).
- 320 9. The driveway internal to the site shall conform to the standards in Detail 100.10, Driveway  
321 (Type A) in the *Town of Essex Standard Specifications for Construction*.
- 322 10. No occupancy of the addition or storage building shall occur until a certificate of occupancy  
323 inspection and sign off is issued by the Zoning Administrator. A copy of the State's  
324 occupancy approval shall be filed and attached to the Town's inspection approval.
- 325 11. Prior to the issuance of a certificate of occupancy, a backflow prevention device and new  
326 water meter shall be installed on the existing water service to the building.
- 327 12. Prior to the issuance of a certificate of occupancy, the driveway running through the site shall  
328 be marked as a fire lane and shall remain unobstructed at all times. Parking spaces and fire  
329 lanes shall remain clearly marked and visible at all times.
- 330 13. Prior to the issuance of a certificate of occupancy, a guardrail shall be installed along the  
331 west side of the parking area and driveway south of the repair shop addition.
- 332 14. Prior to the issuance of a certificate of occupancy, the exterior lighting on the north and east  
333 sides of the existing structure shall be replaced with fixtures that conform to the standards of  
334 Section 5.6(G) of the *Zoning Regulations*, including the requirement that fixtures be fully  
335 cut-off and down-shielded, with a maximum illumination no greater than 7 foot-candles.
- 336 15. All landscaping shall be guaranteed for the life of the project; any dead or diseased plantings  
337 shall be replaced as soon as seasonally possible, including the existing red maple tree west of  
338 the site's Pinecrest Drive entrance.
- 339 16. Any change in use shall require review by the Fire Department; if the new use requires  
340 installation of sprinklers, the applicant shall submit documentation of fire flow capacity and  
341 coordinate the location of the Fire Department Connection with staff.

342 17. By accepting the conditions of this approval without appeal, the applicant confirms and  
343 agrees for itself and all assigns and successors in interest that the conditions of this approval  
344 shall run with the land and the land uses herein permitted, and will be binding upon and  
345 enforceable against the applicant and all assigns and successors in interest.

346 **List of Attachments**

- 347 • Project narrative, from Dan Heil, P.E., O’Leary-Burke Civil Associates, PLC, dated  
348 01/17/2020
- 349 • Essex Fire Department Building Standards, revised January 2015.

350 cc: Dan Heil, P.E., and David Burke, O’Leary-Burke Civil Associates, PLC

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