

Unapproved

Town of Essex - Zoning Board of Appeals

29 West Avenue
Essex, CT 06426
essexct.gov

MINUTES

January 15, 2013 – Regular Meeting

The Essex Zoning Board of Appeals conducted their regularly scheduled meeting on Tuesday, January 15, 2013 at 7:32 p.m. in Room A of the Essex Town Hall.

Attending Members:

Stu Ingersoll, Chair
Doug Demarest, Vice Chair
Al Daddona, Regular Member
Michael Noto, Regular Member
Paul Greenberg, Regular Member
Lynn Faulstick, Alternate
W. T. Furgueson, Alternate
Lynn Faulstick, Alternate

Absent Members:

None

Staff:

Michael Wells, Legal Counsel to the Board
Stella Beaudoin, Recording Secretary.

Mr. Demarest called the meeting to order at 7:30 p.m.

Consideration of **Application #12-27 on behalf of Salvatore Sapia at 3 Riverview Street, Essex, CT, Assessor's Map 28, Lot 39, VR District, requesting variances to sections 40D, 40E, 40I.1, 50D and 60B of the Essex zoning regulations** to cover an open patio area with a roof coming to a point 15 feet from the northern side property line where 25 feet is required and 23 feet from the front property line where 30 feet is required, and to make structural improvements to a garage that is located 5'2" from the side property line and 22 feet from the front property line.

This is an application seeking an approval to construct a roof over the open patio area and convert the space to a single-car garage. The applicant further proposes to remove and rebuild the existing garage in the same location and to add approximately six feet in height. There will be no expansion to the garage footprint. The existing house is located in the front and side setback areas. The garage is also located in the same setbacks. The roofing of the patio area and the construction of the garage will be within the same setback areas.

Seated for this application were M. Noto, A. Daddona, D. Demarest, W. T. Furgueson, Alternate, seated for Paul Greenberg and Lynn Faulstick, Alternate seated for Stu Ingersoll.

Attorney Alan Rome presented, representing Salvatore Sapia. Mr. Rome stated that a variance was granted in 1973 to Section 40I.2, and was granted specifically for the construction of the garage. The height of the existing garage is twelve feet and the applicant proposes to build up an additional three feet. Mr. Rome stated that the proposed garage will remain on the same footprint.

Mr. Demarest asked the Board if they had any questions. There were no further questions from the Board.

Mr. Demarest asked if anyone wished to speak in favor or in opposition to this application.

Attorney Ed Cassella presented. Mr. Cassella represents Maura and Gary Johnson who are the adjoining neighbors. Mr. Cassella distributed the ZBA May 23, 1973 Minutes and Decision. Mr. Cassella stated that the 1973 variance allowed the applicant to construct the building which was smaller than the structure that Mr. Sapia is proposing. Mr. Cassella stated that Mr. Sapia has not demonstrated a hardship associated with his proposal and he further indicated that based upon the language in the Minutes and in the Motion, the addition that Mr. Sapia is proposing on this property is not in keeping with what was previously approved in 1973.

Attorney Rome stated that a previously granted, pre-existing variance runs with the land. The proposed garage will be constructed on the same footprint and the hardship associated with this application is that this garage must be brought up to and constructed within the current building code.

Mr. Cassella stated that he also objects to the covering of the patio as this is a personal hardship and there are no hardships associated with the physical characteristics of the property. Mr. Cassella stated that this construction could be accomplished on a smaller scale and according to code.

Mr. Demarest closed the public portion of this application at 8:00 p.m.

Members were in agreement to deliberate this application at this time.

- **Motion to grant a Variance Application #12-27 on behalf of Salvatore Sapia at 3 Riverview Street, Essex, CT, Assessor's Map 28, Lot 39, VR District, requesting variances to sections 40D, 40E, 40I.1, 50D and 60B of the Essex zoning regulations** to cover an open patio area with a roof coming to a point 15 feet from the northern side property line where 25 feet is required and 23 feet from the front property line where 30 feet is required, and to make structural improvements to a garage that is located 5'2" from the side property line and 22 feet from the front property line; The variance to section 40I.2 is granted based on the May 23, 1973 ZBA decision and approval for a variance which relates only to the garage. The footprint will not be expanded on the garage nor on the patio proposal. The enclosure of the patio is also granted based on the hardship of the configuration of the nonconforming lot and any construction on this property will be in violation of the setback regulations. This Variance is approved in accordance with the plans as presented; **MADE** by W. T. Furgueson; **SECONDED** by Lynn Faulstick; No discussion: **VOTING IN FAVOR:** M. Noto, L. Faulstick, A. Daddona, D. Demarest, W. T. Furgueson; **OPPOSED:** None; **ABSTAINING:** None; **APPROVED:** 5-0-0.

Consideration of **Application 12-33 on behalf of Walter A. Gagne and Eleanor V. Schneider, property located at 38 River Road, Assessor's Map 10, Lot 4, RU District**, requesting variances to sections 40C, 40D, 40I.1 and 61B of the Essex zoning regulations to allow a new 26' x 36' barn to be located 15 feet from the side property line where 30 feet is required and to increase lot coverage from 8.1% to 10.1% where 7.5% is the maximum allowed.

Seated for this application were Alix Walmsley, Paul Greenberg, Stu Ingersoll, Doug Demarest and Al Daddona

Mr. Walter Gagnon presented. Mr. Gagnon stated that he wishes to construct a structure in which he can store his tractor and various lawn and yard equipment.

Mr. Daddona commented on the over-size of the barn and questioned the hardship associated with the construction of this structure.

Mr. Gagnon stated that while he could not identify a hardship associated with this application, he would be amenable to moving the structure 15 feet out of the side yard so this proposal would not require a setback variance. This application would then require a variance for area coverage only. The house was built in 1790, which predates the zoning regulations.

Mr. Ingersoll asked if the Board if they had any questions. There were no further questions from the Board.

Mr. Ingersoll asked if anyone wished to speak in favor or in opposition to this application.

Mr. Ingersoll closed the public portion of this application at 8:16 p.m.

Consideration of **Application #12-26 on behalf of Heritage Cove Condominium Association, 85 River Road, Essex, CT, Assessor's Map 12 Lot 7, RU District, requesting a variance to sections 40C, 40D, 40E, 40I.1, 50D and 61B of the Essex zoning regulations** to allow the replacement of existing accessory building with a new, structure. A variance was approved for this application at the October 16, 2012 ZBA Public Hearing. However due to an error in the legal notice, the October decision has been compromised.

There over 100 condominiums located on this property along with accessory structures for parking and storage. This is an application seeking an approval to rebuild an existing, nonconforming accessory structure that is located within a side yard setback. This application was continued from the December 2012.

Seated for this application were Alix Walmsley, Paul Greenberg, Stu Ingersoll, Doug Demarest and Al Daddona.

Patrick Kilty presented. Mr. Kilty is the Manager of Heritage Cove and Project Manager of this undertaking. Heritage Cove condominiums are situated on 12.5 acres and comprised of over 100 condominiums and several accessory structures for parking and storage. Mr. Kilty stated that a Variance was recently approved and in the winter of 2012 accessory structures were renovated and several rooflines were changed. Mr. Kilty noted that he is looking to update the buildings and he is seeking approval to rebuild a 20' x 20' utility

building which is a nonconforming accessory structure and is located within the side yard setback. Mr. Kilty indicated that in order to get a 6" pitch to the roof, he proposes a 7'10" increase above grade elevation. The hardship surrounding this application is the setback which came into effect after the condos were built. Mr. Kilty noted that he will be reducing the nonconformity by 50% with this proposal.

Mr. Kilty asked to have the proceedings from the November 2012 meeting entered into the record.

Mr. Ingersoll asked the Board if they had any questions. There were no further questions from the Board.

Mr. Ingersoll asked if anyone wished to speak in favor or in opposition to this application. There was no public comment.

Mr. Ingersoll closed the public portion of this application at 8:20 p.m.

Consideration of **Application #12-32 on behalf of Joseph M. Feczko, 6 Hanna Lane, Essex, CT, Assessor's Map 28, Lot 57 VR District, requesting variances to sections 40D, 40E, 40I.1, 50D and 60B of the Essex zoning regulations** to add a dormer that expands the portion of a house that is approximately 8' from the rear property line where 30 feet is required. No outward expansion of the structure is proposed. Only upward, within the rear setback area. **Continued to the February 19, 2013 meeting.**

Deliberation

Consideration of **Application #12-26 on behalf of Heritage Cove Condominium Association, 85 River Road, Essex, CT, Assessor's Map 12 Lot 7, RU District, requesting a variance to sections 40c, 40D, 40e, 40I.1, 50d and 61B of the Essex zoning regulations** to allow the replacement of existing accessory building with a new, slightly larger structure. A variance was approved for this application at the October 16, 2012 ZBA Public Hearing. However due to an error in the legal notice, the October decision has been compromised.

This is an application seeking an approval to rebuild an existing, nonconforming accessory structure that is located within a side yard setback.

- **Motion to grant a Variance Application #12-26 on behalf of Heritage Cove Condominium Association, 85 River Road, Essex, CT, Assessor's Map 12 Lot 7, RU District, requesting a variance to sections 40C, 40D, 40E, 40I.1, 50D and 61B of the Essex zoning regulations** to allow the replacement of existing accessory building with a new, slightly larger structure. The Variance is approved based on the plans as submitted and dated October 24, 2012; **MADE** by Michael Noto; **SECONDED** by Lynn Faulstick; No discussion: **VOTING IN FAVOR:** D. Demarest, S. Ingersoll, A. Daddona, P. Greenberg and A. Walmsley; **OPPOSED:** None; **ABSTAINING:** None; **APPROVED:** 5-0-0.

Consideration of **Application 12-33 on behalf of Walter A. Gagne and Eleanor V. Schneider, property located at 38 River Road, Assessor's Map 10, Lot 4, RU District,**

requesting variances to sections 40C, 40D, 40I.1 and 61B of the Essex zoning regulations to allow a new 26' x 36' barn to be located 15 feet from the side property line where 30 feet is required and to increase lot coverage from 8.1% to 10.1% where 7.5% is the maximum allowed.

Discussion: Al Daddona noted that the applicant is willing to move the barn out of the side yard and avoid the side setback issue. A discussion on the hardship surrounding this application ensued. Commissioners suggested the applicant present at the February 19, 2013 ZBA meeting with a plan for a smaller size building and a demonstrated hardship surrounding the application.

Application 12-33 on behalf of Walter A. Gagne and Eleanor V. Schneider, property located at 38 River Road, Assessor's Map 10, Lot 4, RU District,. Withdrawn.

Approval of Minutes – Public Hearings and Regular Meeting of December 18, 2012

- **Motion** to approve the December 18, 2012 meeting Minutes as presented; **MADE** by Paul Greenberg; **SECONDED** by A. Daddona; No discussion: **VOTING IN FAVOR:** S. Ingersoll, P. Greenberg, A. Daddona, D. Demarest, A. Walmsley; **OPPOSED:** None; **ABSTAINING:** None; **APPROVED:** 5-0-0.

Correspondence / New Business:

There was no correspondence.

Payment of Legal Fees:

- **Motion** to approve the legal fees of Gould, Larson, Bennet, Wells & McDonnell, PC as presented in the amount of \$1,200.00; **MADE** by Paul Greenberg; **SECONDED** by A. Walmsley; No discussion: **VOTING IN FAVOR:** S. Ingersoll, P. Greenberg, A. Daddona, D. Demarest, A. Walmsley; **OPPOSED:** None; **ABSTAINING:** None; **APPROVED:** 5-0-0.

Adjournment

- **Motion** made to adjourn the meeting at 8:40 p.m. to the next regularly scheduled meeting to be held on Tuesday, February 19, 2013 at the Essex Town Hall, Conference Room A, 29 West Avenue, Essex, CT; **MADE** by Al Daddona; **SECONDED** by Doug Demarest; No discussion: **VOTING IN FAVOR:** S. Ingersoll, P. Greenberg, A. Daddona, D. Demarest, A. Walmsley; **OPPOSED:** None; **ABSTAINING:** None; **APPROVED:** 5-0-0.

Respectfully submitted,

Stella C. Beaudoin
Recording Secretary