

**Town of Essex - Zoning Board of Appeals**

**29 West Avenue  
Essex, CT 06426**

**MINUTES**

**April 17, 2012 – Regular Meeting**

The Essex Zoning Board of Appeals conducted their regularly scheduled meeting on Tuesday, April 17, 2012 at 7:30 p.m. in Room A of the Essex Town Hall. Members present were Stu Ingersoll, Michael Noto, Al Daddona, Paul Greenberg and Doug Demarest. Also present, Michael Wells Legal Counsel to the Board and Stella Beaudoin, Recording Secretary.

Mr. Ingersoll called the meeting to order at 7:35 p.m.

Consideration of **Application #12-6 on behalf of Melissa Burch, property located at 10 Carol Drive, Ivoryton, CT Assessor's Tax Map 81 Lot 4-18, RU District** requesting a variance of Section 61B of the Essex Zoning Regulations. This is an application to allow a storage shed on the property that would increase lot coverage to 9% where 7.5 is the maximum allowed.

Melissa Burch presented on behalf of this application. Ms. Burch stated that she wishes to construct a storage shed in which to house her outside equipment such as lawn mowers, snow blower, etc. This variance request is strictly for area coverage. The house was built in 2003.

Mr. Ingersoll questioned the hardship surrounding this application. Ms. Burch stated that she has a special needs child and she would like to store the equipment in a place where her child cannot access the equipment. The storage shed is prefabricated and is delivered all assembled.

Mr. Daddona noted that the hardship surrounding this proposal is the fact that this lot was approved as a building lot before the zoning regulations were in place and anything you do on that lot will require a variance.

Mr. Ingersoll stated that the 15% requirement of the zoning regulations is the reason that this application is before the ZBA. All of the other dimensions are in accordance with the zoning regulations.

Attorney Wells stated that this property is in the RU district, and per the Essex Zoning Regulations, the minimum lot coverage was doubled from 40,000 to 80,000 s/f and the area coverage was dropped from 15% to 7.5%. This lot predated that change. Mr. Wells noted that per the zoning regulations, the 40,000 sq with 15% coverage requirement went up to 80,000 s/f with 7.5% coverage and this requirement limits the property owner.

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

Mr. Ingersoll closed the public hearing on this application at 7:42pm

Consideration of **Application #12-8 on behalf of James L. Kerr, property located at 133 Saybrook Road, Essex, CT Assessor's Map 71 Lot 20, RU District**, requesting a variance of sections 40D, 40E, 40I.1, 50D and 61B of the Essex Zoning Regulations. This is an application to allow a house addition to be located up to 22 feet from a side property line where 30 feet is required and to increase the lot coverage to 8.9% where 7.5% is the maximum allowed.

James Kerr presented on behalf of this application. Mr. Kerr stated that he has lived at 133 Saybrook Road since 1982. Mr. Kerr indicated that he did not know the total square footage of his house, however it is 28 feet long and it is not a very large house. The existing kitchen is 9' x 16' which is just large enough to house a stove and a refrigerator. Mr. Kerr stated that he would like to expand the kitchen and add a family room onto the house. The entire house is located within the setback from the road and the addition would be 2,067 s/f and a total of 3,300 s/f for the house upon completion.

Mr. Kerr stated that if he were to expand the size of the kitchen either to the north or to the south, he would encroach on the setback. This house was built in the 1600's. The Pentway, against which the side setback is measured is at an angle to the way the house is aligned as against the road. Mr. Kerr noted that if the Pentway had been aligned perpendicular to the access of the house, it would have angled to the north and largely abbreviated a need for this application. Mr. Kerr stated that it is relevant that it is a Pentway in terms that it not encroach on the adjoining living space which is to the north. Mr. Kerr stated that he is trying to develop an expansion of the house that is in keeping with the farm house arrangement which was typical construction in the area and when this house was built. This addition will go off of the existing el. Mr. Kerr noted that he looked to go off the south side, however there was too much ledge and there was no area for an acceptable leaching field as there is rock shelving in that area which rules out the leaching fields. Mr. Kerr stated that this proposal will create a minimal encroachment on the property to the north and the buildings will not intrude on the people to the north.

Mr. Daddona stated that the applicant is imposing on the setback, all the way back.

Mr. Kerr stated that in order to have the house extend on the same access as the existing house, this is the only location that would aesthetically fit. Mr. Kerr indicated that the hardship surrounding his application is that the house and its alignment on the lot was constructed well before any zoning regulations were in place and that has imposed a restriction on the use of the property which post-dates its existence. Mr. Kerr noted that there is a good deal of ledge to the south side of the house, which limits the ability to construct in that area. This also interferes with the lines of the salt box style of the house. Mr. Kerr stated that this has been identified as the oldest house in Essex and he wishes to expand in a way that is in keeping with its current lines as a classic saltbox. Mr. Kerr noted that his architect specializes in historic preservation and this design is as per his recommendations.

Mr. Wells stated that there are several variances being requested all of which are for area coverage. Mr. Wells stated that the Board will want to differentiate between the variance being requested for the front setback versus the variance being requested for the side setback. With the front setback the applicant is asking to slightly enlarge a building that pre-exists zoning and is already situated in the setback. The remainder of the addition requests new construction which will go over onto the side setback.

Mr. Daddona stated that with this proposed addition, the salt box lines are not being preserved.

Mr. Greenberg stated that there is plenty of land on the south side of the house noting that if Mr. Kerr shifted his design he would not need a variance. Mr. Greenberg stated that the Board would be more inclined to grant a variance on the old portion of the house where the kitchen is proposed.

Mr. Wells stated that the board is saying that if the front line was moved down to just above where Mr. Kerr proposes to extend out, he would be entirely outside the setback area for the addition. The Board would then be looking to grant a variance only for the preexisting setback that has been there for 300 years.

Mr. Daddona stated that the Board can vote on this proposal or the applicant may look to redesign and come back with a revised drawing.

The applicant asked if the Board would vote on the kitchen piece of this proposal only. The proposal is for 72.3 s/f on the north side and 30.5 s/f on the south side for a total of 102.5 s/f on the kitchen construction

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

Bill Scharfenstein, 1 Mallard Point, Essex presented. Mr. Scharfenstein stated that he resides just north of this proposal. Mr. Scharfenstein distributed a written commentary which outlines the impact of this proposal to his property. Mr. Scharfenstein noted that by changing the orientation a few degrees, there would be no issues with the design or functionality of the house. In a discussion with the Joe Budrow, Essex ZEO, Mr. Scharfenstein was informed that the Mr. Kerr will tripling the size of his house and this is a significant structure that is being proposed. Mr. Scharfenstein noted that there is no hardship associated with this proposal.

Mrs. Kerr stated that she does not plan to change the entrance of the house.

Mr. Scharfenstein stated that he has no objection to the kitchen design.

Mr. Kerr suggested that the Board consider the variance application that relates to the kitchen only. Mr. Kerr stated that he wishes to withdraw a portion of application related to the side setback and area coverage for the addition shown, but he wishes to leave the application for the front setback for the area known as north kitchen 72.3 s/f and 30.5 s/f which is requiring a setback of the front yard.

Attorney Wells stated that if Mr. Kerr wishes to withdraw the application with one exception, which is for the front yard setback, and withdraw the balance of the application the Board should consider that proposal.

Mr. Ingersoll closed the public hearing on this application at 8:35

Consideration of **Application #12-9 on behalf of Michael Peck, property located at 3 Scholes Lane, Essex, CT, Assessor's Map 47, Lot 30 EV District, requesting a variance** of section 45D.3 of the Essex Zoning Regulations. This is an application to allow the living area of an accessory apartment to be located in a below ground basement area of a principal building.

This application will be re-submitted at the May 22, 2012 meeting.

Consideration of **Application #12-10 on behalf of Mark Edwards, property located at 5 Gates Road, Essex, CT Assessor's Map 69 Lot 13 RU District,** requesting a variance of sections 40C, 40D, 40I.1 and 61B of the Essex Zoning Regulations. This is an application to allow a storage shed to be located up to 11 feet from the front property line where 40 feet is required and to increase lot coverage to 9.68% where 7.5% is the maximum allowed.

There was no one at this evening's meeting to present on behalf of this application.

**Motion** made by Stu Ingersoll to open the public hearing on application **Application #12-10 on behalf of Mark Edwards, property located at 5 Gates Road, Essex, CT Assessor's Map 69 Lot 13 RU District. This application will be heard at the May 22, 2012 meeting.**

**Motion** seconded by Doug Demarest and passed unanimously 5/0/0.

**Application #12-11 on behalf of Nicolas Libert, property located at 38 Main Street, Ivoryton, ct, Assessor's Map 56 Lot 12, VR district,** requesting a variance of sections 61B of the Essex Zoning Regulations. This is an application to allow a storage shed on the property that would increase lot coverage to 8.96% where 7.55 is the maximum allowed.

There was no one at this evening's meeting to present on behalf of this application.

**Motion** made by Stu Ingersoll to open the public hearing on **Application #12-11 on behalf of Nicolas Libert, property located at 38 Main Street, Ivoryton, ct, Assessor's Map 56 Lot 12, VR district,**

**Motion** seconded by Doug Demarest and passed unanimously 5/0/0.

### **Deliberation**

**Motion** made by Michael Noto to approve a Variance for **Application #12-6 on behalf of Melissa Burch, property located at 10 Carol Drive, Ivoryton, CT Assessor's Tax Map 81 Lot 4-18, RU District** requesting a variance of Section 61B of the Essex Zoning Regulations. This is an application to allow a storage shed on the property that would increase lot coverage to 9% where 7.5 is the maximum allowed. The hardship is that the property predates zoning regulations. The variance is granted in accordance with the plans as submitted.

**Motion** seconded by Paul Greenberg and passed unanimously 5/0/0.

**Motion** made by Doug Demarest to grant a variance to **Application #12-8 on behalf of James L. Kerr, property located at 133 Saybrook Road, Essex, ct Assessor's Map 71 Lot 20, RU District** for the expansion of the kitchen. The applicant has withdrawn the application for a variance for a side setback and the area coverage and the applicant is asking only to retain the request for the kitchen which is a front yard setback. The hardship is the preexisting building which was constructed long before zoning and any modification of the building would require a variance as it is entirely located within the front setback. The addition will be constructed in accordance with the drawings submitted by the applicant related to the front setback.

**Motion** seconded by Al Daddona and passed unanimously 5/0/0.

The regularly scheduled meeting adjourned at 9:00 p.m.

Respectfully submitted,

Stella C. Beaudoin  
Recording Secretary

The next regularly scheduled meeting of the Essex ZBA will be conducted on May 15, 2012 at 7:30 p.m. in the Essex Town Hall.

The proceedings of the April 17, 2012 Public Hearing were recorded on 1 card. Please speak with the Essex Zoning Office for further information.