

Town of Essex - Zoning Board of Appeals

**29 West Avenue
Essex, CT 06426**

MINUTES

May 15, 2012 – Regular Meeting

The Essex Zoning Board of Appeals conducted their regularly scheduled meeting on Tuesday, May 15, 2012 at 7:30 p.m. in Room A of the Essex Town Hall. Members present were Stu Ingersoll, Paul Greenberg, Tim Fergusson 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 7:44 p.m.

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. Continued from the April 17, 2012 meeting.

Mr. Mark Edwards, owner of the property presented. This is an application request for a setback and coverage variance. The house was built in 1756 and is fronted on the east by Route 154 and on the west by Gates Rd. The house is situated to the north and to the south is a row of pine trees and wetlands. The proposed location for the shed cannot be seen from the abutting property owners. The only grass on the property is in the backyard. The water from Gates Road drains into the backyard. Mr. Edwards stated that in order to place the shed where it is not situated in a setback, would place it in the middle, and the lowest portion of the backyard, which is a very wet area. This location would make for an unstable site for the shed. The septic is off of the back addition and the holding tank is situated in the driveway area. The hardship is the topography of the land and the house was constructed prior to the inception of the zoning regulations.

Mr. Ingersoll asked the Board if they had any questions.

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 7:52 p.m.

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. The proposed height and location are compliant with the zoning regulations. The applicant seeks approval to increase the proposed lot coverage to 8.96%, an increase of 0.79%. Continued from the April 17, 2012 meeting.

Mr. Nicolas Libert, the property owner presented on behalf of this application. Mr. Libert stated that he is seeking a variance for a storage shed. The house was built in 1845. Mr. Libert has already installed the gravel stone pad and was made aware after the installation that a variance was required for the shed placement. The 12' x 14' tool shed has since been delivered and installed. Mr. Libert extended his apologies to the Board for the miscommunication.

Mr. Ingersoll asked the Board if they had any questions.

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 8:02 p.m.

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 45C.1 and 45D.3 of the Essex Zoning Regulations. This is an application to allow an accessory apartment to be located on a lot that is less than 30,000 square feet in area and to have a living area located in a below-ground basement area of a principal building. All other characteristics of the house are compliant for an accessory apartment. This application is not seeking approval for the apartment but for the location to be allowed. Final approval comes from the Zoning Commission. Continued from the April 17, 2012 meeting.

Attorney Geraldine Ficara presented on behalf of this application. Megan Monahan, Legal intern and Attorney Michael Peck were also in attendance. Ms. Ficara presented a model of this proposal. Ms. Ficara stated that the preexisting hardship on this property is that in 1977 this property was declared a substandard lot and at that time, Mr. Clinton Scholes received a variance in order to build the house that is currently situated on this property. Ms. Ficara referenced the Essex Zoning regulations which encourages affordable housing in the Town of Essex. Ms. Ficara stated that she is looking to make an accessory apartment on the property which is in keeping with the other homes and accessory apartments on Scholes Lane. Ms. Ficara presented briefly on the proposed atrium which she will construct on the property.

Attorney Wells stated that the application before the Board this evening is strictly for the accessory apartment, however no application has been submitted for the atrium. There are two variances needed for apartment; one for the size of the lot and one for the apartment which is proposed to be situated on the lower level of the existing house. Attorney Wells questioned how this claim of hardship to add another living unit applies to this application. Mr. Wells questioned what unusual difficulty or hardship that is unique to this property would create a hardship and would support the granting of a variance to allow an accessory apartment. Attorney Wells stated that the zoning regulations require that there be 30,000 s/f in order to have a second apartment and this lot is not large enough to support the basement apartment. Mr. Wells acknowledged that the zoning regulations do encourage accessory apartments in properties over 30,000 s/f and it must not be a below ground living space. Mr. Wells asked if the argument for hardship is that while no portion of the living area of an accessory apartment shall be located in a below basement area per the zoning regulations, this apartment is not to be totally below the basement. Attorney Wells stated that the s/f of the lot is less than 10,000 s/f and the hardship for varying the 30,000 s/f requirement is that it is a preexisting nonconforming lot and that is the hardship to support the grant of the variance.

Ms. Ficara agreed with Mr. Wells and she stated that with this proposal, she has maximized the aesthetics, the safety and the light of the lower level so that this is not truly a basement apartment. Also on the street, there are a number of accessory apartments. Ms. Ficara stated that she is limited by the architecture and the design of the house and that she is trying to work within the parameters which creates a limitation.

Mr. Ingersoll stated that the Essex Zoning Regulations are very specific in that basement apartments are not allowed.

Mr. Ingersoll asked the Board if they had any questions.

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 8:31 p.m.

Consideration of **Application #12-12 on behalf of Peter Gulick for Mark and Nancy McDonald at 6 Mack Lane, Essex, CT Assessor's Map 46 Lot 24, VR District, requesting a variance to Sections 40D, 40E, 40I.1, 50D and 60B of the Essex Zoning Regulations.** This is an application to add on an addition of approximately 488 square feet off the rear of the house. The addition is proposed as encroaching each side yard setback area by two feet putting the structure 28 feet from each side property line where 30 feet is the maximum allowed. The proposed addition would also increase the property's lot coverage from 6.6% to 9.9%, an increase of 3.3%.

Mr. Peter Gulick, presented on behalf of this application. Mr. Gulick stated that the house was built in 1933 and is situated on .33 acres of land. The lot is 75 feet wide and the applicant is proposing to add an addition in the front of the house. The blue line is the 25 foot setback. There will be a master bedroom on the second floor and a kitchen on the first floor. The hardship is the topography of the narrow lot and the property predates the zoning regulations.

Mr. Ingersoll asked the Board if they had any questions.

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 8:31 p.m.

Consideration of **Application #12-14 on behalf of Richard Riggio & Sons for Hubert and Emilie Alvarez EST at 37 Maple Avenue, Essex, CT, Assessor's Map 16 Lot 24, VR District, requesting a variance to sections 40D, 40E, 40I.1, 50D and 60B of the Essex Zoning regulations** to allow two additions onto an existing single family dwelling, each to a point 28 feet from the front property line where 40 feet is required and to allow lot coverage to increase to 11.9% where 7.5% is the maximum allowed. The applicant is proposing to add two additions, one to approximately 502 square feet off the north side of the house and a 50 square foot addition off the south side of the house. The proposed addition would increase the property's lot coverage from 8.94% to 11.9% an increase of approximately 3%.

Mr. Paul Riggio presented on behalf of this application. Mr. Riggio is seeking a variance to construct two additions; one is proposed to be 412 s/f the second addition is proposed to be 240 s/f. The percentage of coverage would go from 8.94 to 11.9%. Mr. Riggio distributed a map to the Board members. Mr. Riggio stated that he is looking to construct an extension from the back of the house. There will be an encroachment into the setback on the Maple Avenue side of the property. The hardship surrounding the coverage variance is that this is a preexisting nonconforming lot. The hardship surrounding the setback variance is the age of the house, which predates zoning. The hardship is also based on the zoning regulation change.

Mr. Ingersoll asked the Board if they had any questions.

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 8:50 p.m.

Deliberation

Motion made by Paul Greenberg to approve a Variance for **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. The hardship associated with this request is related to the topography, the drainage, the location of the well and the fact that the property has two front yards. The variance is granted in accordance with the drawings as submitted.

Motion seconded by Tim Fergusson and passed unanimously 4/0/0.

Motion made by Paul Greenberg to approve a Variance for **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. The proposed height and location are compliant with the zoning regulations. The applicant seeks approval to increase the proposed lot coverage to 8.96%, an increase of 0.79%. The hardship associated with this request

is based on the fact that the lot pre-exists zoning and this variance request is for coverage only. The variance is granted in accordance with the plans as submitted.

Motion seconded by Doug Demarest and passed unanimously 4/0/0.

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 45C.1 and 45D.3 of the Essex Zoning Regulations. This is an application to allow an accessory apartment to be located on a lot that is less than 30,000 square feet in area and to have a living area located in a below ground basement area of a principal building. All other characteristics of the house are compliant for an accessory apartment. This application is not seeking approval for the apartment but for the location to be allowed. Final approval comes from the Zoning Commission. Continued from the April 17, 2012 meeting.

Mr. Demarest stated that the zoning regulations are clear that this property is not sufficiently large enough to install a basement apartment.

Mr. Wells reminded the Board that a find must be made as to whether there is sufficient hardship to support the variance. Unlike other coverage changes, this is a special requirement for an accessory apartment and the applicant is seeking a variance for the special requirements of the zoning regulations.

Motion made by Stu Ingersoll to deny a Variance for **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 45C.1 and 45D.3 of the Essex Zoning Regulations. This is an application to allow an accessory apartment to be located on a lot that is less than 30,000 square feet in area and to have a living area located in a below ground basement area of a principal building. All other characteristics of the house are compliant for an accessory apartment. The variance request is denied on the basis of insufficient hardship demonstrated.

Motion seconded by Doug Demarest and passed unanimously to deny this application 4/0/0.

Motion made by Paul Greenberg to approve a Variance for **Application #12-12 on behalf of Peter Gulick for Mark and Nancy McDonald at 6 Mack Lane, Essex, CT Assessor's Map 46 Lot 24, VR District, requesting a variance to Sections 40D, 40E, 40I.1, 50D and 60B of the Essex Zoning Regulations.** This is an application to add on an addition of approximately 488 square feet off the rear of the house. The addition as proposed is encroaching each side yard setback area by two feet putting the structure 28 feet from each side property line where 30 feet is the maximum allowed. The proposed addition would also increase the property's lot coverage from 6.6% to 9.9%, an increase of 3.3%. The hardship associated with this request is based on the fact that the house is situated on a lot and both pre-date the zoning regulations. This proposal presents a minimal encroachment on the setback. The variance is approved in accordance with the plans as presented.

Motion seconded by Doug Demarest and passed unanimously 4/0/0.

Motion made by Doug Demarest to approve a variance for **Application #12-14 on behalf of Richard Riggio & Sons for Hubert and Emilie Alvarez EST at 37 Maple Avenue, Essex, CT, Assessor's Map 16 Lot 24 VR District, requesting a variance to sections 40D, 40E, 40I.1, 50D and 60B of the Essex Zoning regulations** to allow two additions onto an existing single family dwelling, each to a point 28 feet from the front property line where 40 feet is required and to allow lot coverage to increase to 11.9% where 7.5% is the maximum allowed. The applicant is proposing to add two additions, one to approximately 502 square feet off the north side of the house and a 50 square foot addition off the south side of the house. The hardship associated with this request is the location of the house which pre-exists zoning and preexists the change in the zoning regulations regarding lot coverage. The variance is approved in accordance with the plans as presented.

Motion seconded by Tim Fergusson and passed unanimously 4/0/0.

Motion made by Paul Greenberg to accept the minutes of the regular meeting of April 17, 2012

Motion seconded by Tim Fergusson and passed unanimously.

The regularly scheduled meeting adjourned at 9:10 p.m.

Respectfully submitted,

Stella C. Beaudoin
Recording Secretary

The next regularly scheduled meeting of the Essex ZBA will be conducted on June 19, 2012 at 7:30 p.m. in the Essex Town Hall.

The proceedings of the May 15, 2012 Public Hearing were recorded on 1 card. Please speak with the Essex Zoning Office for further information.