

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

**29 West Avenue  
Essex, CT 06426**

### **MINUTES**

#### **August 16, 2011 – Regular Meeting**

The Essex Zoning Board of Appeals conducted their regularly scheduled meeting on Tuesday, August 16, 2011 at 8:00 p.m. in Room A of the Essex Town Hall. Members present were Stu Ingersoll, Al Daddona, Doug Demarest, Alix Walmsley Paul Greenberg and Michael Noto. Also present, Michael Wells Legal Counsel to the Board and Stella Beaudoin, Recording Secretary.

Consideration of **Application #11-12 on behalf of Bounthanh T. and Chanmaly L. Outama, property located at 32 Eagle Ridge Drive, Essex, CT, Assessor's Map 42 Lot 4-20, RU District**, requesting a Variance of Sections 40D, 40E, 40I.1, 50D and 61B of the Essex zoning regulations. This is an application to construct a gable roof structure over an existing concrete porch that is located in the front yard setback area. The property has a single family located on the premises. The house is located approximately 42 feet from the front property line. The front stoop is located entirely within the 40-foot front yard setback area. This is an application to construct a gable roof structure over an existing concrete porch that is located in the front yard setback area. No fill is required. There will be no expansion of the existing footprint. This application is continued from the July 2011 regularly scheduled meeting.

Bounthanh Outama presented. Mr. Outama stated that he purchased the house situated on this property in 2003. Mr. Outama indicated that the slant of the roof is the cause of flooding during a rain event and that the roof extends only a short distance from the door. Mr. Outama noted that similarly designed homes in his neighborhood were constructed with gables.

Mr. Outama proposes to construct 8' x 8' gables to cover the front porch area. There will be no windows and the polls will be placed next to the steps. Mr. Outama stated that he would like to build a front porch so when visitors come over, the entry will be free from the weather.

Ms. Outama noted that the front door rusts and the overhang will protect the front door.

Board member, Al Daddona stated that the hardship is that any attempts to make changes to the front steps would create an imposition on the existing zoning regulations. Mr. Daddona noted that placing anything on this entryway to provide shelter from the rain would be considered a hardship.

Board Chairman Stu Ingersoll noted that this application is for a setback variance and that the porch should not have been construct in its current location.

It was noted that the construction of the front steps required a variance however the original homeowners constructed those steps without making an application to the Essex ZBA.

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

There were no letters submitted on behalf of this application.

Mr. Ingersoll closed the public portion of this application at 8:10 p.m.

Consideration of **Application # 11-14 on behalf of the Town of Essex for the Essex Fire Department, property located at 11 Saybrook Road, Essex, CT, Assessor's Tax Map 33 Lot 24 LI District**, requesting a Variance of Sections 40D, 40E, 40I.1, 50D and 90E of the Essex Zoning regulations. The property contains two structures, a main fire house and a long accessory structure used for the storage of equipment. The accessory structure runs parallel to West Avenue and is located entirely within the front setback along West Avenue. This is an application to allow a 24' x 38' addition off the west end of an existing accessory structure to a point 23 feet from the front property line where 75 feet is allowed.

Paul Phoenix Essex Fire Department presented. Mr. Phoenix stated that the Department wishes to construct an addition on the south side of the rear building in a nonconforming area. The addition will come in on the side of the parking lot which will not be utilized for parking any longer as the Town owns it.

Mr. Phoenix stated that the Fire Department needs a place to park their boat along with a trailer. The other end of the building is comprised of a furnished room and an old loading dock and the ground is not favorable to construct at that location.

The hardship is that this is the only location on which the parking lot can be located. This lot will abut the commuter parking lot.

Mr. Phoenix stated that the Town through first selectman Philip Miller is aware of and has endorsed this application and waived the fees.

Mr. Phoenix stated that he met with the Essex Park and Recreation Department/Basketball Committee before their proposal was up and running and at that time Mr. Phoenix informed the Basketball Committee that this area was to be utilized as a parking lot.

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

Ron Peleau, 80 River Rd., Essex. Mr. Peleau stated that this is a very worthwhile project. Mr. Peleau noted that trying to place the boat and the trailer undercover is an arduous process. This is equipment that is used frequently and the construction of this shelter would allow the equipment to remain in a ready state. During the winter months the boat has to be kept under shrink wrap which makes for difficult access in the event of emergencies.

There were no letters submitted on behalf of this application.

Mr. Ingersoll closed the public portion of this application at 8:15 p.m.

Consideration of **Application #11-15 on behalf of Robert Robinson, property located at 17 New City Street, Essex, CT, Assessor's Tax Map 28 Lot 48 VR District**, requesting a variance of Sections 40D, 40E and 40I.1 of the Essex Zoning Regulations. This is an application to allow the upward

expansion of a garage that is located three feet from the eastern side property line. The home is located in the front setback area and continues straight back to a point where an existing attached garage projects eastward where it sits almost entirely on the side yard setback. The garage is currently located three feet from the side property line where 25 feet is allowed. The applicant is proposing to raise the height of the garage by approximately six feet for the purpose of adding a rec room.

In 2007 the property received a variance to locate part of an addition within the front yard setback area. That addition was never built.

Sagnisha Robinson presented. Ms. Robinson confirmed that the existing garage will be raised by six feet and an additional 73 s/f will be added to the existing garage, which will serve as an attic space and a family room. The total height of the building will be 23 feet. There will be an exterior stairway going up to the garage which will connect the addition to the house. There will be a full bathroom with a shower and sink in this addition.

The hardship associated with this proposal is that this is a preexisting structure and the lot is long and narrow and anything the applicant wishes to do to update the property would be nonconforming. The garage preexists the home. This proposal involves the upward expansion over an existing nonconforming. Additionally, this is a preexisting structure that prior to the adoption of the Hyde amendment could have gone upward without the requirement of a Variance. There is no other place on the property to add-on due to the location of the septic and the location of the house.

In 2007 a variance was granted to build on the front of the property. The applicant stated that she would consider relinquishing the previously approved 2007 variance in order for this variance to be approved.

Members expressed a concern that this rec room could be potentially converted into an apartment.

Mr. Wells indicated that the Board might wish to stipulate that there will be no kitchen associated with this proposal and that the rec room will not be used as a separate residence. The Board can further require that there be no separate entrance from outside. This may not to be used as an accessory apartment.

Mr. Noto stated that the Board might wish to grant a variance for a rec room with a half bath.

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

Alfonse Aldinolfi, owner of Essex consignment. Mr. Aldinolfi asked if this application was being considered for a rec room or an apartment.

Mr. Ingersoll stated that an apartment is not allowed. The application calls for a rec room.

Ms. Robinson stated that the nature of the top floor is to be utilized primarily a rec room, however on occasion when relatives visit it will be utilized as a place for family to stay. Ms. Robinson stated that she was told by the Town's sanitarian that for health code purposes, this would still be considered an additional bedroom.

There were no letters submitted on behalf of this application.

Mr. Ingersoll closed the public portion of this application at 8:40 p.m.

Consideration of **Application #11-16 on behalf of John Lombardi, property located at 25 Saybrook Road, Essex, ct, Assessor's Tax Map 46 Lot 2, LI District**, requesting a Variance of Sections 40a and 90A of the Essex Zoning Regulations. This is an application to allow a retail use in a district where retail is not allowed. Essex Warehouse is a business that in August 2010 relocated from a location in Ivoryton to a location at 23 Saybrook Road where multiple businesses are located within a large building. Prior to the relocation, there were no zoning or health approvals granted for the new use.

Essex Warehouse is a business that does wholesale and retail sales of used furniture, collectibles and estate items. The retail aspect of the business is not allowed in the LI District

John Lombardi presented on behalf of this application. Mr. Lombardi stated that he buys out estates and tag sales and stores those auction pieces on this property. Mr. Lombardi started his business at Aggie's in Ivoryton as a retail establishment. He then shut down his business at Aggies and moved over to a space he currently rents from Herb Clark. This business is open from Friday to Sunday 10am to 4pm and deals with wholesales, repairs furniture, etc. This business does have customers that are retail customers.

Mr. Lombardi stated that the hardship is that he cannot find another building to house all of his merchandise. Mr. Lombardi stated that he is seeking a variance for two small estate signs 2 feet x 2 feet.

Mr. Lombardi noted that this building was empty for many years and this use is a perfect for this building, without having a full retail business on the establishment.

Michael Noto asked about the existing signs.

Mr. Lombardi stated that the existing signs are temporary and they are on the property only when the storefront is open. Mr. Lombardi is seeking a use variance.

Mr. Wells questioned if the owner authorized this particular use. Prior to making a decision, the owner must in writing, state that he is aware of this application and grants permission for this type of use.

Stu Ingersoll stated that it would make sense to postpone this hearing until the owner approves the use. The lease Mr. Lombardi signed may provide language authorizing the tenant to make these types of applications and act as an agent. However, the Board must see that in writing.

Mr. Clark must provide evidence as lessee of the property that he has the authority to authorize this use.

Mr. Ingersoll suggested that the Board continue this application until all of the proper authorizations have been received and reviewed by the Essex ZBA.

Mark Uihlein, resident of Essex, CT raised the question if this space is to be used as retail. Mr. Uihlein questioned what is to prevent that entire property from a being retail use.

Mr. Wells stated that the board could limit the granting of a variance to just this business. The variance can state the square footage of the business.

Mr. Noto asked Mr. Lombardi to bring in his lease so that the Board can review and possible restrict the language on any proposed variance.

Mr. Uihlein questioned if the Board took into account the neighborhood, the other uses on the property and how a retail use might conflict with that.

Mr. Lombardi stated that as far as he knew, there has never been a formal complaint filed on the records against Mr. Lombardi's business.

**Motion** made by Stu Ingersoll to continue **Application #11-16 on behalf of John Lombardi, property located at 25 Saybrook Road, Essex, CT, Assessor's Tax Map 46 Lot 2, LI District**, requesting a Variance of Sections 40a and 90A of the Essex Zoning Regulations to the September 2011 regularly scheduled meeting.

**Motion** seconded by Al Daddona and passed unanimously.

Consideration of **Application #11-17 on behalf of William J. and Sandra M. French, property located at 14 Rackett Lane, Essex, Ct Assessor's Map 51 Lot 9, RU District requesting Variances of Sections 40D and 61B of the Essex Zoning Regulations**. This property has an existing zoning violation regarding the unpermitted installation of a 10" x 20" shed by the previous owner. The applicant is seeking permission to locate a greenhouse on the lot in a location that is 18 feet from the rear lot line and 37.5 feet from the western side property line. The applicant seeks to expand the allowed lot coverage to 12.69%.

Terry Lomme presented on behalf of Mr. and Mrs. French. This property was constructed in 1999 the owners came before the Essex ZBA and asked for verification that this was a building lot and to further request that a house be constructed on the property. The Board did say that the applicants could have 14.5 % coverage on the lot. The lot was then sold. In 2002 the new owner asked to put the septic system and the drainage system on the lot across the street. The caveat is that the lots must be appended to each other.

The applicant wishes to construct a 146 s/f greenhouse. The existing coverage is 12.8%. A previous variance was granted for 14.5% on the lot for a structure. Mr. Lomme questioned if an additional variance would be required since we have two proposed structures on this property.

The greenhouse will have a foundation and the shed will be removed. The shed was constructed by the prior owner and will be removed for that same reason.

Mr. Lomme stated that he is looking for a clarification of the previously granted variance.

Mr. Lomme stated that the applicant would be amenable to removing the shed in exchange for the approval of the Board. Mr. Lomme stated that if the Board however agrees that this variance does comply with the regulations, then the shed will remain. This structure must remain in compliance with the Essex zoning regulations.

Mike Wells stated that assuming the Board decides that the greenhouse fits within the variance, the applicant will return to the Essex Zoning Enforcement Officer and say that ZBA recognizes that there is no violation in conjunction with this proposal; it conforms to use, conforms to height and the interpretation to zoning is that this is allowed. Mr. Wells stated that the board should strictly address the greenhouse.

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

There were no letters submitted on behalf of this application.

Mr. Ingersoll closed the public portion of this application at 9:15 p.m.

## **DELIBERATION**

Mr. Ingersoll requested that Mr. Wells send a letter to the Zoning Enforcement Officer requesting that more detail be presented with the cases before the Board.

**Motion** made by Stu Ingersoll to approve a Variance for **Application #11-12 on behalf of Bounthanh T. and Chanmaly L. Outama, property located at 32 Eagle Ridge Drive, Essex, CT, Assessor's Map 42 Lot 4-20, RU District**, requesting a Variance of Sections 40D, 40E, 40I.1, 50D and 61B of the Essex zoning regulations. This is an application to construct a gable roof structure over an existing concrete porch that is located in the front yard setback area. This Variance is approved for an 8' x 8' gable roof with two posts supporting it over the existing concrete structure. The hardship surrounding this proposal is that the steps are potentially hazardous in inclement weather. This variance is granted based on the location of the existing concrete structure, the damage to the house caused by inclement weather, the safety issues and the fact that this proposal does not increase any coverage nor does it violate any coverage restriction. This variance is granted in accordance with the plans as submitted.

**Motion** seconded by Al Daddona and passed unanimously.

**Motion** made by Stu Ingersoll to approve a Variance for **Application # 11-14 on behalf of the Town of Essex for the Essex Fire Department, property located at 11 Saybrook Road, Essex, CT, Assessor's Tax Map 33 Lot 24 LI district**, requesting a Variance of Sections 40D, 40E, 40I.1, 50D and 90E of the Essex Zoning regulations. This is an application to allow a 24' 38' addition off the southern end of an existing accessory structure to a point 23 feet from the front property line where 75 feet is required. This variance is granted in accordance with the plans as submitted.

**Discussion:** Mr. Ingersoll noted that this is a legitimate hardship in that this is the only location on which the parking can be located. The Town needs a covered shelter for the boat and the only place that makes sense for this shelter is attached to an existing building.

**Motion** seconded by Doug Demarest and passed unanimously.

**Motion** made by Alix Walmsley to approve a Variance for **Application #11-15 on behalf of Robert Robinson, property located at 17 New City Street, Essex, CT, Assessor's Tax Map 28 Lot 48 VR District**, requesting a variance of Sections 40D, 40E and 40I.1 of the Essex Zoning Regulations. This is an application to allow the upward expansion of a garage that is located three feet from the eastern side property line where 25 feet is required. A condition of the granting of this variance is the relinquishment by the applicant of the previously granted 2007 variance which will be terminated as a result of the granting of this variance. The proposed bathroom is allowed as a half bath only. There will be no installation of a kitchen and no installation of a wet bar. The hardship associated with this proposal is that there will be no increase in the footprint of the preexisting building. This structure preexisted the zoning regulations and it preexisted the Hyde amendment. The variance is granted in accordance with the plans submitted; Map of Property for Robert Robertson & Agneiszka Robertson Essex, CT 6-7-2011.

**Discussion:** It was noted that this structure predates all zoning regulations. This is a nonconforming structure and any improvements on this property are in violation with the zoning regulations. There is an existing second floor and the total height of this proposal is 25 feet which will be lower than the existing two story house.

It was indicated that with the layout of the lot there was no other location to construct an addition. The applicant does not wish to create additional coverage issues and this proposal is being constructed above the existing garage.

**Motion** seconded by Al Daddona and passed unanimously.

**Motion** made by Stu Ingersoll that no additional Variance is required for **Application #11-17 on behalf of William J. and Sandra M. French, property located at 14 Rackett Lane, Essex, Ct Assessor's Map 51 Lot 9, RU District** requesting Variances of Sections 40D and 61B of the Essex Zoning Regulations. The previously granted variance remains in effect allowing the 14.5% coverage to include the proposed greenhouse. The interpretation of the Zoning Board of Appeals is that the 14.5% coverage applies to structures therefore the greenhouse does not require a variance.

**Motion** seconded by Al Daddona and passed unanimously.

Respectfully submitted

Stella C. Beaudoin  
Recording Secretary

The proceedings of the August 16, 2011 Public Hearing was recorded on 1 card. Please speak with the Essex Zoning Office for further information.