

TOWN OF ESSEX
Zoning Board of Appeals

Executive Board

*Paul Greenberg, Chair
Vacancy, Vice Chair*

29 West Avenue • Essex, Connecticut 06426
Telephone (860) 767-4340 • FAX (860) 767-8509

Regular Members

*Barbara Sarrantonio
W. T. Fergusson
William Veillette
Ward Feirer*

Alternate Members

*Peter Decker
Philip J. Beckman
George Wendell*

Unapproved

Minutes

June 21, 2016 – Public Hearing and Regular Meeting

The Essex Zoning Board of Appeals conducted their regularly scheduled meeting on Tuesday, June 21, 2016 at 7:00 p.m. in Room A of the Essex Town Hall. Attending Members were P. Greenberg Chair, B. Sarrantonio, W. Feirer, P. Beckman, Alternate who was seated for the meeting and G. Wendell, Alternate who was seated for the meeting.

Staff:

Stella C. Beaudoin, Recording Clerk
Michael Wells, Esq., Legal Counsel

P Greenberg called the meeting to order at 7:00pm

MOTION to move W. Feirer from alternate status to a regular member; **MADE** by P. Greenberg; **SECONDED** by B. Sarrantonio; **IN FAVOR:** P. Greenberg, B. Sarrantonio P. Beckman, G. Wendell, W. Feirer; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED:** 5-0-0.

- **Application No. 16-11** on behalf of Stephen R. Cline, Successor Trustee of the E.S.T. Irrevocable Trust, 85Westbrook Road, Essex, CT, Assessor's Map 53, Lot 3, LI District, requesting variances to sections 40D, 40E, 40I.1, 50D and 90E of the zoning regulations to add three building additions that will increase the existing building coverage to 25.5% where 25% is the maximum building coverage allowed. Also, one of the additions would come to a point 19.8 feet from a rear property line where 50 feet is required.

Seated for this proposal were P. Greenberg Chair, B. Sarrantonio, W. Feirer, G. Wendell and P. Beckman.

This property is a flat lot in a Limited Industrial District with a large commercial building on the property along with small storage sheds in the rear. The lot is 2.53 acres in size. This application is a request to add an addition to the north end of the existing building to a point 19' 7" from the rear of the property line where 50 feet is required. The plans presented with the application there is a roof over the loading dock which the applicant intends to remove from the plan which will eliminate the coverage issue. This application is for a rear setback encroachment, only.

Presenting on behalf of this proposal was John S. Bennet, Esq. who stated that the applicant is seeking a single variance and he noted that in this proposal, the length of the structure has been reduced and there is a modest increase in the setback.

This structure referenced in this application was formerly the Blue Ray building. The proposal is to add office space to the front of the building and an addition with a loading dock. There are two lots involved. Map 53 lot 3 and Map 54 and Lot 18. There is an easement area behind the addition which will be a permanent easement for access. J. Bennet distributed copies of the draft easement and explained that this will allow the loading dock to be accessed from behind, and it will make a permanent 40-foot band around the back of the property. The setback requirement is 50-feet, which this easement efforts as it can never be blocked and will create over the 50-foot setback to the rear of the building. There is a Residential Use at one end of the property. The addition will be entirely on the north end of the property which is zoned Light Industrial.

J. Bennet noted with respect to other properties, the surrounding homes are over 400-feet away and this proposal creates no impact on the people across the street. J. Bennet stated that this proposal has complied with parking vs employee requirement of the zoning regulations. The business occupying this property is a research facility doing chemical research for pharmaceuticals. It is not a production facility, but there are experimental labs within the building. There was a previous application to the ZBA for parking. In 1999, an addition was proposed and approved for the south end of the building. J. Bennet stated that this is a substantial reduction from what was previously approved. This addition will continue the one-story level which is consistent with the rest of the building. The structure was built in 1953 and it was constructed in the setback. J. Bennet noted that the configuration of the property presents a hardship.

J. Bennet stated that the other parcel has been merged in by nomination of the new Trustee, which was filed on the land records with a description of both parcels.

M Wells suggested the preparation of a quit claim deed so as to clarify for the tax assessor's records.

The easement will be owned by EST Trust. It will be a private right in favor of EST trust adjacent to Centerbrook properties, LLC. There were discussions about conveying that property. This property is under orders by the DEEP for clean-up, which is in process. If conveyed or if a portion was accepted, the entire property would then be under the same restrictions imposed by the DEEP.

P Greenberg questioned if the access easement negates the need for a setback.

J. Bennet stated that as a matter of legal technicality, we do not own the ground but we control the ground. It is a de facto compliance.

J. Bennet stated that because this is a production facility there will be occasional UPS or tractor trailer deliveries, however there will not be several deliveries on a daily basis.

J. Bennet submitted a letter for the record in which he states that he did not apply for a coverage variance and though a coverage variance has been added to the Agenda, they have a proposed, revised plan distributed to commissioners this evening, which reduces the size of the proposed structure, eliminating the need for a coverage variance.

J. Bennet stated that he met with the Town Sanitarian and believes that the septic system will be approved.

P. Greenberg asked if anyone wished to speak in favor or in opposition to this application.

Susan Malan, economic developer for the Town stated that the applicant met with the Economic Development Commission on May 11, 2016 and the Commission unanimously supported the application.

Herb Clark Centerbrook properties stated that he supports this application and encourages the Board to grant the variance so they can expand and remain in Town.

There was no further public comment.

There were no further questions from the Board.

P. Greenberg closed the Public Hearing at 7:25pm

- **Application 16-12** on behalf of Kristine Thomas, 5 River Road, Essex, CT, Assessor's Map 17, Lot 4, RU District, requesting variances to sections 40D, 40E, 40I.1, 50D and 61B of the zoning regulation to add a 1,070 square foot addition to a point 13.1' from the side property line where 30' is required.

Seated for this proposal were P. Greenberg Chair, B. Sarrantonio, W. Feirer, G. Wendell and P. Beckman.

The property subject to this application is a flat lot with a single family home and detached garage located on it. The property is .36 acre in size. This application is a request to add a 1,069.75 square foot addition off the rear of the house. The existing house is 22.5 feet from the south side property line where 30 feet is required. The addition would come to a point 13.1 feet from the same property line. The applicant proposed to remove the rear detached garage which will decrease the building coverage for the property. This application request is only for the side setback encroachment.

Hope Proctor, Architect presented. H. Proctor stated that the existing garage structure which will be eliminated and a new addition slightly smaller than the existing structure will be added. This proposal will improve the current setback. The new addition will have a 13-foot setback and the regulations require 30 feet on either side and 40 feet on the front. H. Proctor stated that since this makes the area more in conformance, it is not necessary to prove hardship. The coverage is being reduced from 14% to 13%. On the current property line, the neighbors have a fence and there is a natural buffer and a small retaining wall in place. The existing detached garage will be removed and the applicant is adding a garage with a small addition to the back of the house. The wood existing deck will be removed and the applicant is proposing a small stone patio which will be situated in the setback. The height on the addition is 24 feet which is lower than the existing house. The new stairs conform to the new code thereby making it safer and more conforming

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

A letter from the CT River Gateway Commission recommending approval of this proposal as it is consistent with the Commission's criteria and no they have opposition to the granting of the variance

There were no further questions from the Board.

P. Greenberg closed the Public Hearing at 7:30pm

- **Application 16-13** on behalf of Cogent Holdings, LLC, 124 Westbrook Road, Essex, CT, Assessor's Map 66, Lot 19, requesting variances to sections 40D, 40E, 50D and 80C of the zoning regulations to allow building additions that will increase the maximum building coverage from 15.1% to 16.9% where 15% is the maximum coverage allowed.

Seated for this proposal were P. Greenberg Chair, B. Sarrantonio, W. Feirer, G. Wendell and P. Beckman.

Sabrina Foulk, Point One Architects representing the applicant. There is an existing building on an existing lot, and on the back side of the building there were several additions added over time for refrigeration, staircases, storage, etc. This application proposes a new addition across the rear for refrigeration and storage needs. The plan is to compress it and make it more functional.

A fire stair and an elevator will be added in order to comply with safety aspects of the building. The setback is going from 15.2% to 15.4%. S Foulk stated that the existing siding and windows will be replaced which provide a change to the overall look, to enhance the experience and make it beautiful. The impetus for this proposal is generated by safety issues, and in order to comply with the life safety health code. The hardship is that the structure was built before the ADA requirements for an elevator on the premises.

P. Greenberg asked if anyone wished to speak in favor or in opposition to this application.

H Proctor stated that she previously served on the Zoning Commission and was involved with the Rite Aid application which was proposed for this site, and she stated that she is glad to see that the same use for this structure will prevail, and she further noted that the proposed changes to this structure will look great and will be a huge improvement.

There was no further public comment.

There were no letters.

There were no further questions from the Board.

P. Greenberg closed the Public Hearing at 7:45pm

REGULAR MEETING

- **Application No. 16-11** on behalf of Stephen R. Cline, Successor Trustee of the E.S.T. Irrevocable Trust, 85Westbrook Road, Essex, CT, Assessor's Map 53, Lot 3, and Map 54 and Lot 18, LI District, requesting variances to sections 40D, 40E, 40I.1, 50D and 90E of the zoning regulations to add three building additions that will increase the existing building coverage to 25.5% where 25% is the maximum building coverage allowed. Also, one of the additions would come to a point 19.8 feet from a rear property line where 50 feet is required.

G. Wendell suggested that the easement is to be recorded and be made a condition of approval.

B. Sarrantonio stated that the easement provides the buffer that the setback requires. The hardships were more than adequately explained, i.e., configuration of the lot, the fact that it is sheltered, and that there was a de facto setback, and they are decreasing the overall nonconformity in size.

MOTION to grant approval to, **Application No. 16-11** on behalf of Stephen R. Cline, Successor Trustee of the E.S.T. Irrevocable Trust, 85Westbrook Road, Essex, CT, Assessor's Map 53, Lot 3, and Map 54, Lot 18, LI District, requesting variances to sections 40D, 40E, 40I.1, 50D and 90E of the zoning regulations to add three building additions that will increase the existing building coverage to 25.5% where 25% is the maximum building coverage allowed. Also, one of the additions would come to a point 19' 7" from a rear property line where 50 feet is required. The hardship associated with this proposal is the configuration of the lot, the fact that it is sheltered, and there was a de facto setback, and the applicant is decreasing the overall nonconformity in size. The Variance is granted with the following provisions: 1. Grant of Access Easement in the form provided is to be recorded in the Essex Land Records; 2. The two lots are to be combined by a consolidating deed which is to be recorded in the Essex Land Records; 3. The additions are

to be constructed in accordance with the plans as submitted; **MADE** by B. Sarrantonio; **SECONDED** by W. Feirer; **IN FAVOR:** P. Greenberg, B. Sarrantonio, W. Feirer, G. Wendell, P. Beckman; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED:** 5-0-0.

- **Application 16-12** on behalf of Kristine Thomas, 5 River Road, Essex, CT, Assessor's Map 17, Lot 4, RU District, requesting variances to sections 40D, 40E, 40I.1, 50D and 61B of the zoning regulation to add a 1,070 square foot addition to a point 13.1' from the side property line where 30' is required.

MOTION to grant approval to, **Application 16-12** on behalf of Kristine Thomas, 5 River Road, Essex, CT, Assessor's Map 17, Lot 4, RU District, requesting variances to sections 40D, 40E, 40I.1, 50D and 61B of the zoning regulation to add a 1,070 square foot addition to a point 13.1' from the side property line where 30' is required. This proposal improves the performance of the lot in accordance with the zoning regulations. The Variance is granted in accordance with the plans as submitted; **MADE** by P. Beckman; **SECONDED** by G. Wendell; **IN FAVOR:** P. Greenberg, B. Sarrantonio, W. Feirer, G. Wendell, P. Beckman; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED:** 5-0-0.

- **Application 16-13** on behalf of Cogent Holdings, LLC, 124 Westbrook Road, Essex, CT, Assessor's Map 66, Lot 19, requesting variances to sections 40D, 40E, 50D and 80C of the zoning regulations to allow building additions that will increase the maximum building coverage from 15.1% to 16.9% where 15% is the maximum coverage allowed.

MOTION to grant approval to **Application 16-13** on behalf of Cogent Holdings, LLC, 124 Westbrook Road, Essex, CT, Assessor's Map 66, Lot 19, requesting variances to sections 40D, 40E, 50D and 80C of the zoning regulations to allow building additions that will increase the maximum building coverage from 15.2% to 15.4% where 15% is the maximum coverage allowed. The structure was built prior to the American Disabilities Act (ADA) regulations, and this proposal will bring the building into compliance and improve the safety of the building. The Variance is granted in accordance with the plans as submitted. **MADE** by W. Feirer; **SECONDED** by B. Sarrantonio; **IN FAVOR:** P. Greenberg, B. Sarrantonio, W. Feirer, G. Wendell, P. Beckman; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED:** 5-0-0.

Correspondence and Invoices

There was no correspondence and there were no invoices.

NEW BUSINESS:

There was no new business.

OLD BUSINESS:

Approval of Regular Meeting Minutes – May 17, 2016

MOTION to approve the May 17, 2016 Regular Meeting Minutes with the following amendment; B. Sarrantonio did not abstain from the Vote on the approval of the regular meeting minutes; **MADE** by W. Feirer; **SECONDED** by P. Beckman; **IN FAVOR:** P. Greenberg, B. Sarrantonio, W. Feirer, P. Beckman; **OPPOSED:** None; **ABSTAINING:** G. Wendell; **MOTION CARRIED:** 5-0-1.

- **Visitor, Daniel Wilcox, 18 Bushnell Street.**

P. Greenberg stated that D. Wilcox appeared before the ZBA previously and the Board approved his request for the construction of a rec room however the Board denied his request for the installation of a

water line. J. Budrow, zoning enforcement officer submitted a letter to the Board in which he states that he frequently provides approval for the installation of water lines similar to the request in this proposal, and that they meet guidelines of the Town.

M. Wells advised that the ZBA does not have the ability to discuss this request in a vacuum, i.e., the Board receives applications and they receive appeals. The Board cannot make a finding on a concept, and the Board made a finding on the application that D Wilcox previously presented. The genesis of this was a variance that was granted to construct something that would not otherwise be permitted. The Board placed conditions on their approval and subsequent to the granting of that variance, the owner is here this evening stating that he wishes to do something else to the property which the Board previously opposed. D Wilcox is seeking modification to the variance. This is a very specific, limiting condition and would not be in place had the variance specifically said it was not to be allowed as living space. At the time that this application was before the ZBA, the Board allowed modification that this space would be allowed as a rec room with no kitchen or bathroom facilities. The Board approved the Variance with conditions and they are now being asked to modify their previously conditioned approval. M. Wells stated that the applicant may come back to the Zoning Board of Appeals again, however the proper procedure must be followed; at this time, the Board cannot do anything in the absence of an application or an appeal.

P. Beckman stated that the purpose of the Board's conditions to the existing variance was to prevent a future owner from turning this into a dwelling space.

B. Sarrantonio stated that her objection is that there is a difference between water for a toilet and a sink, and the installation of a half bath, which is a shower and would create a quite comfortable living over the garage, which then becomes a dwelling space.

M. Wells advised the Board that they have no legal authority to make further findings, at this time. The applicant is looking for direction and if the feeling of the Board is that if D Wilcox came back with an application in which he is seeking the allowance of a half bath, then the Board could clarify if it is something that they are willing to allow.

W. Feirer stated that the Board is not in a position to entertain further discussion related to the water line as there is no formal application to review.

P. Greenberg informed the D Wilcox that if he does choose to come back before the Board, he must do so with another application.

D. Wilcox stated that he is seeking the approval for the installation of a toilet and a sink in the rec room space. He stated that he has five grandchildren, under the age of 5 and two elderly parents, and to trek to the house to use the bathroom is not reasonable.

Other

There was no other business.

Adjournment

MOTION to adjourn the meeting at 8:05p.m. to the next regularly scheduled meeting which will be held on Tuesday, July 19, 2016 at 7:00 p.m. at the Essex Town Hall, Conference Room A, 29 West Avenue, Essex, CT; **MADE** by P. Greenberg; **SECONDED** by P. Beckman; **IN FAVOR:** P. Greenberg, B. Sarrantonio, W. Feirer, G. Wendell, P. Beckman; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED:** 5-0-0.

Respectfully submitted,

Stella C. Beaudoin
Recording Secretary