

TOWN OF ESSEX
Zoning Board of Appeals

Executive Board
Doug Demarest, Vice Chairman

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

Regular Members

*Al Daddona
Michael Noto
Paul Greenberg*

Alternate Members

*W. T. Fergusson
William Veillette*

MINUTES
September 17, 2013 – Public Hearing and Regular Meeting

The Essex Zoning Board of Appeals conducted their regularly scheduled meeting on Tuesday, September 17, 2013 at 7:30 p.m. in Room A of the Essex Town Hall.

Attending Members:

Doug Demarest, Vice Chair
Al Daddona, Regular Member
Paul Greenberg, Regular Member
Michael Noto, Regular Member
W.T. Fergusson, Alternate was seated for this meeting
William Veillette, Alternate Member

Absent Members:

Staff:

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

Mr. Veillette was not seated for the meeting.

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

1. Public Hearings

- **Application 13 - 19** on behalf of Mary Ludwig at 5 Donald Road Extension, Essex, CT, Assessor's Map 26, Lot 55, VR District, requesting a variance to section 60B of the Essex zoning regulations to allow a lot line revision that would cause an existing lot that is 30,056 square feet to become even less non-conforming at 28,831 square feet where 60,000 is the minimum lot area required.

Attorney Wells stated for the record that he has in the past represented the applicant, Mary Ludwig.

Doug McCaffrey, Realtor presented on behalf of the applicant. Ms. Ludwig sold her house in March, 2013 and four days prior to the real estate closing, Fannie Mae, the mortgage holder

requested a document which reflects the shared driveway agreement between Mrs. Ludwig and Mr. Daniels, her neighbor with whom she shares the driveway. Mr. Daniels however refused to sign the agreement as he stated issues with the boundaries as outlined in the agreement and as shown on the survey map. Mrs. Ludwig hired Angus McDonald, P.E. to survey the property and she also had the soil perc tested per a requirement of the Health Department. Mr. Daniels also required that a large tree which is situated on the applicant's property be removed.

Mary Ludwig is seeking a variance so that she may deed a piece of property to Mr. Daniels. Ms. Ludwig's property is nonconforming and by conveying part of her land she is further reducing the size of a nonconforming lot by conveying this property to her neighbor. The Health Department requires that when you reduce the size of the parcel, must show there is room on the existing lot to install a new system should the existing system fail.

Mr. Demarest asked if anyone wished to speak in favor or in opposition to this application. There were no comments from the audience.

Mr. Demarest closed the public portion of the meeting at 7:37 p.m.

- **Application No. 13 - 20** on behalf of David Deleeuw, at 8 Harborview Drive, Essex, CT, Assessor's Map 69, Lot 46, RU District, requesting variances to sections 40D, 40E, 50D and 61B of the Essex zoning regulations to allow a garage addition to increase the existing building coverage from 8.57% to 9.63% where 7.5% is the maximum coverage allowed.

David Deleeuw presented on behalf of this application. Mr. Deleeuw proposes to construct a 425 s/f single story garage addition. The structure will be utilized for storage of his all-wheel drive vehicle. The applicant stated that he is the Assistant Building Official for the Towns of Essex, Old Saybrook and East Lyme and the Building official for the Burrough of Fenwick. As such Mr. Deleeuw is on-call within those towns on a 24/7 basis. The applicant stated that it would be beneficial if his vehicle was sheltered from the elements so as to be at the ready when necessary. The hardship associated with this proposal is the change in the Zoning Regulations as they relate to the 7.5% coverage requirement. The applicant stated that this proposal is of minimal visual impact to neighbors. The exterior of the proposed structure will match the colors of the existing house. The location has been approved by the Health department. Mr. Deleeuw stated that he is over the current regulation by 1% coverage.

Mr. Demarest asked if anyone wished to speak in favor or in opposition to this application. There were no comments from the audience.

Mr. Demarest closed the public portion of the meeting at 7:45 p.m.

- **Application No. 13 - 21** on behalf of Robert Osborn at 31 Book Hill Woods Road, Essex, CT, Assessor's Map 7, Lot 1-9, RRR District, requesting variances to sections 40C, 40D, 40I.1, and 64B of the Essex zoning regulations to locate a 10' x 16' garden shed to a point 24 feet from a side property line where 30 feet is required.

Mr. Osborn stated that he is seeking a variance to install a small shed on his property. Mr. Osborn stated that the yard is quite steep and the only location for the garage infringes on the side setback. There is an existing shed on the property in which Mr. Osborn houses lawn mower and other power tools.

Mr. Daddona questioned the size of the shed and asked what this shed will be used for. Mr. Osborn stated that he will house his classic MG automobile and the structure will be 10' x 16'.

Mr. Demarest asked if anyone wished to speak in favor or in opposition to this application. There were no comments from the audience.

Mr. Demarest closed the public portion of the meeting at 7:55 p.m.

- **Application No. 13 – 22** on behalf of JMB Property, LLC, at 31-33 Main Street, Centerbrook, CT, Assessor's Map 44, Lot 28, C District, requesting variances to sections 40M and 110F.37 of the Essex zoning regulations to allow thirty-five off-street parking spaces when forty-four parking spaces are required for existing and proposed uses.

Peter Luchasi, Realtor presented on behalf of the applicant. This application is a referral from the Zoning Commission. The proposed tenant, Quality Care Drug of Centerbrook who will rent the last of the space in this strip mall at 31-33 Main Street is being required by the Zoning Commission to create nine additional parking spaces. The building predates zoning. The applicant has five extra spaces and nine are required. Mr. Luchasi stated that over the years, the zoning laws have become more stringent and greater restrictions have been placed on the requirements for the number of parking spaces.

A business within that strip mall, the Cheese shop requires 11-14 parking spaces. Seventy percent of Quality Care Drug, Centerbrook is prescriptions and they will operate a delivery service for the same. Mr. Luchasi presented before the Zoning Commission for a change of use. The location was formerly Debbie's restaurant.

Paul Partica, owner of The Cheese Shop submitted a letter offering "enthusiastic endorsement" for this application. Mr. Partica stated that there is always vacant parking spots in the lot.

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

Bob Doane spoke in favor of this application. Mr. Doane stated that he is familiar with the location as his father opened Doane's pharmacy in 1950. Mr. Doane stated that the traffic for the pharmacy is minimal and he whole-heartedly supports this independent pharmacy.

There were no further comments from the audience.

Mr. Demarest closed the public portion of the meeting at 8:10 p.m.

- **Application No. 13 – 23** on behalf of John Mezzio, at 27 Grandview Terrace, Essex, CT, Assessor's Map 27, Lot 83, VR District, requesting variances to sections 40D, 40E, 50D and 60B of the Essex zoning regulations to allow an house addition to increase the lot's building coverage from 6.8% to 8.3% where 7.5% is the maximum coverage allowed.

John Mezzio presented on behalf of this application and stated that he is looking for a variance for lot coverage. There is an existing screen porch and Mr. Mezzio would like to expand and turn into a year round living room and dining room. The hardship is that the house is constructed on a nonconforming lot and it predates zoning and the increase is minimal. Mr. Mezzio stated that he and his wife are currently utilizing the living area as a bedroom and he

also noted that wider aisles are needed in the kitchen to accommodate the wheel chair which Mrs. Mezzio utilizes.

Mr. Demarest asked if anyone wished to speak in favor or in opposition to this application. There were no comments from the audience.

Mr. Demarest closed the public portion of the meeting at 8:15 p.m.

- **Application No. 13 – 24** on behalf of the Essex Fire Department, at a lot on Plains Road, Essex, CT, Assessor's Map 53, Lot 14, LI District, requesting a variance to section 40A, 90C.1.A to allow a principal use of a fire training facility on the same lot as an existing principal use of a recreational ball field.

Robert Doane, P.E. presented on behalf of this application. Mr. Doane stated that the Essex Volunteer Fire Department owns a 4+ acre parcel off of Plains Road. The property was conveyed to the Town by the State of CT and from the Town to the Fire Department Association in 1986. A condition placed on the conveyance of this property is that it be used for fire training and recreation. If the condition is not complied with, the property would revert back to the Town of Essex and Mr. Doane stated that there has been ongoing training over the years.

Mr. Doane stated that the Fire Department is looking for two uses on single lot. The hardship is the definition of a lot and the fact that they are obligated to have these activities take place on the property. This is a fire training and recreation property. The recreation is an accessory use which can be denoted by the size of the use and the relative relationship with the two.

Steve Olson, Fire Chief, and Paul Fazzino, Assistant Chief presented. Mr. Olson stated that it is difficult to find a structure in which to conduct fire-fighting training. The proposed structure is constructed out of storage containers. This portable structure will offer a safe and convenient location in which the fire fighters can practice. This building is designed to afford ability to practice. The building will be made out of shipping containers that may be interconnected which allows for change of style and shape of buildings. There is a pitched roof on the structure and firefighters will be able to practice cutting the roof as well. The container which will be ignited will also have a sprinkler system installed for easy extinguish. The building will be placed on sonitubes, on concrete footings. The firefighters will do their own construction on and they are also funding this project.

Mr. Doane stated that this proposal is an existing, nonconforming use.

Mr. Demarest asked if anyone wished to speak in favor or in opposition to this application. There were no comments from the audience.

Peter Luchasi stated that he is in favor of this application.

George Reichman , 68 Plains Road spoke in opposition to this application, stating that this facility generates a great deal of noise and traffic. Mr. Reichman stated that the fire department trespasses through his property in order to access their facility. Mr. Reichman stated that they conduct training in the evening and suggested that the Fire Department conduct training on Saturday.

Mr. Olson stated that he is at the training sessions 99% of the time and that he is not aware of noise and added traffic. Mr. Olson stated that the Fire Department installed a 6' fence which is almost completed. This fence will offer screen for the neighbors and limit access to the field. A gate will be installed which will prevent people from pulling in and turning around as well as trespassers. Training is conducted from 6:30 to 9:00 p.m. and typically in the summer months. Mr. Olson stated that there are four mandatory training sessions per year.

Paul Fazzino stated that the fire fighters must meet minimum standards for the training, per OSHA. OSHA requires a minimum of 3 hours for a training session.

Paul Fazzino, Sr. former Fire Chief spoke on behalf of this application. Mr. Fazzino stated that he has been a resident of this town for over 40 years. Mr. Fazzino stated that he and the Fire Department have made every accommodation to work with the neighbor who has presented in opposition to this application.

Strickland Hyde President of the Firefighter's Association stated that the intent of the training is for the recreation and training of the fire fighters. Mr. Hyde stated that the ball field which is utilized by a men's league and many children who practice, has a cut off which is sunset. If there are activities on site after sundown, the troopers will get involved. The proposed gate will assist with dissuading trespassers from entering the property.

Michael Belanger, 70 Plains Road presented in opposition to this application. Mr. Belanger stated that Mr. Reichman's driveway has been blocked in the past as a result of fire fighter training. Mr. Belanger stated that he has had smoke throughout his house as residual from the training sessions. Mr. Belanger stated that the fire fighters arrived last week at 8:30 p.m. and they had the yard illuminated which lit up his house and his bedroom which was extremely invasive. Mr. Belanger stated that he has spoken with the fire fighters about these issues and that he has tried to work with the Fire Department. He stated that these issues have escalated over the years. Mr. Belanger presented pictures of the house that the Fire Department burned last year. Mr. Belanger indicated that on many evenings there are cars spilling onto Route 153 which is a result of overage from the Fire Department and the ball field. Mr. Belanger stated that fire training could be conducted at the Colchester facility.

Mr. Doane stated that the Fire Department feels that once the gate is installed it should dissuade trespassers. The Fire Department will make arrangements to close the gate.

Mr. Olson commented on the complaint Mr. Belanger lodged against the Fire Department and he stated that the people Mr. Reichman observed who were yelling and screaming and peeling out on the property are not Essex Fire Fighters.

Paul Fazzino, Jr. stated that the facility in Colchester is owned by Colchester Fire Department and it is not a regional center. The only regional center available is situated in Windsor Locks which places a hardship on fire fighters to complete the required training.

Mr. Demarest closed the public portion of the meeting at 9:10 p.m.

Commissioners took a five minute break.

2. Regular Meeting

Decision on Application/ Deliberation – All members seated for the public hearing were seated for the regular meeting.

- **Application 13 - 19** on behalf of Mary Ludwig at 5 Donald Road Extension, Essex, CT, Assessor's Map 26, Lot 55, VR District, requesting a variance to section 60B of the Essex zoning regulations to allow a lot line revision that would cause an existing lot that is 30,056 square feet to become even less non-conforming at 28,831 square feet where 60,000 is the minimum lot area required.

MOTION to grant Variance to **Application 13 - 19** on behalf of Mary Ludwig at 5 Donald Road Extension, Essex, CT, Assessor's Map 26, Lot 55, VR District, requesting a variance to section 60B of the Essex zoning regulations to allow a lot line revision that would cause an existing lot that is 30,056 square feet to become even less non-conforming at 28,831 square feet where 60,000 is the minimum lot area required. The hardship is that the applicant is in process of selling her property and the existing driveway does not comply with current lending standards. In order to modify the issue, the applicant needs a variance to sell the property. This Variance is approved based on the plans as submitted dated August 5, 2013. **MADE** by M. Noto; **SECONDED** by A. Daddona; **No Discussion: IN FAVOR:** A. Daddona, P. Greenberg, D. Demarest, M. Noto, W.T. Furgueson; **OPPOSED:** None; **ABSTAINING:** None; **APPROVED:** 5-0-0.

- **Application No. 13 - 20** on behalf of David Deleeuw, at 8 Harborview Drive, Essex, CT, Assessor's Map 69, Lot 46, RU District, requesting variances to sections 40D, 40E, 50D and 61B of the Essex zoning regulations to allow a garage addition to increase the existing building coverage from 8.57% to 9.63% where 7.5% is the maximum coverage allowed.

MOTION to grant a Variance to **Application No. 13 - 20** on behalf of David Deleeuw, at 8 Harborview Drive, Essex, CT, Assessor's Map 69, Lot 46, RU District, requesting variances to sections 40D, 40E, 50D and 61B of the Essex zoning regulations to allow a garage addition to increase the existing building coverage from 8.57% to 9.63% where 7.5% is the maximum coverage allowed. There is a minor extension in the coverage associated with this proposal. The hardship associated with this proposal is the change in the Zoning Regulations as they relate to the 7.5% coverage requirement. This Variance is approved based on the plans as submitted; **MADE** by A. Daddona; **SECONDED** by M. Noto; **No Discussion: IN FAVOR:** A. Daddona, P. Greenberg, D. Demarest, M. Noto, W.T. Furgueson; **OPPOSED:** None; **ABSTAINING:** None; **APPROVED:** 5-0-0.

- **Application No. 13 - 21** on behalf of Robert Osborn at 31 Book Hill Woods Road, Essex, CT, Assessor's Map 7, Lot 1-9, RRR District, requesting variances to sections 40C, 40D, 40I.1, and 64B of the Essex zoning regulations to locate a 10' x 16' garden shed to a point 24 feet from a side property line where 30 feet is required.

Members agreed that this application presents a minor violation of the regulations, however the application to the ZBA for approval of this proposal does not appear to be necessary. This application is in fact for the construction of a garage, not a garden shed. The applicant can move the proposed structure six feet and he will be within the current regulations.

- **MOTION** to grant a continuance to **Application No. 13 - 21** on behalf of Robert Osborn at 31 Book Hill Woods Road, Essex, CT, Assessor's Map 7, Lot 1-9, RRR District, requesting variances to sections 40C, 40D, 40I.1, and 64B of the Essex zoning regulations to locate a 10' x 16' garden shed to a point 24 feet from a side property line where 30 feet is required. The applicant's proposal presents a minor violation of the regulations, however the proposed location of the shed does not appear to be necessary. This application is in fact for the construction of a garage, not a garden shed and if the applicant moves the structure six feet outside of the property line, he will be within the current regulations. The applicant will place stakes in the location discussed at this evening's meeting and Commissions will visit the property between now and the October 15, 2013 ZBA meeting; **MADE** by M. Noto; **SECONDED** by P. Greenberg; **IN FAVOR:** A. Daddona, P. Greenberg, D. Demarest, M. Noto, W.T. Furgueson; **OPPOSED:** None; **ABSTAINING:** None; **APPROVED:** 5-0-0.

- **Application No. 13 – 22** on behalf of JMB Property, LLC, at 31-33 Main Street, Centerbrook, CT, Assessor's Map 44, Lot 28, C District, requesting variances to sections 40M and 110F.37 of the Essex zoning regulations to allow thirty-five off-street parking spaces when forty-four parking spaces are required for existing and proposed uses.

Preexisting structure preexisting use and the property would be taken from the owner. It is the opinion that no variance is required this is a preexisting building with a preexisting parking lot.

MOTION to grant a Variance to **Application No. 13 – 22** on behalf of JMB Property, LLC, at 31-33 Main Street, Centerbrook, CT, Assessor's Map 44, Lot 28, C District, requesting variances to sections 40M and 110F.37 of the Essex zoning regulations to allow thirty-five off-street parking spaces when forty-four parking spaces are required for existing and proposed uses. This is a pre-existing structure and a pre-existing use and it is the opinion of the Board that application for a variance should not have been required. This Variance is approved based on the plans as submitted; **MADE** by D. Demarest ; **SECONDED** by A. Daddona ; **IN FAVOR:** A. Daddona, P. Greenberg, D. Demarest, M. Noto, W.T. Furgueson; **OPPOSED:** None; **ABSTAINING:** None; **APPROVED:** 5-0-0.

- **Application No. 13 – 23** on behalf of John Mezzio, at 27 Grandview Terrace, Essex, CT, Assessor's Map 27, Lot 83, VR District, requesting variances to sections 40D, 40E, 50D and 60B of the Essex zoning regulations to allow an house addition to increase the lot's building coverage from 6.8% to 8.3% where 7.5% is the maximum coverage allowed.
- **MOTION** to grant a Variance to **Application No. 13 – 23** on behalf of John Mezzio, at 27 Grandview Terrace, Essex, CT, Assessor's Map 27, Lot 83, VR District, requesting variances to sections 40D, 40E, 50D and 60B of the Essex zoning regulations to allow a house addition to increase the lot's building coverage from 6.8% to 8.3% where 7.5% is the maximum coverage allowed. The hardship associated with this proposal is the lot is pre-zoning and there is a minor increase in coverage. The kitchen will be handicap accessible and therefore ADA compliant. The materials for the exterior addition will match the house. This Variance is approved based on the plans as submitted; **MADE** by P. Greenberg; **SECONDED** by D. Demarest; **IN FAVOR:** A. Daddona, P. Greenberg, D. Demarest, M. Noto, W.T. Furgueson; **OPPOSED:** None; **ABSTAINING:** None; **APPROVED:** 5-0-0.
- **Application No. 13 – 24** on behalf of the Essex Fire Department, at a lot on Plains Road, Essex, CT, Assessor's Map 53, Lot 14, LI District, requesting a variance to section 40A,

90C.1.A to allow a principal use of a fire training facility on the same lot as an existing principal use of a recreational ball field.

Members agreed that the Essex Fire Department should not have been required to make application to the Zoning Board of Appeals to make improvements to their facility.

MOTION to grant a Variance to **Application No. 13 – 24** on behalf of the Essex Fire Department, at a lot on Plains Road, Essex, CT, Assessor's Map 53, Lot 14, LI District, requesting a variance to section 40A, 90C.1.A to allow a principal use of a fire training facility on the same lot as an existing principal use of a recreational ball field. The hardship associated with this proposal is the restricted definition of a lot which prohibits the use of the property. However, it is the opinion of the Board that application for a variance should not have been required. This Variance is approved based on the plans as submitted; **MADE** by M. Noto; **SECONDED** by W. T. Furgueson; **IN FAVOR:** A. Daddona, P. Greenberg, D. Demarest, M. Noto, W.T. Furgueson; **OPPOSED:** None; **ABSTAINING:** None; **APPROVED:** 5-0-0.

3. Old Business

- Approval of Minutes – Public hearings and regular meeting August 19, 2013

MOTION to approve the August 19, 2013 meeting Minutes as presented; **MADE** by M. Noto; **SECONDED** by P. Greenberg; **IN FAVOR:** A. Daddona, P. Greenberg, D. Demarest, M. Noto, W. T. Furgueson; **OPPOSED:** None; **ABSTAINING:** None; **APPROVED:** 5-0-0.

4. New Business – Attorney Wells stated that he argued the South Cove Lane Appeal and he feels that the proceedings went well.

5. Discussion on new Board Chairman.

Stu Ingersoll has submitted his resignation as the Chairman of the Zoning Board of Appeals.

Mr. Noto suggested delaying the nomination of a Chairman. Mr. Noto suggested that Mr. Furgueson be elevated from an alternate to a regular member.

MOTION to delay the nomination of a Chairman for the ZBA and to elevate the status of William Timothy Furgueson from an alternate to a regular member; **MADE** by M. Noto; **SECONDED** by P. Greenberg; **IN FAVOR:** A. Daddona, P. Greenberg, D. Demarest, M. Noto, W. T. Furgueson; **OPPOSED:** None; **ABSTAINING:** None; **APPROVED:** 5-0-0.

6. Correspondence and Invoices -

There was no correspondence.

Invoice from Attorney Michael Wells in the amounts of \$630 for legal services provided surrounding the Appeal and \$300 for general representation to the ZBA

MOTION to approve the bills as presented; **MADE** by M. Noto; **SECONDED** by P. Greenberg; **IN FAVOR:** A. Daddona, P. Greenberg, D. Demarest, M. Noto, W. T. Furgueson; **OPPOSED:** None; **ABSTAINING:** None; **APPROVED:** 5-0-0.

7. Adjournment

MOTION made to adjourn the meeting at 9:55 p.m. to the next regularly scheduled meeting to be held on Tuesday, October 15, 2013 at the Essex Town Hall, Conference Room A, 29 West Avenue, Essex, CT; **MADE** by A. Daddona; **SECONDED** by D. Demarest; **VOTING IN FAVOR:** A. Daddona, P. Greenberg, D. Demarest, M. Noto, W. T. Furgueson; **OPPOSED:** None; **ABSTAINING:** None; **APPROVED:** 5-0-0.

Respectfully submitted,

Stella C. Beaudoin
Recording Secretary