

TOWN OF ESSEX
Zoning Board of Appeals

Executive Board
Doug Demarest, Vice Chairman

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Regular Members

*Al Daddona
Michael Noto
Paul Greenberg
W. T. Fergusson*

Alternate Members

William Veillette

MINUTES
November 19, 2013 – Public Hearing and Regular Meeting

The Essex Zoning Board of Appeals conducted their regularly scheduled meeting on Tuesday, November 19, 2013 at 7:30 p.m. in Room A of the Essex Town Hall.

Attending Members:

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

Absent Members:

Al Daddona

Staff:

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

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

1. Public Hearings

- **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. This application is continued from the September 17, 2013 ZBA meeting.

Mr. Osborn is seeking a variance to install a 10' x 16' shed/garage on his property in which he will store his classic MG automobile. There is an existing shed on the property which houses a lawn mower and other power tools. At the September 17, 2013 meeting Commissioners suggested that Mr. Osborn consider relocating the structure six feet further into the property to avoid violation of the setback.

Mr. Osborne submitted a letter dated September 26, 2013 in which he states that the relocation of the shed is not an option as the bulk of his property is quite steep which limits the number

of practical locations for the structure. Mr. Osborne further requested a continuance to the November 19, 2013 Public Hearing.

Mr. Osborne presented a revised site drawing at this evening's meeting with the proposed location of the shed. Mr. Osborne stated that the new proposal places the shed outside of the setback, however in close proximity to a Maple shade tree. The sonitube footings will invade the root bed. If the shed is moved six feet from the bark of the tree, a portion of the structure will overlap the driveway. The yard is very steep and the proposed location is the only feasible location on which to construct the shed. The original proposed location for the shed is within 6 feet of the setback. Mr. Osborne stated that the hardship associated with this proposal is that he has no structure in which to house his car.

Mr. Furgueson stated that there is no viable hardship associated with this proposal.

Mr. Demarest read into the record a letter from the Gateway Commission stating no opposition to this proposal.

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

Mr. Demarest closed the public hearing at 7:40p.m.

Application 13-27 on behalf of Kevin Doyon at 7 Windsor Lane, Centerbrook, CT Assessor's Map 55, Lot 1-2, RU District, requesting variances to sections 40C, 40D, 40I.1 and 61B of the Essex zoning regulations to locate a 12'x 16' shed to a point 18 feet from the front property where 40 feet is required. Continued from October 15, 2013.

Mr. Doyon presented on behalf of this application. Mr. Doyon proposed a new location for the installation of a garden shed that is 29 feet from the property line. Mr. Doyon and Joe Budrow, Zoning Enforcement Agent walked the property and they agreed that this is the most level portion of the property on which to construct the shed. Mr. Budrow will issue an administrative Wetlands Permit subsequent to this evening's ZBA approval.

Mr. Noto stated for the record that although he was not at the October 2013 ZBA meeting, he has reviewed the Minutes. The proposal presented this evening is different than that of the proposal submitted at the October 2013 ZBA meeting.

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

Chad Gallagher, 10 Windsor Lane spoke on behalf of this application stating that he is in favor of this proposal.

There was no further public comment.

Mr. Demarest closed the public hearing at 7:46p.m.

Application 13-28 on behalf of the Founders Group for Drew Finkeldey at 36 Plains Road, Essex, CT, Assessor's map 52 Lot 4, LI District requesting a variance to section 90A.1.L of the

Essex zoning regulations to allow a permanent outside storage area within a side yard for a tree care service contractor.

Drew Finkeldey stated that he and his father own a small landscaping business in Essex. Mr. Finkeldey stated that he is currently leasing from the Founder's Group the space in which he conducts his business and stated that he would like to construct a Quonset hut for outdoor storage. In order to do so, the structure must be located in the side yard as the entire rear of the property is wetlands.

The 30' x 50' Quonset hut is a temporary structure comprised of a metal frame with a vinyl top and is seated parallel to the parking lot and set back 100 feet from the wetlands. This structure will be used to store maintenance equipment.

Attorney Wells stated that this request is for location only. The property is oddly configured in that the side and the rear are situated in the wetlands.

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

Mr. Demarest closed the public hearing at 7:52p.m.

Application 13-29 on behalf of Jens Hupkau at 25 Heron Pond Road, Essex, CT, Assessor's map 71, Lot 1-6, RU District requesting a variance to section 40C, 40D, 40J and 61B of the Essex Zoning regulations to allow a new single family dwelling to come to a height of 39', 6 where 30 feet is the maximum height allowed.

Kevin R. Grindle, Landscape Architect with Anchor Engineering Services, Glastonbury, CT presented. Mr. Grindle is employed by the applicant to do site development and septic location on this property. Mr. Grindle stated that the structure height on the original plan which accompanied the application has been revised to change from 39'6" to 42'4" in order to comply with the recently revised height modification to the Zoning regulations. The hardship is the steep grade of the lot which also rolls down to the wetlands. There is a 12% driveway grade down to the house and the applicant is looking to install a walk-out elevation to the rear of the property which will not be visible from the road. The existing footing is 42" below the natural grade and that is where 3' of fill will be installed. Mr. Grindle stated that if the proposal did not include modification of the existing grade he would still be before the ZBA for a height variance which would exceed the overall height of the house by 2'9".

Mr. Grindle is seeking a variance for height based on the hardship of the topography of the land and he is asking for the construction that does not meet the zoning regulations for overall height. Because of the steep hill on this lot, there is nothing the applicant can construct that would not be in violation.

Mr. Demarest stated that the height of the house is in violation and stated that he felt this to be a design flaw.

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

Mr. Demarest closed the public hearing at 8:15p.m.

2. Regular Meeting/Deliberation

The same members as were seated for the public hearing were seated for the regular meeting.

- **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. Noto stated that the only logical location on which the shed could be situated would be as shown in the original proposal.

Mr. Noto stated that he did not find a hardship associated with this proposal.

Mr. Greenberg stated that the shed is not visible from the road and he stated that he has no issue with this proposal.

Mr. Furgueson stated that he did not find a hardship associated with this proposal.

Mr. Greenberg stated that the hardship is in that placement of the shed in any other location is not feasible.

- **MOTION** to grant a variance 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 hardship associated with this proposal is that the placement of this shed in any other location is not feasible. This application is approved in accordance with the plans as submitted; **MADE** by P. Greenberg; **SECONDED** by M. Noto; **IN FAVOR:** P. Greenberg, M. Noto, W. Veillette; **OPPOSED:** D. Demarest, W.T. Furgueson; **ABSTAINING:** None; **MOTION DENIED:** 3-2-0. Application denied because it failed to receive 4 member votes in favor.

Application 13-27 on behalf of Kevin Doyon at 7 Windsor Lane, Centerbrook, CT Assessor's Map 55, Lot 1-2, RU District, requesting variances to sections 40C, 40D, 40I.1 and 61B of the Essex zoning regulations to locate a 12' x 16' shed to a point 18 feet from the front property where 40 feet is required. Continued from October 15, 2013.

MOTION to grant a variance to **Application 13-27** on behalf of Kevin Doyon at 7 Windsor Lane, Centerbrook, CT Assessor's Map 55, Lot 1-2, RU District, requesting variances to sections 40C, 40D, 40I.1 and 61B of the Essex zoning regulations to locate a 12' x 16' shed to a point 18' from the front property where 40 feet is required. The hardship associated with this proposal is the topography of the property. This application is approved in accordance with the plans as submitted; **MADE** by M. Noto; **SECONDED** by W. Veillette; **IN FAVOR:** M. Noto, P. Greenberg, D. Demarest, W.T. Furgueson, W. Veillette; **OPPOSED:** None; **ABSTAINING:** None; **APPROVED:** 5-0-0.

Application 13-28 on behalf of the Founders Group for Drew Finkeldey at 36 Plains Road, Essex, CT, Assessor's map 52 Lot 4, LI District requesting a variance to section 90A.1.L of the

Essex zoning regulations to allow a permanent outside storage area within a side yard for a tree care service contractor.

MOTION to grant a variance to **Application 13-28** on behalf of the Founders Group for Drew Finkeldey at 36 Plains Road, Essex, CT, Assessor's map 52 Lot 4, LI District requesting a variance to section 90A.1.L of the Essex zoning regulations to allow a permanent outside storage area within a side yard for a tree care service contractor. The hardship associated with this proposal is that there is no rear yard available for storage and the proposed location of the Quonset hut is not visible from the street. This is a temporary structure. This application is approved in accordance with the plans as submitted as a part of the application; **MADE** by P. Greenberg; **SECONDED** by M. Noto; **IN FAVOR:** M. Noto, P. Greenberg, D. Demarest, W.T. Furgueson, W. Veillette; **OPPOSED:** None; **ABSTAINING:** None; **APPROVED:** 5-0-0.

Application 13-29 on behalf of Jens Hupkau at 25 Heron Pond Road, Essex, CT, Assessor's map 71, Lot 1-6, RU District requesting a variance to section 40C, 40D, 40J and 61B of the Essex Zoning regulations to allow a new single family dwelling to come to a height of 39' 6" where 30 feet is the maximum height allowed.

A discussion on the roof line and the topography of the property ensued. Members questioned the hardship associated with this proposal.

Mr. Noto agreed that the topography and steep grade of the lot created a hardship, however the height of the proposed house exceeds what is allowed per the zoning regulations.

Mr. Veillette stated that the design of the house based on the topography of the land could be designed so as to be more in conformance with the zoning regulations.

MOTION to deny a variance to **Application 13-29** on behalf of Jens Hupkau at 25 Heron Pond Road, Essex, CT, Assessor's map 71, Lot 1-6, RU District requesting a variance to section 40C, 40D, 40J and 61B of the Essex Zoning regulations to allow a new single family dwelling to come to a height of 39', 6 where 30 feet is the maximum height allowed. The reason for denial is not based on the topography of the land, however the reason for denial is that the building itself violates the height regulations and there is no hardship for the house to exceed the 30 foot height regulation; **MADE** by M. Noto ; **SECONDED** by W.T. Furgueson; **IN FAVOR:** M. Noto, P. Greenberg, D. Demarest, W.T. Furgueson, W. Veillette; **OPPOSED:** None; **ABSTAINING:** None; **APPROVED IN FAVOR OF THE MOTION:** 5-0-0.

3. Old Business

- Approval of Minutes – Public hearings and regular meeting October 15, 2013

MOTION to approve the October 15, 2013 meeting Minutes as presented; **MADE** by P. Greenberg; **SECONDED** by D. Demarest; **IN FAVOR:** P. Greenberg, D. Demarest, W. Veillette, W. T. Furgueson; **OPPOSED:** None; **ABSTAINING:** None; **APPROVED:** 4-0-0.

4. New Business – There was no new business.

5. Discussion on new Board Chairman.

Stu Ingersoll has submitted his resignation as the Chairman of the Zoning Board of Appeals. Doug Demarest is the Acting Chair and members agreed to discuss the appointment of a chair in January 2014.

6. Correspondence and Invoices -

There was no correspondence.

7. Adjournment

MOTION made to adjourn the meeting at 8:45 p.m. to the next regularly scheduled meeting to be held on Tuesday, December 17, 2013 at the Essex Town Hall, Conference Room A, 29 West Avenue, Essex, CT; **MADE** by D. Demarest; **SECONDED** by A. Daddona; **VOTING IN FAVOR:** M. Noto, P. Greenberg, D. Demarest, W. Veillette, W. T. Furgueson; **OPPOSED:** None; **ABSTAINING:** None; **APPROVED:** 5-0-0.

Respectfully submitted,

Stella C. Beaudoin
Recording Secretary