



TOWN OF ESSEX
Zoning Board of Appeals

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

Executive Board

W. T. Furgueson, Chair
B. Sarrantonio, Vice Chair
W. Feirer, Secretary

Regular Members

Philip P. Schaller
Brian Weinstein

Alternate Members

Philip J. Beckman
George Wendell
Richard Rybak

Unapproved

Minutes
May 21, 2019 – Zoning Board of Appeals

The Essex Zoning Board of Appeals conducted their regularly scheduled meeting on Tuesday, May 21 2019 at 7:00 p.m. in Room B of the Essex Town Hall. Present at the meeting were W. T. Furgueson, Ward Feirer, George Wendell, Phillip Schaller, Philip Beckman, Richard Rybak.

Staff:

Michael Wells, Esq., Legal Counsel
Stella Beaudoin, Recording Secretary

W T Furgueson, Chair called the meeting to order at 7:00 p.m.

1. PUBLIC HEARINGS

- **Application No. 19-9** on behalf of Laura and Michael Pressman , 11 Stonebrook Drive, Ivoryton, CT, Assessor's Map 63, Lot 22-4, RU District, requesting variances to sections 40C, 40D, 40I.1 and 61B of the zoning regulations to locate a 12' x 14' shed to a point 20 feet from the west side property line where 30 feet is required.

Seated for this proposal were W. T Furgueson, W Feirer, P Schaller, P Beckman R Rybak.

Laura Copeland who presented on behalf of this application stated that she is seeking a variance to construct a small shed in the backyard of her property. L Copeland stated that the allowance of a variance of 10 feet will not adversely affect neighbor's property values due to a 50-foot swath of property that offers separation. The shed will be situated on a gravel base.

W T Furgueson asked if anyone wished to speak in favor or opposition to this application.

There was no public comment.

There were no letters received on behalf of this application.

There was no further comment from the Board.

The public hearing closed at 7:17 p.m.

- **Application No. 19-10** on behalf of Essex Elderly Affordable Housing, Inc., 26 Main Street, CTBK, CT, Assessor's Map 44, Map 17-1, C District, requesting variances to sections 40D, 40I.1, 111A.4. and 111C of the zoning regulations to locate a freestanding sign off premises on 16 Main Street to a point 3 feet from the front property line where 10 feet is required.

P Schaller recused himself.

Seated for this proposal were W. T Furgueson, W Feirer, G Wendell, P Beckman R Rybak.

Janice Atkeson who spoke on behalf of this application stated that Essex Place is accessed through Essex Court and a directional sign identifying Essex Court is essential for the purpose of identification of premises. The hardship associated with this proposal is with the issue of safety and accessibility to and by the medical community.

W T Furgueson asked if anyone wished to speak in favor or opposition to this application.

There was no public comment.

There were no letters received on behalf of this application.

There was no further comment from the Board.

The public hearing closed at 7:25 p.m.

- **Application No. 19-11** on behalf of Markham and Jody Rollins, 10 Meigs Lane, Essex, CT, Assessor's Map 47, Lot 71, VR District, requesting variances to sections 40D, 40E, 40I.1, 50D and 60B of the zoning regulations to add a second story to a detached garage that is 10 feet from the front property line and 11.5 feet from the north side property line, each where 25 feet is required.

Seated for this proposal were W. T. Furgueson, W Feirer, P Schaller, P Beckman R Rybak.

Attorney John Bennet who presented on behalf of the applicants stated that this is a proposal to create a second floor onto an existing building. The footprint will remain the same. The proposal will add 6 feet 8 inches to the ridge height of the building, and the total height will be 24' 2". J Bennet stated that the applicant has spoken with the neighbors and there are no objections from the abutting neighbors. J Bennet stated that the backside of the building which abuts the park is not visible to the park. To the north line of the property is the garage which fronts onto Main Street creating no impact to neighbor. The southerly portion of the property is low and within the Gateway and flood zone and is very difficult to access. There is a large Sycamore tree in place prohibiting access. J Bennet stated that

the hardship associated with this proposal is the land, the lot configuration and size, the change in the zoning regulations, the flood elevation and setbacks. J Bennet noted that there is no alternative location for the proposal. J Bennet stated that there will be no impact to the view.

J Bennet stated that the second floor will be utilized as office space. There will be no bathroom and no kitchen.

W. T. Furgueson asked if anyone wished to speak in favor or opposition to this application.

There was no public comment.

There were no letters received on behalf of this application.

There was no further comment from the Board.

The public hearing closed at 7:40 p.m.

W. T Furgueson re-opened **Application No. 19-11** on behalf of Markham and Jody Rollins, 10 Meigs Lane, Essex, CT, Assessor's Map 47, Lot 71, VR District, at 7:50 p.m. for the purpose of reading into the record a letter from the CT River Gateway Commission who states no opposition to the proposal.

W. T. Furgueson asked if anyone wished to speak in favor or opposition to this proposal. There was no public no comment.

The public hearing closed at 7:44 p.m.

- **Application No. 19-12** on behalf of Stephen and Alison Brinkman, 17 Clark Lane, Essex, CT, Assessor's Map 17, Lot 10-4, RU District, requesting variances to sections 40C, 40D, 40I.1, and 61B of the zoning regulations to locate a 24' x 42' detached garage/barn to a point 10 feet from the south side property line and 26', 2" from a west side property line, each where 30 feet is required.

Seated for this proposal were W. T Furgueson, W Feirer, P Schaller, P Beckman R Rybak.

Joseph Shea, Shea construction who presented on behalf of the applicant stated that the applicant wishes to construct a modest, one-floor barn garage. J Shea indicated that Richard Gates was hired to survey the property.

J Shea stated that there is quite a bit of underground utilities, making the proposed location the best place to situate the garage. J Shea stated that the proposed garage location preserves the septic, retains the access for the fire department and does not impact the underground utilities.

W. T Furgueson asked if anyone wished to speak in favor or in opposition to this proposal.

There was no public comment.

There were two letters received on behalf of this application: 1) Nicole Cambria 16 Mill Road Lane stating no objection to this proposal; 2) Paul and Eileen Angelini, 15 Clarks Lane, stating no objection to this proposal.

There was no further comment from the Board.

The public hearing closed. At 7:52p.m.

- **Application No. 19-13** on behalf of Steve and Margaret Farley, 38 Birch Mill Trail, Essex, CT, Assessor's Map 90, Lot 3-36, RU District, requesting variances to sections 40C, 40D, 40I.1 and 61B of the zoning regulations to locate a detached barn to a point 5 feet from a side property line where 30 feet is required. Tabled.
- **Application No. 19-14** on behalf of Craig and Amy Jonsson, 44 River Road, Essex, CT, Assessor's Map 10, Lot 5 requesting variances to sections 40C, 40D, 40I.1 and 61B of the zoning regulations to locate a 12' x 16' shed to a point 9 feet from a front property line and 30 feet from another front property line, each where 40 feet is required. Tabled.
- **Application No. 19-15** on behalf of Candice Hunsinger, 58 Saybrook Road, Essex, CT, Assessor's Map 51, Lot 2, appealing a decision of the Zoning Enforcement Official denying a zoning permit for a customary home occupation to be located in a detached building and dealing in retail.

Seated for this proposal were W. T. Furgueson, W Feirer, P Schaller, P Beckman R Rybak.

Attorney M. Wells stated that the Board cannot hear the variance application this evening because it was not advertised. The Board can however hear the appeal of the ZEO's decision.

Candice Hunsinger stated that she purchased this property in 2018 which was advertised for sale as a mixed use property. C Hunsinger relocated from Chicago to Connecticut with the intent of opening a small gift shop business on the premises. C Hunsinger stated that the subject building has operated as a business for over three decades. Because the property was advertised as mixed use and prior to purchasing C Hunsinger contacted the Essex Land Use office who confirmed that this location had been operating as a business. C Hunsinger stated that she is looking to operate the retail shop within the barn and noted that this property is located in the midst of nonconforming businesses.

J Budrow, Zoning Enforcement Officer submitted a letter dated 8/11/2017 from Donna Foote, 58 Saybrook Road, Essex in which D Foot states that the "Captain's Wall Antiques" business has not been operational since 2009.

J Budrow stated that prior to the purchase of the subject property he advised Ms. Hunsinger that the location of a home business on this property is prohibited and the previous business was abandoned in 2009.

J Budrow stated that his denial is based on the belief that in her August 11, 2017 letter, Ms. Foote abandoned the use. J Budrow stated that he spoke with the Zoning Commission who reinforced his belief that the property had been abandoned.

J Budrow stated that he encouraged C Hunsinger to apply to the ZBA for a variance.

Attorney Wells noted that there is a flaw in the ZEO's argument in that D Foote stated that business has not been operational since 2017 and it further references "Captain's Walk antiques". M Wells stated that it is unknown where the Captain's Walk business was located or that it relates to said property. Further in her letter it does not state that D Foote abandons the store but notes that D Foote is not doing business at that time. Attorney Wells stated the business was not abandoned and questioned how the Zoning Commission came to the conclusion of abandonment as an existing nonconforming use. Because the building is empty that does not indicate abandonment. The use was not abandoned if the house was lost in foreclosure. The mere fact that it was foreclosed and sold does not constitute abandonment.

M Wells advised the Board that if their finding is that this was a preexisting nonconforming use without abandonment then they will uphold the applicant's appeal and there will be no need for a variance application. The applicant would then need to obtain a zoning permit for a nonconforming home business.

W. T Furgueson asked if anyone wished to speak in favor or opposition to this application.

There was no public comment.

There were no letters received on behalf of this application:

There was no further comment from the Board.

The public hearing closed at 8:13 p.m.

2. REGULAR MEETING

- **Application No. 19-9** on behalf of Laura and Michael Pressman , 11 Stonebrook Drive, Ivoryton, CT, Assessor's Map 63, Lot 22-4.

It was noted that the allowance of a shed is a reasonable use of the property and it was noted that there is a fair amount of land on which to situate the proposed shed. The Board's charter does not allow for personal hardship in the granting of a variance. It was noted that there was no legal hardship stated as related to this proposal, however the applicant did comment on potential reduction in property value and aesthetic value, neither of which constitute for a hardship to the land.

MOTION made by P Beckman to deny based on lack of hardship, **Application No. 19-9** on behalf of Laura and Michael Pressman , 11 Stonebrook Drive, Ivoryton, CT, Assessor's Map 63, Lot 22-4, RU District, requesting variances to sections 40C, 40D, 40I.1 and 61B of the zoning regulations to locate a 12' x 14' shed to a point 20 feet from the west side property line where 30 feet is

required; **SECONDED** by R Rybak; **IN FAVOR:** W. T Furgueson, W Feirer, P Schaller, P Beckman R Rybak.; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED** 5-0-0.

- **Application No. 19-10** on behalf of Essex Elderly Affordable Housing, Inc., 26 Main Street, CTBK, CT, Assessor's Map 44, Map 17-1.

It was noted that the hardship surrounds safety issues as well as the orientation of the property as related to the site line. The applicant was advised to speak with the fire department related to the placement of the proposed sign.

MOTION made by P Beckman to approve **Application No. 19-10** on behalf of Essex Elderly Affordable Housing, Inc., 26 Main Street, CTBK, CT, Assessor's Map 44, Map 17-1, C District, requesting variances to sections 40D, 40I.1, 111A.4. and 111C of the zoning regulations to locate a freestanding sign off premises on 16 Main Street to a point 3 feet from the front property line where 10 feet is required. The hardship associated with this proposal surrounds this lot which is situated off of a street with a right-of-way and this is the only method to display an address on the street. This proposal is approved in accordance with the plans as submitted; **SECONDED** by W T Furgueson; **IN FAVOR:** W. T Furgueson, W Feirer, G Wendell, P Beckman R Rybak; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED** 5-0-0.

- **Application No. 19-11** on behalf of Markham and Jody Rollins, 10 Meigs Lane, Essex, CT, Assessor's Map 47, Lot 71.

The hardship associated with this proposal is the small size of the lot and the location of the septic which restricts the location of the office. It was noted that a home office is a reasonable use and the footprint will remain the same. The plan stated no bathroom or kitchen facilities.

MOTION made by R Rybak to approve **Application No. 19-11** on behalf of Markham and Jody Rollins, 10 Meigs Lane, Essex, CT, Assessor's Map 47, Lot 71, VR District, requesting variances to sections 40D, 40E, 40I.1, 50D and 60B of the zoning regulations to add a second story to a detached garage that is 10 feet from the front property line and 11.5 feet from the north side property line, each where 25 feet is required. The hardship associated with this proposal is based on the small size of the lot and the location of the septic which restricts the location in which the office can be situated. There will be no bathroom or kitchen facilities. This is strictly a home office use. This proposal is approved in accordance with the plans as submitted; **SECONDED** by W Feirer; **IN FAVOR:** W. T Furgueson, W Feirer, P Schaller, P Beckman R Rybak; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED** 5-0-0.

- **Application No. 19-12** on behalf of Stephen and Alison Brinkman, 17 Clark Lane, Essex, CT, Assessor's Map 17, Lot 10-4

It was noted that this is a reasonable use of the property and the location of the septic and underground utilities prohibits other locations.

MOTION made by W Feirer to approve **Application No. 19-12** on behalf of Stephen and Alison Brinkman, 17 Clark Lane, Essex, CT, Assessor's Map 17, Lot 10-4, RU District, requesting variances to sections 40C, 40D, 40I.1, and 61B of the zoning regulations to locate a 24' x 42' detached

garage/barn to a point 10 feet from the south side property line and 26', 2" from a west side property line, each where 30 feet is required. The hardship associated with this proposal is the location of driveway, available access to the fire department. This proposal presents no encroachment to the septic area, and the neighbor had no objections. This proposal is approved in accordance with the plans as submitted; **SECONDED** by P Beckman; **IN FAVOR:** W. T Furgueson, W Feirer, P Schaller, P Beckman R Rybak; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED** 5-0-0.

- **Application No. 19-15** on behalf of Candice Hunsinger, 58 Saybrook Road, Essex, CT, Assessor's Map 51, Lot 2.

MOTION made by W. T Furgueson to uphold the appeal based on lack of evidence of abandonment for **Application No. 19-15** on behalf of Candice Hunsinger, 58 Saybrook Road, Essex, CT, Assessor's Map 51, Lot 2, appealing a decision of the Zoning Enforcement Official denying a zoning permit for a customary home occupation to be located in a detached building and dealing in retail; **SECONDED** by W Feirer; **IN FAVOR:** W. T Furgueson, W Feirer, P Schaller, P Beckman R Rybak; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED** 5-0-0.

3. **NEW BUSINESS**

There was no new business.

4. **OLD BUSINESS**

- Approval of the April 16, 2018 Minutes - **Tabled.**

5. **CORRESPONDENCE AND INVOICES**

There was no correspondence or submission of invoices.

6. **ADJOURNMENT**

MOTION made by W T Furgueson to adjourn the meeting at 8:29 p.m.to the next regularly scheduled meeting which will be held on Tuesday, June 18, 2019 at 7:00 p.m. at the Essex Town Hall, Conference Room A, 29 West Avenue, Essex, CT; **SECONDED** by W Feirer; **IN FAVOR:** W. T Furgueson, W Feirer, P Schaller, P Beckman R Rybak; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED** 5-0-0.

Stella C Beaudoin
Recording Secretary