



TOWN OF ESSEX
Zoning Board of Appeals

Executive Board

W. T. Furgueson, Chair
W Feirer, Vice Chair
Philip P Schaller, Secretary

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George Wendell
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Unapproved

Minutes

December 17, 2019 – Zoning Board of Appeals

The Essex Zoning Board of Appeals conducted their regularly scheduled meeting on Tuesday, December 17, 2019 at 7:00 p.m. in Room A of the Essex Town Hall. Seated: W T Furgueson, Ward. Feirer, Phillip Schaller, Phillip Beckman, Alternate Seated, George Wendell, Alternate Seated.

Staff:

Sylvia Rutkowska, Legal Counsel
Stella Caione, Recording Secretary

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

1. PUBLIC HEARINGS

Application No. 19-31 on behalf of Johnathan and Michelle Carlisle, 39A River Road, CT, Assessor's Map 10, Lot 19, RU District, requesting variances to sections 40D and 101E of the zoning regulations to locate a 14' x 28' inground swimming pool within the Gateway Buffer Zone.

Seated for this application were W. T. Furgueson, P Schaller, W Feirer, P Beckman, G Wendell.

Jonathan Carlisle who presented on behalf of this application referenced the rendering distributed to the Commissioners which reflected the installation of a small pool that will not be visible of the cove and will be situated inland of the preexisting retaining wall. J Carlisle noted that there will be no impact from the proposed pool, on the cove or on the bank and he stated that he recognizes that the variance requirement is due to the increase of infringement on the setback from 50 feet to 100 feet.

J Carlisle introduced a letter from Ed Gardner, CT Arborist in which E Gardner stated that onsite cleanup along the river comprised of removing one Yellow Birch tree and one Oak tree that were damaged, and both trees posed a threat to the house. Two clusters of small trees overrun by bittersweet were also removed. Work onsite along the river was done so to prevent felled trees into the CT River.

J Carlisle stated that he may need to supplement the area surrounding the pool with additional fencing. He does not anticipate that the fencing will exceed four feet in height and will be situated on either side of the retaining wall.

W. T Furgueson read a letter submitted from the CT River Gateway Commission in which they state no opposition or objection to this proposal. Gateway did however question where the proposed filling will be installed and suggested installation of a 50-foot vegetative buffer, if necessary.

J Carlisle stated that the requirement related to the vegetation was limited to a situation where the height of the wall were to be increased. However, it is his hope not to increase the height of the wall J Carlisle stated that there is a grade and noted that he will address the grade change. J Carlisle stated that there should be no build-up of soil close to the retaining wall however he noted that he has not worked out those details as yet and he further noted that he did not receive the Gateway Commission letter prior to this meeting and he did not realize that submission of a vegetative planting plan would be required at this time.

W T Furgueson stated that there is an element of the application that is not complete and he offered the applicant the option of continuance to the next meeting at which time the applicant can submit the completed details so as to satisfy the Gateway recommendations.

J Carlisle suggested that if the retaining wall height were to be increased as result of grading issues, Gateway would suggest vegetative screening outside of the wall and he noted that he does not wish to increase the height of the retaining wall. J Carlisle stated that he is willing to accept the incorporation of the stipulation that the lip of the pool cannot exceed the height of the current wall.

There was no further comment from the Board.

Attorney Sylvia Rutkowska stated that the activity noted in the application is for the inclusion of the pool however it does not include the height of the wall which would require another variance. S Rutkowska stated that with regard to the height of the fence, it is a building code aspect and outside of the scope of the ZBA.

W T Furgueson read a letter into the record Mahmoud Okasha, 39B River Road, stating support of this proposal.

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

There was no public comment.

The public hearing closed at 7:32pm.

Application No. 19-32 on behalf of Charles and Stephanie Pious, 30 Hemlock Drive, Essex, CT, Assessor's Map 73, Map 2, RU District, requesting variances to sections 40D, 40E, 40N and 101E of the zoning regulations to locate a patio and sidewalk network within the Gateway Buffer Zone. Also, to locate a small patio to a point 3 feet from a side property line where 10 feet is required.

Charles Pious who presented on behalf of this application distributed a photo of the sidewalk network and patio which reflected the completed work. C Pious stated that the railroad ties that were previously in place were rotted, creating a safety issue and he noted that various permits were issued for the construction of the patio. C Pious is seeking variance for improvement made within 100 feet of the coastal jurisdiction line which is in accordance with Zoning Regulation 101E that addresses improvements allowed within 100 feet of coastal jurisdiction line.

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

Kate McSpadden, 26 Hemlock stated that she is in favor of this proposal however she is concerned about the plantings. K McSpadden stated that when she did work on her property several years ago, Gateway required that she install new plantings and a planting plan that was to be approved by the Gateway Commission. The area was a graded slope and was 100 feet from the shoreline to the road. K McSpadden questioned why she was required to abide by a Gateway planting plan and she stated her objection to C Pious completing the sidewalk and patio work prior to obtaining approval.

C Pious stated that he will restore vegetation so as to satisfy K McSpadden and will make best efforts to replant.

There was no further public comment.

W T Furgueson read into the record a letter for the CT River Gateway Commission in which it was stated no opposition or objection to this application.

There was no further comment from the Board.

The public hearing closed at 8:10.

Application No. 19-33 on behalf of Carolyn A. and Paul M. Bergantino, 46 Crosstrees Hill Road, Essex, CT, Assessor's Map 70, Lot 9, RU District, requesting variances to sections 40D, 40E, 40I.1, 50D, 61B and 101E of the zoning regulations to perform a major remodel of an

existing house within a Gateway Buffer Zone. Also, to allow for a garage that is within the front yard setback to increase in height.

Application No. 19-34 on behalf of Carolyn A. and Paul M. Bergantino, 46 Crosstrees Hill Road, Essex, CT, Assessor's Map 70, Lot 9, RU District, requesting an approval of a Coastal Area Management Site Plan to allow for a major remodel of an existing house that is within 100 feet of tidal wetlands.

Marjorie Shansky who presented on behalf of the applicant stated that she is here this evening seeking variances and permission to conduct work within the Gateway buffer. M Shansky distributed a revised zoning schedule incorporating the Gateway buffer. The house is proposed to be moved into conformity by four feet, creating a reduction in a nonconformity. There is a roofline change over the attached garage which will create a volumetric change. M Shansky stated that she provided a robust planting plan with plantings that compliment and obscure the retaining wall. This application reduces an expansion of a nonconformity and it negates the need to demonstrate hardship. M Shansky stated that there is no expansion of use, no expansion of building, however just an alteration of the roofline.

M Shansky noted that the hardship associated with this proposal is that it is within the Gateway buffer which necessitates the need to apply for a variance.

P Beckman noted that the hardship surrounds the size of the small lot, the location of the house, predates the Coastal requirements.

M Shansky stated that with regard to the CAM application there is an underground infiltration system proposed, there will be no increase in flow, and a soil erosion and sedimentation plan will be in place throughout construction. This application has been sent to the DEEP.

S Rutkowska noted for the record that the regulations that are going to be varied are the ones listed on the agenda and on the newspaper notice. M Shansky agreed.

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

Jack Meier, 42 Crosstrees Hill stated his support of this proposal.

W T Furgueson read a letter from the CT River Gateway Commission into the record in which no opposition or objection was stated to this proposal. However, criteria was set forth by Gateway related to the planning plan.

There was no further comment from the Board.

The Public Hearing closed at 8:36pm.

2. Regular Meeting

Discussion and possible decision on applications:

Application No. 19-31 on behalf of Johnathan and Michelle Carlisle, 39A River Road, CT, Assessor's Map 10, Lot 19

MOTION made by P Beckman to approve **Application No. 19-31** on behalf of Johnathan and Michelle Carlisle, 39A River Road, CT, Assessor's Map 10, Lot 19, RU District, requesting variances to sections 40D and 101E of the zoning regulations to locate a 14' x 28' inground swimming pool within the Gateway Buffer Zone with the following stipulation; 1) The new elevated ground surface adjacent to the existing wall shall not exceed the existing wall. The hardship associated with this application is that the property predates the CT River Gateway and the zoning regulations. This proposal is approved in accordance with the submitted plans; **SECONDED** by P Schaller; **IN FAVOR:** W. T. Furgueson, P Schaller, W Feirer, P Beckman, G Wendell; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED** 5-0-0.

Application No. 19-32 on behalf of Charles and Stephanie Pious, 30 Hemlock Drive, Essex, CT, Assessor's Map 73, Map 2.

MOTION made by W T Furgueson to approve a Variance for **Application No. 19-32** on behalf of Charles and Stephanie Pious, 30 Hemlock Drive, Essex, CT, Assessor's Map 73, Map 2, RU District, requesting variances to sections 40D, 40E, 40N and 101E of the zoning regulations to locate a patio and sidewalk network within the Gateway Buffer Zone. Also, to locate a small patio to a point 3 feet from a side property line where 10 feet is required. The hardship associated with this proposal is the topography of the land, the property predates the CT River Gateway Commission regulations and the improvements satisfy a safety standpoint. The applicant has agreed to put forward best efforts and good faith to restore the previously existing vegetation. This proposal is approved in accordance with the plans as submitted; **SECONDED** by P Schaller; **IN FAVOR:** W. T. Furgueson, P Schaller, W Feirer, P Beckman, G Wendell; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED** 5-0-0.

Application No. 19-33 on behalf of Carolyn A. and Paul M. Bergantino, 46 Crosstrees Hill Road, Essex, CT, Assessor's Map 70, Lot 9

MOTION made by W Feirer to approve **Application No. 19-33** on behalf of Carolyn A. and Paul M. Bergantino, 46 Crosstrees Hill Road, Essex, CT, Assessor's Map 70, Lot 9, RU District, requesting variances to sections 40D, 40E, 40I.1, 50D, 61B and 101E of the zoning regulations to perform a major remodel of an existing house within a Gateway Buffer Zone. Also, to allow for a garage that is within the front yard setback to increase in height. The hardship associated with this proposal is related to the preexisting location of the home in relation to the CT River Gateway buffer zone and the proposed reduction of a nonconformity. The applicant agrees to the recommendations of the CT River Gateway Commission. This proposal is approved in accordance with the plans as submitted and in accordance with the posted Agenda and the legal notice; **SECONDED** by W T Furgueson; **IN FAVOR:** W. T. Furgueson, P Schaller, W Feirer, P Beckman, G Wendell; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED** 5-0-0.

Application No. 19-34 on behalf of Carolyn A. and Paul M. Bergantino, 46 Crosstrees Hill Road, Essex, CT, Assessor's Map 70, Lot 9

MOTION made by W T Furgueson to approve **Application No. 19-34** on behalf of Carolyn A. and Paul M. Bergantino, 46 Crosstrees Hill Road, Essex, CT, Assessor's Map 70, Lot 9, RU District, requesting an approval of a Coastal Area Management Site Plan to allow for a major remodel of an

existing house that is within 100 feet of tidal wetlands. In accordance with CGS 22a-109(b) certain minor uses and activities may be exempted from coastal site plan review by municipal zoning regulations. This application is in conformity with all of the regulations of the coastal site plan review; **SECONDED** by W Feirer; **IN FAVOR:** W. T. Furgueson, P Schaller, W Feirer, P Beckman, G Wendell; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED** 5-0-0.

3. New Business

There was no new business.

4. Old Business

Approval of Minutes – November 19, 2019.

MOTION made by W Feirer to approve the November 19, 2019 Minutes with following corrections; 1) W T Furgueson was seated for the 11/19/19 meeting; 2) Page 4, Application 19-29, P Schaller made a motion to deny the variance to CGS Section 45d.4 construction of expansion of an accessory apartment and on Application 19-29, B Sarrantonio made a motion to approve dormers; **SECONDED** by W T Furgueson; **IN FAVOR:** W. T. Furgueson, P Schaller, W Feirer, P Beckman, G Wendell; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED** 5-0-0.

5. Correspondence and Invoices

There was no correspondence and there were no invoices.

6. Adjournment

MOTION made by P Schaller to adjourn the meeting at 9:04p.m.to the next regularly scheduled meeting which will be held on Tuesday, January 21, 2020 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, P Schaller, W Feirer, P Beckman, G Wendell; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED** 5-0-0.

Stella A Caione
Recording Secretary