

TOWN OF ESSEX
Zoning Board of Appeals

Executive Board
Vacancy

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

Regular Members

*Al Daddona
Michael Noto
Paul Greenberg
W. T. Furgueson
William Hill*

Alternate Members

*William Veillette
Ward Feirer*

MINUTES
February 18, 2014 – Public Hearing and Regular Meeting

The Essex Zoning Board of Appeals conducted their regularly scheduled meeting on Tuesday, February 18, 2014 at 7:30 p.m. in Room A of the Essex Town Hall.

Attending Members:

Al Daddona
Paul Greenberg, Acting Chair
Michael Noto
W.T. Furgueson
William Veillette, Alternate, seated for this meeting
Ward Fierer, Alternate Member

Absent Members:

Staff:

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

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

Mr. Daddona asked to members to elect an Acting Chair for the purpose of this evening's public hearing.

MOTION for Paul Greenberg serve as acting chair for this evening's meeting; **MADE** by Michael Noto; **SECONDED** by Al Daddona. **IN FAVOR:** P. Greenberg, M. Noto, A. Daddona, W. Veillette, W. Furgueson; **OPPOSED:** **ABSTAINING:** None; **MOTION CARRIED:** 5-0 0.

1. Public Hearings

Application No. 13 - 30 on behalf of John Cacase, 22 Main Street, Essex, CT. Assessor's Map 47, Lot 67 EV District requesting variances to sections 40D, 40E, and 70B of the Essex zoning regulations to add a 208 square foot addition to a house that would increase building coverage from 31% to 33.4% where 25% is the maximum coverage allowed.

Mr. Cacase presented on behalf of this application. Mr. Cacase proposes construction of a 14' x 16' kitchen addition on the ground floor. Mr. Cacase stated that the 7' porch as reflected on the drawings will be eliminated and the design will be approximately 80 feet smaller than the submitted proposal. The house was constructed in 1804. The addition will be clapboard which is in keeping with the design of the house.

Mr. Daddona stated that the hardship surrounding this proposal is due to the topography of the lot and any modification made would not be in accordance with the regulations. The house was constructed pre-zoning.

Mr. Greenberg presented a letter from the Gateway Commission stating no opposition to this proposal.

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

Mr. Greenberg closed the public hearing at 8:40 p.m.

Application 13-31 on behalf of Bradford Perry, Trustee, 27 West Avenue, Essex, CT, Assessor's Map 32, Lot 31, VR District, requesting variances to section 60B of the Essex zoning regulations to decrease the size of a valid nonconforming from 49,346 square feet to 21,030 square feet where 60,000 square feet is the minimum of area required. Also, to allow one existing valid nonconforming accessory structure to be located 6'2" from the proposed rear property line and a second accessory structure to be 5'2" from the proposed rear property line where 30 feet is required. Also, to allow the building coverage to increase from 8.3% to 19.5% where 7.5% is the maximum coverage allowed.

Brian Smith, Esq., Robinson Cole and Stuart Fairbank, P.E. from Angus McDonald presented. Attorney Smith stated that the applicant is seeking a variance to reduce the lot size. The Town approached Mr. Perry to purchase a portion of the property for municipal and public purposes which Mr. Smith stated is the hardship surrounding this application. Mr. Smith stated that the Town has been working with Mr. Perry since October 2013 and the purchase of this property was approved at a Town meeting subject to the approval of a Variance.

Stuart Fairbank, P.E. Angus McDonald presented. Mr. Fairbank referenced the proposal as the .65 acres of property that is situated in close proximity to the Essex Town Hall. Mr. Fairbank stated that the septic system which was constructed in the mid 1980's must be updated to be in order to be code compliant. The test holes have been dug depicting where the code conforming leach field would be located. Situated on this property is a house and 3 out-buildings which all have plumbing. Setback considerations and the lay of the land and any sanitary system constructed must run parallel to the ground contours. Mr. Fairbank stated that the proposed septic has been reviewed by the Town Sanitarian. The existing leach field runs behind the barn. The proposed boundary lines on the piece that the Town wishes to purchase are creating two nonconformances.

Norman Needleman stated that the septic system has not failed, however when a property transfers there must be the ability to install a code compliant system. The Town wishes to maximize the s/f which is the reason for the proposed location.

Paul Greenberg stated that two setback issues and non-conformances have been created based on the boundary lines and Mr. Greenberg suggested that a change to the angle on the proposed plan would reduce the nonconformity and allow for the needed coverage.

Mr. Needleman stated that although the Town Hall is a preexisting nonconforming use it is not an approved use in this zone. Mr. Needleman stated that the purchase of this property would be a significant benefit to the municipality and he noted that here is no vision to change anything on that property other than to clean it up and create an open field to the Pratt House. Mr. Needleman stated that the Town could approve a variance subject to modifications in the plans that allow the setbacks on the two properties to be met.

Attorney Smith stated that the hardship surrounding this application is that the Town wishes to acquire a portion of the property for municipal purposes and that the applicant is in risk of eminent domain taking over a portion of the property. The property is historic and if it is divided in order to make it more nonconforming, the hardship created involves the relocation of the septic system. Mr. Smith stated that there is a topographical constraint. Mr. Smith stated that the act that the municipality wants to buy only a portion of the property that creates the hardship. Attorney Smith commented on case law that supports the argument that a Town seeking to purchase of the property is sufficient to create a hardship to make the property smaller to create a more nonconforming parcel. This proposal is making a nonconforming lot that already had a use on it, smaller thereby rendering the property more nonconforming .

Attorney Smith stated that Mr. Perry has agreed to alter the location of the property lines which would omit the need for two variances.

The Board agreed to continue this Application to March 18, 2014 based on receipt of a revised plan and pending submittal of new plans and a clearer understanding of the hardship.

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

Woody Comstock West Avenue presented. Mr. Comstock stated that there is no hardship associated with this proposal and the proposal creates a property that is on an even smaller lot. Mr. Comstock stated that although Mr. Needleman has stated that there is no plan to develop the property at the moment, there is potential for the future construction of a municipal building. Mr. Comstock stated that because the Town wants it, does not make for a hardship.

Mr. Greenberg presented a letter from the Essex Historical Society stating no objection to the variances.

Mr. Greenberg presented a letter from the Gateway Commission stating no objection to the variances.

Mr. Greenberg presented a letter from Eve Potts, 38 West Avenue, stating strong objection to this proposal.

Mr. Greenberg presented a letter from Louisa Whiting, abutting property owner asking that the town considers using that land as open space.

Mr. Greenberg closed the public hearing at 9:15 p.m.

Application 13-32 on behalf of John Beveridge, 18 River Road, Essex, CT, Assessor's Map 18, Lot 4 requesting variances to sections 40D, 40E, 40I.1, 50D and 61B of the Essex zoning regulations to expand a detached garage to a point 6 feet from the front property line where 40 feet is required and to a point 11 feet from a side property line where 30 feet is required. Also, to increase the building coverage from 7.44% to 7.95% where 7.5% is the maximum building coverage allowed. WITHDRAWN

Application 13-33 on behalf of Kate Cordsen, 3 South Main Street, Essex, CT, Assessor's Map 47, Lot 87 requesting variances to sections 40N and 40R of the Essex zoning regulations to locate a patio 2' 4" from the side property line where 10 feet is required and to locate a parking space within 5 feet of the side property line. CONTINUED to the March 18, 2014 regularly scheduled meeting.

Application 14-1 on behalf of Matt Carroll, 107 Main Street, Ivoryton, CT, Assessor's Map 57, Lot 14, C District, requesting a variance to section 112A.1 of the Essex zoning regulations to allow the sale of alcohol for on-premises consumption where a public entrance of the building is within 200 feet of another public entrance of a similar use.

Matt Carroll presented on behalf of this application. Mr. Carroll stated that he is seeking a variance for the sale of alcohol. Mr. Carroll purchased a restaurant at 107 Main Street, Ivoryton and four days after he purchased the property he was informed that the sale of alcohol would be prohibited per the Essex Zoning regulations in an establishment within 200 feet of another establishment serving alcohol. Mr. Carroll stated that he checked with the Zoning Officer and various town officials prior to the purchase of the property and he was informed that he would be able to serve alcohol.

Attorney Wells stated that the hardship for this use variance is the fact that there are two existing businesses and a use that preexists the zoning regulations. A liquor license is accessory to a restaurant.

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

Susan Malon, Essex Economic Development Commission member stated that the EDC is in favor of this application. Ms. Malon stated that the EDC wrote to the Zoning Commission seeking a text amendment to remove the 200 foot regulation.

Mr. Greenberg closed the public hearing at 8:25pm

Application 14-2 on behalf of Lisa Romano, 178 Saybrook Road, Essex, CT, Assessor's Map 74, Lot 31, RU District requesting variances to sections 40D, 40E, 40I.1, 50D and 61B of the Essex zoning regulations to locate a front porch to a point four feet from the front property line where 40 feet is required and to raise a portion of the roof that is in the front setback area.

Michael Papa from R & R Redevelopment. Purchase property at 178 Saybrook Road and would like to change the front entrance of this house and construct a small porch over the entrance. Mr. Papa presented a plan that reflected the proposed 20' x 6' front entrance to the center of the home with a front porch overhang over it and install new windows and re-side.

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

There was no public comment.

Mr. Greenberg closed the public hearing at 8:30p.m.

2. Regular Meeting/Deliberation

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

Application No. 13 - 30 on behalf of John Cacase, 22 Main Street, Essex, CT. Assessor's Map 47, Lot 67 EV District requesting variances to sections 40D, 40E, and 70B of the Essex zoning regulations to add a 208 square foot addition to a house that would increase building coverage from 31% to 33.4% where 25% is the maximum coverage allowed.

- **MOTION** to grant a variance to **Application No. 13 - 30** on behalf of John Cacase, 22 Main Street, Essex, CT. Assessor's Map 47, Lot 67 EV District requesting variances to sections 40D, 40E, and 70B of the Essex zoning regulations to add a 208 square foot addition to a house that would increase building coverage from 31% to 33.4% where 25% is the maximum coverage allowed. The hardship associated with this proposal is Minimal increase and a small addition. The house predates zoning regulations and any work on the property will be in violation of the zoning ordinances. This application is approved in accordance with the plans as submitted; **MADE** by M. Noto; **SECONDED** by A. Daddona; **IN FAVOR:** P. Greenberg, M. Noto, A. Daddona, W. Veillette, W. Furgueson; **OPPOSED:** ; **ABSTAINING:** None; **MOTION CARRIED:** 5-0 0.

- **MOTION** to continue a variance to **Application 13-31** on behalf of Bradford Perry, Trustee, 27 West Avenue, Essex, CT, Assessor's Map 32, Lot 31, VR District, requesting variances to section 60B of the Essex zoning regulations to decrease the size of a valid nonconforming of from 49,346 square feet to 21,030 square feet where 60,000 square feet is the minimum of area required. Also to allow one existing valid nonconforming accessory structure to be located 6'2" from the proposed rear property line and a second accessory structure to be 5'2" from the proposed real property where 30 feet is required. Also, to allow the building coverage to increase from 8.3% to 19.5% where 7.5% is the maximum coverage allowed. This application is continued based on receipt of a revised plan and pending submittal of new plans and a clearer understanding of the hardship.

Application 14-1 on behalf of Matt Carroll, 107 Main Street, Ivoryton, CT, Assessor's Map 57, Lot 14, C District, requesting a variance to section 112A.1 of the Essex zoning regulations to allow the sale of alcohol for on-premises consumption where a public entrance of the building is within 200 feet of another public entrance of a similar use.

- **MOTION** to grant a variance to **Application 14-1** on behalf of Matt Carroll, 107 Main Street, Ivoryton, CT, Assessor's Map 57, Lot 14, C District, requesting a variance to section 112A.1 of the Essex zoning regulations to allow the sale of alcohol for on-premises consumption where a public entrance of the building is within 200 feet of another public entrance of a similar use. The hardship is there are two pre-existing uses that predate the regulation. This application is approved in accordance with the plans as submitted; **MADE** by M. Noto; **SECONDED** by A. Daddona; **IN FAVOR:** P. Greenberg, M. Noto, A. Daddona, W. Veillette, W. Furgueson; **OPPOSED:** **ABSTAINING:** None; **MOTION CARRIED:** 5-0 0.

Application 14-2 on behalf of Lisa Romano, 178 Saybrook Road, Essex, CT, Assessor's Map 74, Lot 31, RU District requesting variances to sections 40D, 40E, 40I.1, 50D and 61B of the Essex zoning regulations to locate a front porch to a point four feet from the front property line where 40 feet is required and to raise a portion of the roof that is in the front setback area.

MOTION to grant a variance to **Application 14-2** on behalf of Lisa Romano, 178 Saybrook Road, Essex, CT, Assessor's Map 74, Lot 31, RU District requesting variances to sections 40D, 40E, 40I.1, 50D and 61B of the Essex zoning regulations to locate a front porch to a point four feet from the front property line where 40 feet is required and to raise a portion of the roof that is in the front setback area. This application is approved in accordance with the plans as submitted; **MADE** by M. Noto; **SECONDED** by A. Daddona; **IN FAVOR:** P. Greenberg, M. Noto, A. Daddona, W. Veillette, W. Furgueson; **OPPOSED:** **ABSTAINING:** None; **MOTION CARRIED:** 5-0 0.

3. **New Business** – There was no new business.

-Election of Officers

MOTION for Paul Greenberg serve as chair and for to serve as vice chair; **MADE** by Michael Noto; **SECONDED** by Al Daddona. **IN FAVOR:** P. Greenberg, M. Noto, A. Daddona, W. Veillette, W. Furgueson; **OPPOSED:** **ABSTAINING:** None; **MOTION CARRIED:** 5-0 0.

MOTION for Michael Noto to serve as vice chair; **MADE** by P. Greenberg; **SECONDED** by W. Vielletto. **IN FAVOR:** P. Greenberg, M. Noto, A. Daddona, W. Veillette, W. Furgueson; **OPPOSED:** **ABSTAINING:** None; **MOTION CARRIED:** 5-0 0.

-Discussion of positions and terms

MOTION to elevate William Veillette to member-at-large to fill the vacancy created by Doug Demarest; **MADE** by M. Noto; **SECONDED** by A. Daddona; **IN FAVOR:** P. Greenberg, M. Noto, A. Daddona, W. Veillette, W. Furgueson; **OPPOSED:** **ABSTAINING:** None; **MOTION CARRIED:** 5-0 0.

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

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

-Approval of 2014 Meeting Calendar

MOTION to approve the 2014 meeting calendar as presented; **MADE** by M. Noto; **SECONDED** by A. Daddona; **IN FAVOR:** P. Greenberg, M. Noto, A. Daddona, W. Veillette, W. Furgueson; **OPPOSED:** **ABSTAINING:** None; **MOTION CARRIED:** 5-0 0.

4. **Correspondence and Invoices** -

No correspondence and there were no invoices

5. **Adjournment**

MOTION made to adjourn the meeting at 9:30 p.m. to the next regularly scheduled meeting to be held on Tuesday, March 18, 2014 at the Essex Town Hall, Conference Room A, 29 West Avenue, Essex, CT; **MADE** by M. Noto; **SECONDED** by A. Daddona; **VOTING IN FAVOR:** P. Greenberg, M. Noto, A. Daddona, W. Veillette, W. Furgueson; **OPPOSED:** **ABSTAINING:** None; **MOTION CARRIED:** 5-0 0.

Respectfully submitted,

Stella C. Beaudoin
Recording Secretary