

Town of Essex
Zoning Board of Appeals
29 West Avenue, Essex, CT 06426

✓ # 1315

Variance Application

Date received by office 8/23/23 Application fee - \$50 + State fee - \$60 = \$110 Pd.

Application # 23-13 Hearing Date Sept. 19, 2023

Premises: Street Address 22 Main Street, SX

Assessor's Map # 27 47 Lot # 067 Lot Area .20 ac

Zoning District EV Deed Reference: Book 346 Page 0434

Owner of Property David L. Dick & MaryAlice Godfrey, Co-Trustees of the Dick-Godfrey Family Trust

Address 22 Main Street, Essex CT 06426
Street Town State Zip

Telephone (619) 997-0286 (619) 687-0286 Email: daviddick@cox.net
home work

Applicant (if not owner) N.A.

Address N.A.
Street Town State Zip

Telephone N.A. N.A. Email: N.A.
home work

Note:
1) TO BE ACCEPTED BY THE LAND USE OFFICE. THIS APPLICATION MUST BE COMPLETED, SIGNED, AND SUBMITTED WITH THE REQUIRED FEE(S) AND MAP(S) PREPARED IN ACCORDANCE WITH THE APPLICABLE REGULATIONS.
2) SUBMITTAL OF THIS APPLICATION CONSTITUTES THE PROPERTY OWNER'S PERMISSION FOR THE BOARDOR ITS STAFF TO ENTER THE PROPERTY FOR THE PURPOSE OF INSPECTION.
3) SUBMITTAL OF THIS APPLICATION CONSTITUTES THE PROPERTY OWNER'S AGREEMENT TO PAY ALL ADDITIONAL FEES AND/OR ADDRESS SUCH COSTS DEEMED NECESSARY BY THE LAND USE OFFICE AS DESCRIBED IN PART THREE OF THIS APPLICATION.

Signature (Authorized Agent) David L. Dick Date 8/1/2023
Mary Alice Godfrey 8/1/2023

Current use of the property Residential Business Farm Other _____

Is any portion of property within 500' of another Town? Yes No

Is the property within the Gateway Conservation District? Yes No

If this application is for a variance(s) please complete the following sections:

1. Variance(s) requested of the Essex Zoning Regulations

Check those that apply and write in sections that variances are requested

Section No.	Allowed/Required per the regulations	Existing	Requested
<input type="checkbox"/> 40C	No buildings within the setbacks		
<input checked="" type="checkbox"/> 40D	No improvements except in conformity		
<input type="checkbox"/> 40E	No change in the use of any land or improvement, in the location of any improvement, or in the size or shape of any lot or improvement except in conformity with the zoning regs.		
	Coverage		
40Q	Setbacks	We are requesting a variance for a pool/spa to be located within 5 feet of the side yard property line when 20 feet is required. See supplemental sheet for additional information.	
	Height		

(Please attach supplemental sheets if space provided is insufficient)

Yes No

1a). Is a variance requested of Section 101E Gateway Buffer Area? If yes, the application shall be reviewed by the Essex Inland Wetlands and Watercourses Commission (per Section 140L) and a letter of referral shall be provided by the EIWWC prior to attending the ZBA meeting.

2. Variance is requested to allow (Please describe proposed use, dimensions, height and location of any new construction PLUS any changes to use, size, shape, bulk, footprint, floor area or height of existing structure)

See supplemental materials for dimensional plans illustrating proposed pool/spa location in relation to side yard property line and 20' foot setback.

(Please attach supplemental sheets if space provided is insufficient)

3. Strict application of Essex Zoning Regulations would result in an unusual hardship because of the following characteristics of the property (Support topological hardship claims with photographs, survey, etc.)

a. Please see attached.

b.

c.

4. The above hardship is unique to this parcel and not shared by other in the area because:

a. Please see attached.

b.

c.

5. Described proposed reductions in legal pre-existing nonconformities, if any

a. N/A

b.

c.

The requested variance(s) are in harmony with the purpose and intent of Essex Zoning Regulations because:

- a. _____
Please see attached.
- b. _____
- c. _____

Have previous applications been made for this property? Yes No

If yes, previous application #s 22-04 Date May 17, 2022
Prior variance request: Increase coverage; Setback variance Variance Board Action Approved

The following items must be included as part of this application:

- a. Fee of \$110.00 – Town Fee \$50 plus \$60 State Fee...payable to the Town of Essex
- b. 10 copies of the application, site plan (with setback lines) and sketch of the proposal.
- c. Copy of property deed
- d. Referral from Health Department
- N/A e. Referral from Essex IWWC (if applicable)
- N/A f. Referral from adjacent towns
- g. Referral from Gateway Conservation Commission

Owner/Applicant Commitments

I (we) certify that the statements hereinabove made and the documents submitted herewith are true to the best of my (our) knowledge and belief.

I (we) consent to allow Zoning Board of Appeals members access to the property for informal, independent site visits, for the purpose of evaluating this application prior to the Board rendering its decision.

Signature of applicant David L. Dick Date: August 1, 2023

Signature of property owner David L. Dick Date: August 1, 2023
Mary Alice Godfrey 8/1/2023

Applicant must provide a current list of all names and addresses of abutting property owners.

NAME	ADDRESS	TOWN	ZIP CODE
Ruthann Paulin & Peter Glyman	20 Main St, Essex CT	Essex	06426
Roger & Jan Harris	821 Hills Creek Dr, McKinney TX 75072 (24 Main St and 6 Meigs Lane)	McKinney	75072
Andrea Gargiulo	25 Main St, Essex CT	Essex	06426
Markham Rollins III and Jody E Rollins,	10 Meigs Lane, Essex Ct	Essex	06426

**Addendum to Variance Application
22 Main Street, Essex Village**

3. Strict application of Essex Zoning Regulations would result in an unusual hardship because of the following characteristics of the property (Support topological hardship claims with photographs, survey)

The Applicants are requesting a variance from Section 40Q of the Town of Essex Zoning Regulations to allow installation of an in-ground combination “spa” in their backyard to be located within 20 feet of the southerly property line which abuts Meigs Lane, but no closer than 5 feet, which is the side setback required for properties in the EV district. The spa would be located more than 20 feet from all other property lines.

Hardship. The primary hardship supporting the Application is the Applicants’ desire to protect the existing mature 80+ foot tall Wild Spring Cherry tree that is located on the property and the root zone of which extends across much of the backyard as indicated by the spread of the canopy of the tree. The tree is the “State Champion” of trees of its variety (*Prunus pendula f. ascendens*) and something of a town landmark.

Due to the small size and narrow configuration of the lot and the location of the house, there is not enough room to locate the spa in the area between the house and the property line adjacent to Meigs Lane and still maintain a 20-foot setback. Where it would be possible to locate the spa and maintain the 20-foot setback from each property line would place the spa directly in the root zone of the tree.

Our goal in seeking this variance is to avoid any unnecessary excavation or construction that could disturb or damage the tree’s roots or the tree itself. The proposed location would be outside of the spread of the tree canopy and, implicitly, outside the root zone.

Additionally, the Applicant is installing a new septic system the location of which is identified on the attached landscape schematic. The spa may not be located any closer to the septic system than 25 feet. This further restricts the location options for the spa.

4. The above hardship is unique to this parcel and not shared by other in the area because:

The hardship is unique to this parcel because of the Applicant’s desire to protect and preserve the existing “State Champion” Wild Spring Cherry tree on the property and the location of the current improvements. This is a unique attribute that does not apply to other properties.

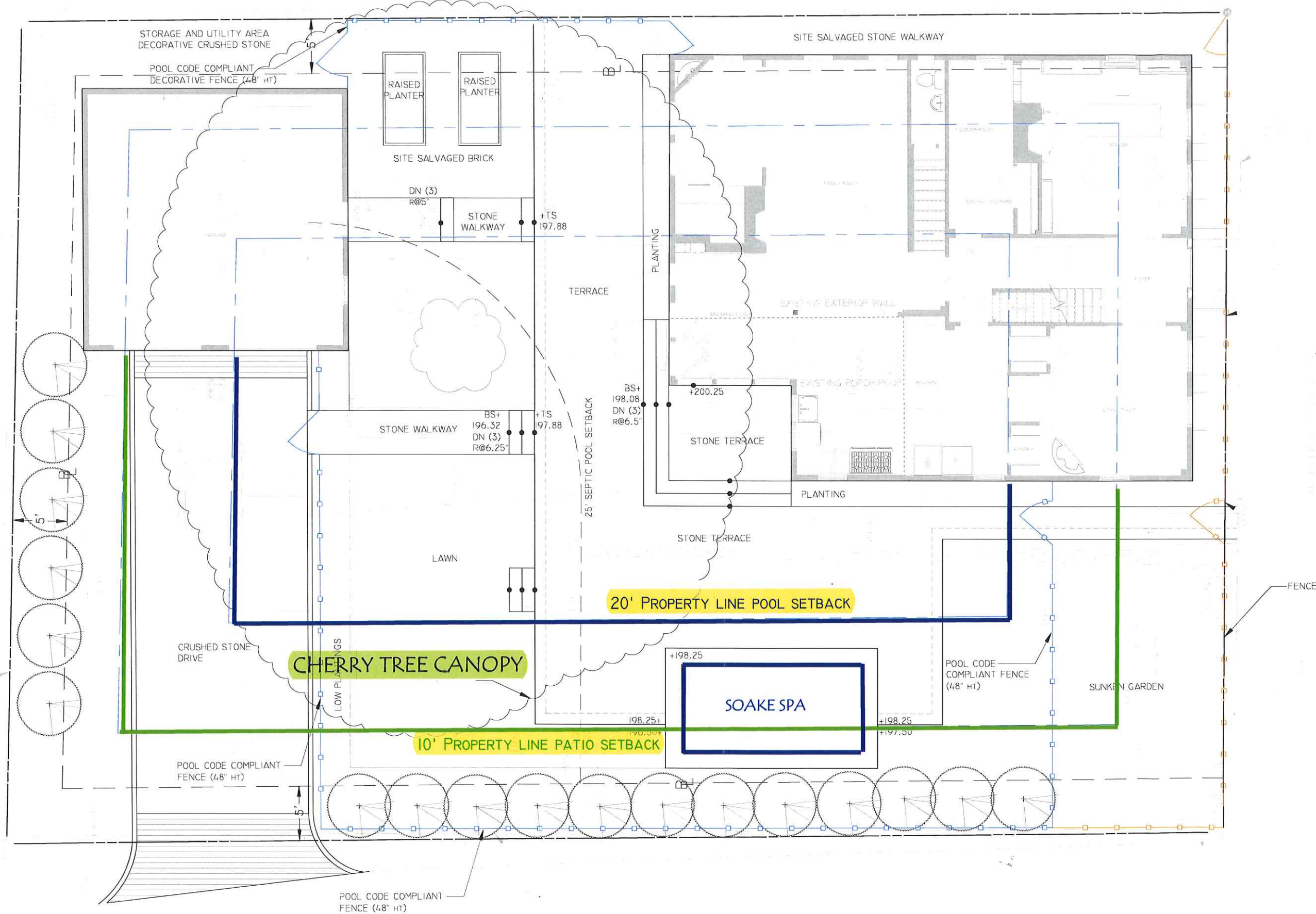
5. Described proposed reductions in legal pre-existing nonconformities, if any, if none state N/A

N/A

6. The requested variance(s) are in harmony with the purpose and intent of Essex Zoning Regulations because:

Section 40Q of the Essex Zoning Regulations is intended to maintain a 20-foot distance between an in-ground spa and adjacent properties. Because the Applicant's property abuts Meigs Lane, even with the requested variance the spa will still be more than 20 feet from the property line of 24 Main Street, the property directly across Meigs Lane. As a result, the basic purpose of Section 40Q is fulfilled notwithstanding the variance. Please refer to the attached schematic representation of the distance from the proposed spa location and the property line of the neighboring house at 24 Main Street.

It is also worth noting that an almost identical variance was granted by the Zoning Board of Appeals on October 20, 2015, permitting the installation of an in-ground swimming pool at 48 Main Street. Unlike Applicant's circumstances, that swimming pool is located *immediately adjacent* to the property located at 46 Main Street. Please refer to the attached Notice of Decision and photograph depicting the location of the swimming pool at 48 Main Street.



DICK-GODFREY RESIDENCE
 22 MAIN STREET
 ESSEX, CT

Mayer's Landscaping Services, LLC
 CONSULTATION • DESIGN • CONSTRUCTION
 860-962-2724 www.mayerslandscaping.com

GENERAL CONTRACTOR:
 TIER 1 PROMINENT DEVELOPMENT
 P.O. Box 187
 MYSTIC, CT 06355

ENGINEER / SURVEYOR:
 KILLINGLY ENGINEERING ASSOCIATES
 P.O. Box 421
 KILLINGLY, CT 06241

REVISIONS	

SCHEMATIC MASTER PLAN

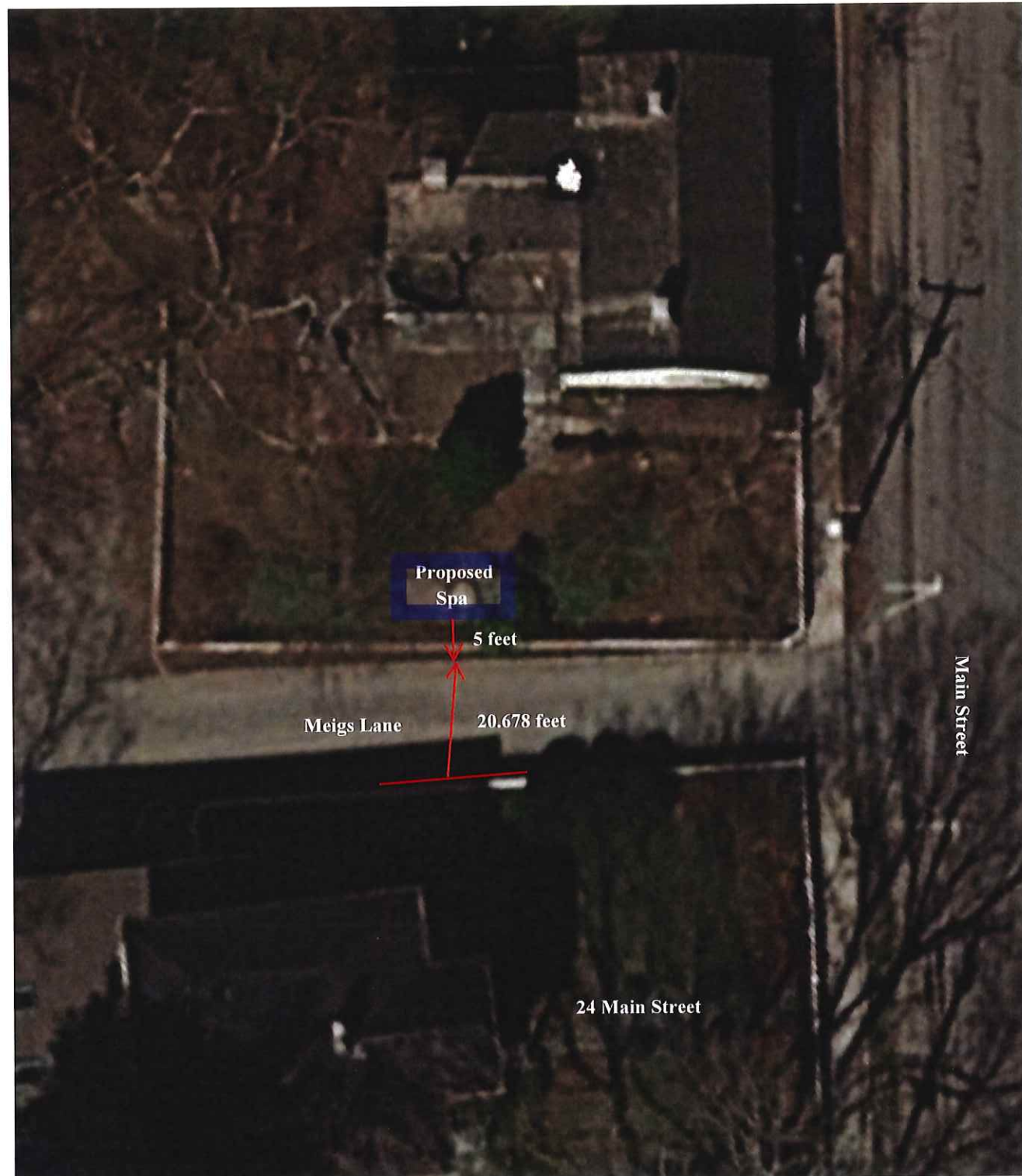
DATE: 6/7/2022
 SCALE: 1/4" = 1'-0"

PERMIT DRAWING NOT FOR CONSTRUCTION

N L-1.0

22 Main Street

Depiction of approximate location of proposed spa and distance to property line of nearest neighbor





TOWN OF ESSEX
Zoning Board of Appeals

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

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Notice of Decision
Zoning Board of Appeals - October 20, 2015

The Essex Zoning Board of Appeals conducted their regularly scheduled meeting on Tuesday, October 20, 2015 at 7:00 p.m. in Room A of the Essex Town Hall. The following decisions were rendered:

- **Application No. 15-16** on behalf of Cumberland Farms, Inc., 82 Main Street, Centerbrook, CT, Assessor's Map 43, Lot 29, C District, requesting variances to sections 40D, 40U, 50C.2, 50D, 80B, 104D.2 and 104D.3 of the Essex zoning regulations to allow proposed site development and the demolition and relocation of an existing retail store to one that is 3,742 square feet in size, which is a non-conforming expansion of retail space in conjunction with fuel sales. Also, to expand underground storage, which is an expansion of a non-conforming use within a Water Resource District. APPROVED

- **Application No. 15-19** on behalf of Mark Reeves for Ted Barnard and Laura Berghuis, 3 Pond Meadow Road, Ivoryton, CT, Assessor's map 62, Lot 1-1, RU District, requesting variances to sections 40D, 40E, 40I.1, 50D and 61B of the Essex zoning regulations to raise the roof line of a section of the existing house that is currently in the front setback. APPROVED

- **Application No. 15-20** on behalf of Annelisa Santoro, 48 Main Street, Essex, CT, Assessor's Map 47, Lot 25, EV District, requesting variances to sections 40Q of the Essex zoning regulations to allow a swimming pool to come to a point 5 feet from a side property line where 20 feet is required. APPROVED



Pool Location 48 Main Street per Variance No. 15-20
Granted October 20, 2015