



Town of Essex
Zoning Board of Appeals

29 West Avenue, Essex, CT 06426

RECEIVED
DEC 21 2023

Application for the Appeal of ZEO's Decision

Date received by office _____ Application fee - \$50 = Pd. #8204

Application # 23-22 ^{BY} _____ Hearing Date _____

Premises: Street Address 20 North Main Street, Essex

Assessor's Map # 31 Lot # 039 Lot Area .22 ac

Zoning District VR

Owner of Property Marc J + Laura L. Loew

Address 20 North Main Street Essex CT 06426
Street Town State Zip

Telephone 201-264-3517 Email: C/O Terrance J. Lomme
home work Terry@TJezeklaw.com
860-767-2300

Applicant (if not owner) Same

Address _____
Street Town State Zip

Telephone _____ Email: _____
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) THE SUBMITTAL OF THIS APPLICATION CONSTITUTES THE PROPERTY OWNER'S PERMISSION FOR THE COMMISSION OR ITS STAFF TO ENTER THE PROPERTY FOR THE PURPOSE OF INSPECTION.
3) I HERBY AGREE 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) Laura L. Loew Date 12/20/2023

Deed Reference: Book 323 Page 998

Current use of the property:



Residential



Business



Farm



Other _____

1. **Original request (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; Site plan drawn to scale shall also be provided; Please cite appropriate sections of the Essex Zoning regulations)**

The Loews applied to allow an open pergola to be constructed over an existing deck. The proposed pergola (11'8" x14'9") is smaller than the existing deck (11'10" x 16') therefore there is no increase the current coverage. The pergola is detached from the house and its location complies with section 40I.2 of the regulations regarding accessory structures. See copy of the plan attached.

The current lot coverage is 23%, and the granting of this permit and will not increase the amount of coverage.

(Please attach supplemental sheets if space provided is insufficient)

2. **Decision, order or requirement made by ZEO appealed from (include date and description)**

The Zoning Enforcement Officer's decision dated November 27, 2023, specifically states that the reason for the denial of this application is "the zoning regulations do not allow for this structure **because it results in an exceedance of building lot coverage.**" (emphasis added) Said decision goes on to state that "The conflict with the Essex Zoning Regulations arises when the deck is expanded into a 'detached structure' by building a pergola on top, resulting in **exceeding the allowable building lot coverage.**" (emphasis added) See copy attached.

(Please attach supplemental sheets if space provided is insufficient)

Loew Appeal

3. Reason for the appeal of ZEO's decision

There is no dispute that the current deck on the property is considered coverage. This deck was constructed in 2015, by a previous owner, and thus is considered, per Connecticut general statute 8-13a, preexisting nonconforming and the coverage is based thereon. As this board is aware, lot coverage is based on the square footage of the structures and is defined in the Zoning Regulations as "The area of a lot covered by buildings, roofed areas, and impervious surfaces, expressed as a percentage of total lot area." Constructing the pergola over the deck does not increase lot coverage, as it does not add any additional square footage to the deck. The Zoning Enforcement Officer is counting the deck as coverage and then adding the pergola as additional coverage. If the Zoning Enforcement Officer's position is adopted, then adding a second story to a house would double the coverage, which is totally inconsistent with the regulations and the logic of coverage. This erroneous theory of coverage would require the double counting of the coverage of this application. There is **no increase** in coverage requested in the original application. The proposed pergola is, in essence, four posts and an open slotted top. It is not a closed or roofed structure, however, even if it were, the lot coverage could not be double counted. There is no provision in the Regulations which allows for this type of calculation.

For all of the above reasons, the decision for the Zoning Enforcement Officer must be reversed.

3. Reason for appeal of ZEOs decision

See attached

(Please attach supplemental sheets if space provided is insufficient)

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

- _____ a. Fee of \$50.00 – Town Fee \$50 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. Supporting documentation regarding appeal

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 _____

Date: _____

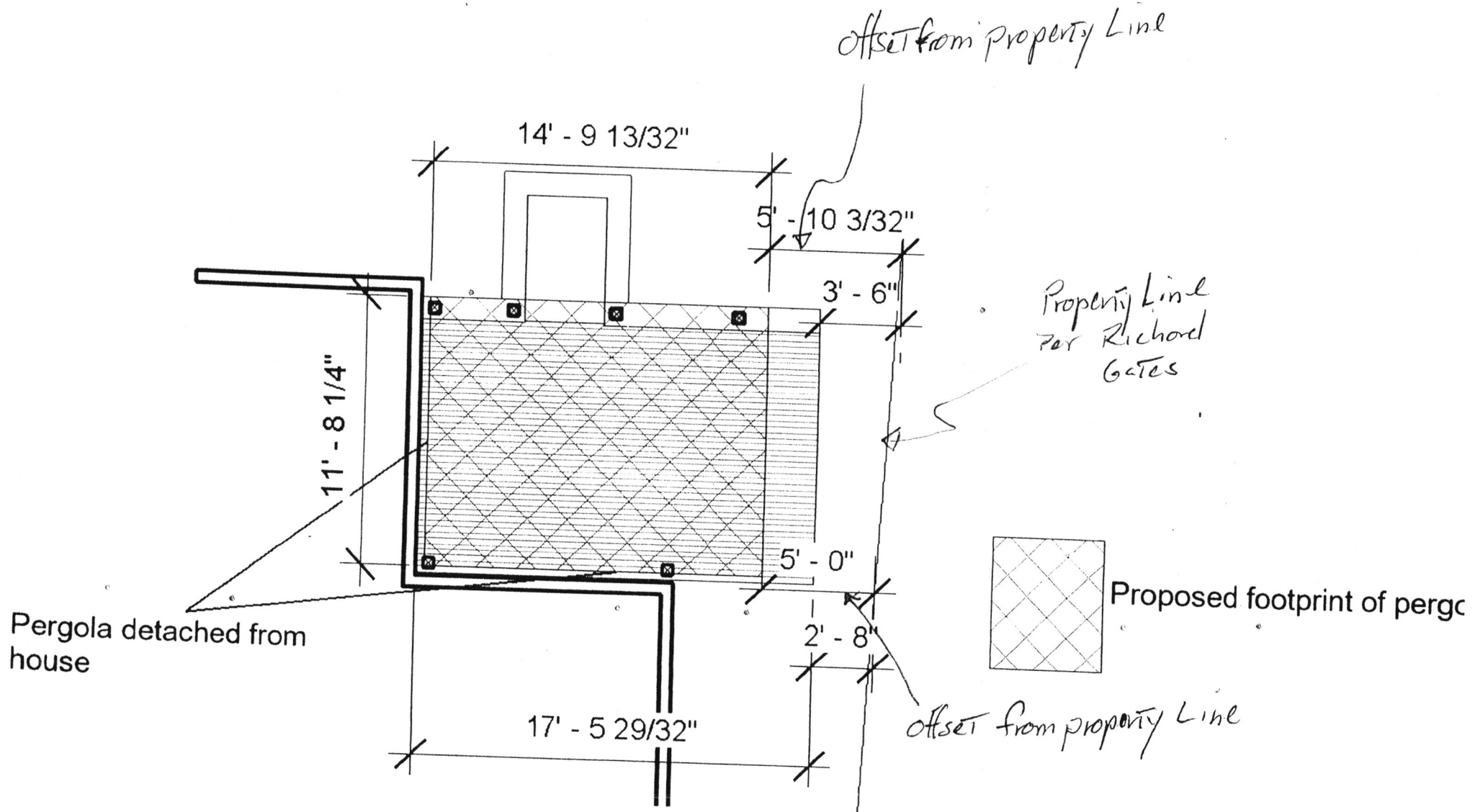
Signature of property owner *Laura L. Law* _____

Date: *12/20/2023*

KIERNAN, JEANNE 11 PROSPECT ST ESSEX, CT 06426

CORNELL, ROBERT & SUSAN 22 NORTH MAIN ST ESSEX, CT 06426

SALVO, ENRIQUE J 685 TINTON AVE BRONX, NY 10455



Pergola 11.8' x 14.9' = 160 sq ft

Deck 11.10' x 16.4'

John H. Kolb, III
43 River Road
Essex, Connecticut

November 8, 2023

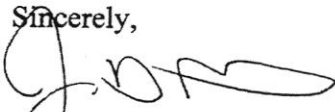
Carey Duques, ZEO
Essex Town Hall
29 West Avenue, Essex, CT 06426

Re: 20 North Main Street

Dear Ms. Duques,

I write regarding the decking platform at 20 North Main Street. I purchased this property in May 2012, from Alice Troutman. In 2015, I constructed a wooden platform over the existing poured concrete patio to mitigate water and debris from tracking into the house. The decking platform is approximately 12 feet by 17 feet and floats on top of the concrete patio. There was no permit acquired. I subsequently sold the property in January 2017 to Margaret Goldman, Trustee. When I sold the property, the decking platform was still in place and unchanged.

Sincerely,



John H. Kolb, III



TOWN OF ESSEX
ZONING ENFORCEMENT OFFICIAL

29 West Avenue, Essex, CT 06426

REGULAR MAIL AND EMAIL
laurabloew@yahoo.com; loewhkh@yahoo.com

November 27, 2023

Re: Zoning Permit Application for 20 North Main Street Essex, CT

Marc and Laura Loew
20 North Main Street
Essex, CT 06426

Dear Mr. and Mrs. Loew,

Upon reviewing your zoning permit application for a 11'8" X 14'9" pergola which exists over a 11'10" X 16' existing deck, the zoning regulations do not allow for this structure because it results in an exceedance of building lot coverage.

The property received a variance in 2012 (Case #12-16) allowing a coverage of 20.87% relating to a kitchen expansion and dormer to be located within the setback. Currently the coverage is reported to be 23%, which includes the house, garage, shed, and deck which was constructed without the benefit of permits in 2015, as stated in the letter dated November 8, 2023 from John H. Kolb.

The conflict with the Essex Zoning Regulations arises when the deck is expanded into a "detached structure" by building a pergola on top, resulting in exceeding the allowed building lot coverage. The expansion of a non-conforming and non-permitted structure cannot be completed, per Section 50D of the Essex Zoning Regulations.

As a result, I have to deny the zoning permit application #23-116, for a 11'8" X 14'9" pergola which exists over a 11'10" X 16' existing deck.

If you choose you can appeal my decision to the Essex Zoning Board of Appeals.

Please call me with any questions or comments at 203-767-4340. Or visit me at the Land Use office.

Respectfully,

Carey Duques, ZEO
Zoning Enforcement Official

CC: file
Attorney Larry Shipman
Attorney Terrance Lomme