



TOWN OF ESSEX
Zoning Board of Appeals

Executive Board

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

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

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Brian Weinstein

Alternate Members

Philip J. Beckman
George Wendell
Richard Rybak

Unapproved

Minutes
February 16, 2021 – Zoning Board of Appeals

1. Call to Order and Seating of Members

The Essex Zoning Board of Appeals conducted their regularly scheduled meeting on Tuesday, February 16, 2021 at 7:00 p.m. This meeting was made available to the public via Zoom <https://us02web.zoom.us/j/89882134775?pwd=b29kUmxDwW5FcktnDFM5SUoveENkZz09>

[Executive Order 7i grants 90 additional days to all applications that are in process during the current designated emergency. Executive Order 7JJ states such applications shall not lapse during the State of Emergency.]

Commission members present were: W. T. Fergusson, W Feirer, P Schaller, R Rybak, P Beckman, G Wendell.

Staff present: Carey Duques, Zoning Enforcement Officer, Stella Caione, Recording Clerk and Sylvia Rutkowska, ZBA Legal Counsel.

EZBA Chairman W T Fergusson welcomed everyone to the Essex Zoning Board of Appeals public access meeting which was conducted via Zoom platform.

The members of the Essex Zoning Board of Appeals announced themselves. The audio attendees were advised to mute themselves during the meeting except during public comment. Attendees were asked to please identify themselves for the record prior to making any comments.

Audience: There were six audience members present.

2. Public Hearing

- **Application No. 21-5** on behalf of John Hajnal, 53 Main Street, Essex, CT, Assessor's Map 47, Map 20, EV District, requesting variances to sections 40C, 40D, 40I.1 and 70B of the

zoning regulations to locate 7' x 20' concrete pad with a storage cooler to a point 2.5 feet from a side property line where 5 feet is required.

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

The property at 53 Main Street is .46 acre in size. It is a rectangular lot in Essex Village. The lot has two existing buildings.

The applicant would like a 7' x 20' concrete pad with a storage cooler to a point 2.5 feet from a side property line where 5 feet is required.

Chuck Hajnal who presented on behalf of John Hajnal stated that he would like to occupy this space for the purpose of offering provisions and food take out. He would like to install exterior refrigeration on a concrete pad, which will infringe upon the setback line by 2.5 feet toward the garage, in the direction of the CT River Museum. The previous business owner remediated the basement area for mold and C Hajnal stated that the placement of a refrigerator in that basement space would create moisture and heat, given off by the compressor. As such, to safely and properly install refrigeration for this business, the unit must be located on the exterior of the building.

C Hajnal contacted the CT River Museum whom he indicated, stated no opposition to this proposal.

There will be no obstruction of views and a privacy hedge and ornamental plantings will be installed.

The combination of the concrete pad and cooler, and because the refrigeration unit exceeds a certain height, place this in the category of a structure.

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

There was no public comment.

There was a letter submitted from CT River Gateway Commission on behalf of this proposal. Gateway stated that after review of the proposal, the Gateway Commission would likely not oppose the granting of required variances as there will be no degradation of the natural river scene as a result of this project.

A letter was submitted from the CT River Museum in support

The Board had no further comments.

MOTION made by W T Furgueson to close the public hearing **Application No. 21-5** on behalf of John Hajnal, 53 Main Street, Essex, CT, Assessor's Map 47, Map 20, EV District, at 7:15pm; **SECONDED** by W Feirer; **IN FAVOR:** W T Furgueson, P Schaller, R Rybak, P Beckman, W Feirer; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED** 5-0-0. No Discussion.

- **Application No. 21-6** on behalf of Ava Shnidman, 42 Crosstrees Hill Road, Essex, CT, Assessor's Map 70, Lot 13, RU District, requesting variances to sections 40D and 101E of the zoning regulations to allow for a patio, a swimming pool, a new septic system, accessory pool equipment and a new drainage pipe to be located within the Gateway Buffer Zone.

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

The property at 42 Crosstrees Hill Road is 1 acre in size. It is a square lot in the Rural Residential District (RU). The lot has an existing residence and is a lot that slopes down to the River.

The applicant would like a patio, in-ground swimming pool and associated equipment, new septic system, and new drainage pipe within the Gateway Buffer Zone.

R Doane, P.E. L.S. who presented on behalf of the applicant stated that this is a substandard, 39,000 s.f. parcel. The applicant is proposing installation of a pool within 100-feet of the coastal jurisdiction line, and to do so, Mr. Doane stated that the sanitary system must be relocated, and the existing storm drainage pipe must be replaced. The storm drainage pipe will be placed back in the same location. The swimming pool is being placed on the flattest area on the site. Mr. Doane stated that the lot slopes into the cove, and the house was built into the bank with a walk-out lower floor. It is at the lower floor where the applicant would like to place the pool. The hardship relates to the topography of the site and the proximity of the house and the cove, and also the size of the lot. Mr. Doane noted that the applicant is motivated to install the pool, to address medical issues that they are experiencing, which drives the size and location of the pool, so that it is at the same elevation as the walk-out in the back of the house. The sanitary system meets code. R Doane stated that erosion and sedimentation will be installed, and silt fence, down gradient of proposed activity, and grading associated with the pool, will be in place. The pool will be saltwater and maintained by professional pool company, and there will be no backwash and no chemicals stored onsite.

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

Steve Elich, 35 Crosstrees Hill Road, questioned who is responsible to clean the pipe and he questioned what the pipe will look like upon completion.

R. Doane stated that the Town will be responsible for maintenance of the pipe, and insofar as design, there will be a flared end section that matches into the rip rap. Mr. Doane noted that the end of the pipe going to the rip rap must be exposed, and the flared end will dissipate the water that goes through it. The amount of rip rap that will be there will be essentially the same as the existing.

There was no additional public comment.

A referral from the Essex IWWC: Robert Doane, P.E., wetlands field operative, reported that he the pool company will maintain the salt water and they do not back wash the filter, which is a cartridge filter that they remove and take off site, and replace with a new filter. The IWWC recommended:

1. Applicant shall install sedimentation and erosion control prior to the issuance of a zoning permit and maintain throughout construction.
2. Applicant should maintain existing vegetation and supplement with proposed vegetation.

Carey Duques, Essex Zoning Official reported that silt fence is proposed to be installed and a septic tank needs to be installed. As a result of the work being done, there is an existing outfall pipe in proximity to the septic which will require that the type of piping will be changed. The applicant is proposing a temporary stockpile area on the upland side of the river and they are proposing some planting along the perimeter of the property.

There was one letter submitted from the CT River Gateway Commission who does not oppose the granting of variance, noting that the visual impact is not significant.

There was no further comment from the Board.

MOTION made by W T Furgueson to close the public hearing on **Application No. 21-6** on behalf of Ava Shnidman, 42 Crosstrees Hill Road, Essex, CT, Assessor's Map 70, Lot 13, RU District at 8:04pm; **SECONDED** by W Feirer; **IN FAVOR:** W T Furgueson, P Schaller, P Beckman, W Feirer, R Rybak; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED** 5-0-0. No Discussion.

- **Application No. 21-7** on behalf of Brooke Adamson, 15 West Hills Road, Ivoryton, CT, Assessor's Map 36, Lot 29, RUM District, requesting variances to sections 40C, 40D, 40I.1 and 61B of the zoning regulations to allow an 8' x 12' shed to be located to a point one foot from the side property line where 30 feet is required.

Seated were W T Furgueson, P Schaller, W Feirer, G Wendell, R Rybak.

The property at 15 West Hills Road is 0.49 acre in size. It is a rhombus-like shaped lot in the Rural Residence Multi-Family District (RUM). The lot has an existing residence.

The applicant would like a shed proposed to be placed within 1-foot of the property line where 30 feet is required.

Brooke Adamson who presented on behalf of this application stated that she is requesting to install a shed for storage of yard and garden equipment. There is an existing one-car garage on the property and she stated that she parks a second car under the deck. B Adamson stated that the hardship surrounding this proposal is the topography of the land, noting that this is the only location on which to situate the shed.

Sylvia Rutkowski asked for clarification of the agenda re the location of the shed, which is noted as being located to a point one foot from the side property line where 30 feet is required. The application states 15 feet. The side setback requirement is 30 feet. The applicant clarified that the setback is 30 feet and amended her application to reflect the same.

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

There was no further comment from the Board.

There were no letters submitted on behalf of this application.

MOTION made by W T Furgueson to close the public hearing on **Application No. 21-7** on behalf of Brooke Adamson, 15 West Hills Road, Ivoryton, CT, Assessor's Map 36, Lot 29, RUM District d at 7:22pm; **SECONDED** by G Wendell; **IN FAVOR:** W T Furgueson, P Schaller, W Feirer, G Wendell, R Rybak; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED** 5-0-0. No Discussion.

- **Application No. 21-8** on behalf of Brad Tully, 9 Evans Lane, Essex, CT, Assessor's Map 46, Lot 4-1, VR District, requesting variances to sections 40D, 40E, 40I.1, 50D and 60B of the zoning regulations to allow a second story addition to a point 23.4 feet from the side property line where 25 feet is required.

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

The property at 9 Evans Lane is 0.86 acre in size. It is a rectangle shaped lot in the Village Residence District (VR). The lot has an existing residence.

The applicant would like to add a second story to the existing home where a point would be 23.4 feet from the side property line where 25 feet is required.

Brad Tully who presented on behalf of this application stated that there will be no change in the footprint of the house, and stated that he would like to add a small addition to build a second floor, which will not be the same square footage as the house. The addition will be around 600 s.f. and will be comprised of two bedrooms. Mr. Tully noted that the existing lot which is 36,000 s.f., is oddly shaped, and is only 103 feet in width, creates the hardship. The existing structure sits 23.5' from the neighboring property line, where 25 feet is required. The height will not exceed the minimum requirement.

C Duques stated that the structure is nonconforming and encroaches into the setback, and by expanding and going into that air space, the structure still encroaches in the setback by expanding up. C Duques stated that per the zoning regulations, expanding a nonconforming structure is not allowed.

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

There was one letter from the CT River Gateway Commission submitted on behalf of this application in which they stated that the (proposed) partial 2nd story is inconsequential in size, and this proposal will add little to no adverse impact with respect to the river scene. The Gateway Commission asked that the ZBA place a condition on the approval of a variance to limit the removal of any trees that would otherwise hide the construction from the view of the cove.

There was no further comment from the Board.

MOTION made by W T Furgueson to close the public hearing on at 7:28pm; **SECONDED** by W Feirer; **IN FAVOR:** W T Furgueson, P Schaller, W Feirer, P Beckman, R Rybak; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED** 5-0-0. No Discussion.

- **Application No. 21-9** on behalf of Margo Weitekamp, 24 Hemlock Drive, Essex, CT, Assessor's Map 74, Map 19, RU District, requesting a variance to section 101F.1(3) of the zoning regulations to remove vegetation within fifty feet of the coastal jurisdiction line.

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

The property at 24 Hemlock Drive is .3 acre in size. It is a rectangular lot that abuts South Cove along the south shore. From the street the land gradually slopes toward the house. The developed area is graded flat but on the east side the land slopes steeply to the waterline. A seawall exists between the cove and the developed rear yard. The rear property line is beyond the shoreline by approximately 10 to 15 feet (shoreline has curves). The lot has a single-family dwelling (with large deck and patio work) and a detached garage.

The applicant would like to remove vegetation within 50 feet of the coastal jurisdiction line.

Bill Ross with Sullivan Lawn Services who presented on behalf of this application stated that he was retained by the applicant to manage and conduct construction work related to the proposed pool. Two plans were presented to the ZBA, 1) a planting concept with a brief narrative; 2) a preliminary pool plan. Mr. Ross stated that he is here to respond to any questions related to vegetation within the 50 feet of the coastal jurisdiction line.

M Weitekamp stated that she proposes to remove invasive species and there will be no impact on the views. M Weitekamp spoke with Torrence Downes, CT River Gateway Commission who stated that it was important that the vegetation plan be discussed with the Board, for the record.

There was one letter from the CT River Gateway Commission submitted on behalf of this application stating that based on the proposed vegetation to be removed, they would not oppose the granting of the project. Gateway stated that they prefer installation of native, noninvasive species and recommended adequate E & S measures to be installed.

A referral from the Essex IWWC who reviewed the application and made the following suggestion:

1. Applicant shall place sedimentation and erosion control prior to the issuance of a zoning permit and maintain throughout construction.

Bill Ross stated that the disturbance will be confined to as small a space as possible.

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

There was no further comment from the Board.

MOTION made by W T Furgueson to close the public hearing on behalf of **Application No. 21-9** on for Margo Weitekamp, 24 Hemlock Drive, Essex, CT, Assessor's Map 74, Map 19, RU District at 7:37pm; **SECONDED** by P Beckman; **IN FAVOR:** W T Furgueson, P Schaller, W Feirer, G Wendell, P Beckman; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED** 5-0-0. No Discussion.

2. Regular Meeting

- **Application No. 21-5** on behalf of John Hajnal, 53 Main Street, Essex, CT, Assessor's Map 47, Map 20, EV District,

MOTION made by W Feirer to approve a Variance for **Application No. 21-5** on behalf of John Hajnal, 53 Main Street, Essex, CT, Assessor's Map 47, Map 20, EV District, requesting variances to sections 40C, 40D, 40I.1 and 70B of the zoning regulations to locate 7' x 20' concrete pad with a storage cooler to a point 2.5 feet from a side property line where 5 feet is required. The hardship surrounding this proposal relates to the property which predates zoning, and there are existing safety and health hazards that will be mitigated; This proposal is approved in accordance with the plans as submitted; **SECONDED** by P Schaller; **IN FAVOR:** W T Furgueson, P Schaller, R Rybak, P Beckman, W Feirer; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED** 5-0-0. **Discussion:** No discussion.

- **Application No. 21-6** on behalf of Ava Shnidman, 42 Crosstrees Hill Road, Essex, CT, Assessor's Map 70, Lot 13, RU District.

MOTION made by W Feirer to approve a Variance for **Application No. 21-6** on behalf of Ava Shnidman, 42 Crosstrees Hill Road, Essex, CT, Assessor's Map 70, Lot 13, RU District, requesting variances to sections 40D and 101E of the zoning regulations to allow for a patio, a swimming pool, a new septic system, accessory pool equipment and a new drainage pipe to be located within the Gateway Buffer Zone. The hardship associated with this application surrounds the topography of the land, the size of the lot and the location of the house. The CT River Gateway Commission has reviewed and approved this proposal with conditions, and the property owner has agreed to conform to the gateway request, with exception to their reference to plantings along the retaining wall. There is no retaining wall on this property. This proposal is approved in accordance with the plans as submitted; **SECONDED** by P Schaller; **IN FAVOR:** W T Furgueson, P Schaller, R Rybak, P Beckman, W Feirer; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED** 5-0-0. **Discussion:** Approval is conditioned on compliance of IWWC requirements; submission by the applicant of a construction sequence and E & S control measures.

- **Application No. 21-7** on behalf of Brooke Adamson, 15 West Hills Road, Ivoryton, CT, Assessor's Map 36, Lot 29, RUM District

MOTION made by W T Furgueson to approve a Variance for **Application No. 21-7** on behalf of Brooke Adamson, 15 West Hills Road, Ivoryton, CT, Assessor's Map 36, Lot 29, RUM District, requesting variances to sections 40C, 40D, 40I.1 and 61B of the zoning regulations to allow an 8' x 12' shed to be located to a point one foot from the side property line where 30 feet is required. The hardship associated with this proposal is the topography of the land and limited places on which to place the shed; This proposal is approved in accordance with the plans as submitted;

SECONDED by W Feirer; **IN FAVOR:** W T Furgueson, P Beckman, W Feirer, G Wendell, R Rybak; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED** 5-0-0. **Discussion.** No Discussion.

- **Application No. 21-8** on behalf of Brad Tully, 9 Evans Lane, Essex, CT, Assessor's Map 46, Lot 4-1, VR District

MOTION made by P Beckman to approve a Variance for **Application No. 21-8** on behalf of Brad Tully, 9 Evans Lane, Essex, CT, Assessor's Map 46, Lot 4-1, VR District, requesting variances to sections 40D, 40E, 40I.1, 50D and 60B of the zoning regulations to allow a second story addition to a point 23.4 feet from the side property line where 25 feet is required. The hardship associated with this variance is the size and shape of the lot which is preexisting to the zoning regulations; This proposal is approved in accordance with the plans as submitted; **SECONDED** by W T Furgueson; **IN FAVOR:** W. T. Furgueson, W Feirer, P Schaller, B Beckman, R Rybak; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED** 5-0-0. **Discussion:** No discussion.

Application No. 21-9 on behalf of Margo Weitekamp, 24 Hemlock Drive, Essex, CT, Assessor's Map 74, Map 19, RU District.

MOTION made by W Feirer to approve a Variance for **Application No. 21-9** on behalf of Margo Weitekamp, 24 Hemlock Drive, Essex, CT, Assessor's Map 74, Map 19, RU District, requesting a variance to section 101F.1(3) of the zoning regulations to remove vegetation within fifty feet of the coastal jurisdiction line. This proposal is a continuation of Application 21-1 which was approved for Variances at the January 19, 2021 ZBA meeting, based on the following hardship: The property slopes and the location of the septic limits the location for development. The variance is approved with the following condition; 1) the applicant will follow the direction of the wetlands enforcement agent and the guidance of the CT River Gateway Commission. This proposal is approved in accordance with the plans as submitted; **SECONDED** by W T Furgueson; **IN FAVOR:** W T Furgueson, P Schaller, P Beckman, W Feirer, G Wendell; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED** 5-0-0. **Discussion:** Approval is conditioned on compliance of IWWC requirements; Applicant shall place sedimentation and erosion control prior to the issuance of a zoning permit and maintain throughout construction.

3. New Business

W Feirer welcomed Carey Duques who has been hired to serve as the Essex Town Planner, Land Use Official, and Wetland Official, with Robert Doane, P.E. assisting as Ms. Duques' field operative.

4. Old Business

Approval of Minutes – January 2021.

MOTION made by W T Furgueson to table the review and approval of the January 2021 Minutes; **SECONDED** by W Feirer; **IN FAVOR:** W. T. Furgueson, W Feirer, P Schaller, P Beckman, R Rybak, G Wendell; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED** 6-0-0. **Discussion:** The audio will be reviewed to clarify the hardship surrounding a variance granted at the January 19, 2021 meeting

for **Application No. 21-9** on behalf of Margo Weitekamp, 24 Hemlock Drive, Essex, CT, Assessor's Map 74, Map 19, RU

a. Other

There was no other business.

5. Correspondence and Invoices

There was no correspondence and there were no invoices.

6. Adjournment

MOTION made by W T Furgueson to adjourn the meeting at 8:29 pm to the next regularly scheduled meeting which will be held on Tuesday, March 16, 2021 at 7:00 p.m., location TBD; **SECONDED** by G Wendell; **IN FAVOR:** W. T. Furgueson, W Feirer, P Schaller, P Beckman, R Rybak, G Wendell; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED** 6-0-0. No Discussion

Respectfully submitted,
Stella A. Caione
Stella A. Caione, Recording Clerk