



TOWN OF ESSEX  
**Zoning Board of Appeals**

**Executive Board**  
*W. T. Furgueson, Chair*  
*W Feirer, Vice Chair*  
*Philip J Schaller, Secretary*

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**Regular Members**  
*B. Sarrantonio*  
*Philip J Beckman*

**Alternate Members**  
*George Wendell*  
*Richard Rybak*  
*Susan Feaster*

**Unapproved**

**Minutes**  
**April 18, 2023 – Zoning Board of Appeals**

**Call to Order and Seating of Members**

The Essex Zoning Board of Appeals conducted their regularly scheduled meeting on Tuesday, April 18, 2023 at 7:00 p.m. at the Essex Town Hall, Meeting Room A and also public access via online through Zoom. Members in attendance were B Sarrantonio, W Feirer, P Schaller, P Beckman, S Feaster and R Rybak.

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

Barbara Sarrantonio stated that there are members on the Board who have a relationship with the applicant, Keith Crehan, who utilize Mr. Crehan's services of tax preparation. The Board would like to hear from anyone who has objections to the participation of those Board members.

Michael Tevis, 1 Foxboro Road spoke and asked that the relationship be disclosed and felt that those with a relationship should recuse themselves.

Vice Chairperson, Ward Feirer recused himself from this application.

B Sarrantonio stated that if there are four voting members, the vote must be unanimous in order for this application to be approved.

The applicant was presented with options for a continuance. Attorney Cassella stated that his client wishes to move forward this evening.

Attorney Rutkowska advised that if the applicant requests a continuance, the Board members who are absent from this evening's meeting may listen to this evening's audio prior to the May 16, 2023 ZBA meeting.

Keith Crehan stated that the Board members have no direct financial interest in this proposal.

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.

## 1. Public Hearing

**Application No. 23-01** on behalf of Essex House, LLC, **63 South Main Street, Essex, CT**, Assessor's Map 46 Lot 33, RU District, requesting variances to Sections 40B, 40E and 61B for the creation of three (3) lots 40,537 sq ft each where 80,000 sq ft is required, and 2 lots having a lot width of 144.5 ft and 1 lot having a lot width of 124.5 ft where 150 feet is required. *(Item continued from March 21, 2023)*

Seated for this application, Barbara Sarrantonio, Philip Beckman, Phillip Schaller, Richard Rybak, Sue Feaster. W Feirer recused himself from the meeting.

This application is to request variances to allow the creation of three lots (undersized for the district) out of the one existing lot. Currently 63 South Main Street is 2.79 acres. The zone is Rural Residence which has a minimum lot size of 80,000 sq ft and min lot width of 150 ft. There are variance requests for both of these since the proposal is to have three lots that are 40,000 sq ft each and two of the three would be less than the 150 ft in width.

The applicant is making the argument that the property currently contains non-conforming structures, three buildings which include residences, more than one single family dwelling results in a non-conforming use, and the structures do not meet the setback requirements.

Reducing a nonconformity in exchange for a variance is an option as opposed to providing a hardship. The discuss should be around if the variance satisfies two basic requirements:

- 1) The variance must be shown not to affect substantially the comprehensive plan; and
- 2) Adherence to the strict letter of the zoning ordinances must be shown to cause unusual hardship, unnecessary to the carrying out of the general purposes of the zoning plan

**Previous variance requests:** ZBA #21-46 (withdrawn); previous dates 12/4/21, 2/4/05, 11/1/05

Attorney Ed Cassella who presented stated that the applicant would like to be able to create 3 single-family building lots on this property and noted that he is working with the health department to resolve questions and suggestions. E Cassella noted submission of the updated plans containing additional data of items previously discussed.

This parcel is located on the east side of south Main Street and is comprised of a large residential building, a 3-family apartment building, a single family house, and an accessory garage-type building. The approved uses of the property, some of which are pre-existing non-conforming include medical use/group home with four, family residential units, and an accessory building. The applicant is seeking to eliminate existing buildings on the property and create 3 structures at 40,537 square feet each. Variances are needed for lot size and for lot width. E Cassella noted that if variances are approved, the applicant will then go before the Planning and Zoning Commission for approval of a subdivision proposal. Subdivision criteria is defined by dividing a property into more than 2 lots.

E Cassella stated that he is seeking a reduction in a nonconformity. The subject property is currently a nonconforming use of a 3-family structure. This property will be three, single-family uses which is allowed in the zone, and this proposal will eliminate four properties. The existing buildings are nonconforming, and the apartment with garage is located 1.7' off the property line. The house is also nonconforming, as is the garage. Those structures will be removed as part of this application and the proposed buildings will all be conforming, which E Cassella noted, is the legal basis of the granting of a variance. This proposal is consistent with the Plan of Conservation and Development. E Cassella stated that this proposal provides the opportunity to reduce a number of nonconformities from a use perspective, and lot area, and lot width are the nonconformities that are being introduced with this application. This proposal will go from five uses to three, which is a reduction in nonconformity.

C Duques stated that the Sanitarian reported that three septic systems are expected to work on this property; however a written approval has not been provided.

B Sarrantonio asked if anyone wished to speak in favor or in opposition of this proposal.

Michael Furgueson, 30 Mack Lane, stated that he would support a change from the current use. M. Furgueson stated that there are more nonconformities that will be decreased, than exist currently, and the use is more in keeping with the current zone. M Furgueson questioned if reduction in a nonconformity is a hardship or an offset.

Attorney Rutkowska stated that a reduction of a nonconformity is not a traditional hardship, however it is an alternative to a hardship. If there is hardship proved with an application, and a consistency with the comprehensive Plan, the ZBA will grant a variance. S Rutkowska went on to say that a reduction of a nonconformity allows the ZBA to grant a variance, however it does not require the Board to do so.

Paul Greenberg, 26 Mack Lane, whose house abuts rear portion of the property, commented. P Greenberg stated that he is in favor of this proposal which will create better aesthetics for the Town, and an improvement of the neighborhood, noting that this proposal for construction of three homes will fit in with the neighborhood. Mr. Greenberg stated that there has been an ongoing issue with trash blowing from that property onto his. The previous owners agreed to install a fence or arborvitae to act as a screen between the two properties. Mr. Greenberg requested as a condition of approval of a variance, the Board build in language for installation of fencing or some type of barrier, or Arborvitae installed.

Gary Dayharsh, 45 Main Street, stated that all three of the existing buildings are not attractive, and this proposal offers a big improvement.

Rick Weiner, Broker with William Pitt Sotheby's, and Essex resident, stated that he represents the seller of the property, and speaking as a resident and realtor of long-standing in the community, R Weiner stated this is the best proposal that he has heard for this property, noting that all others are high density. Mr. Weiner stated that this is a great use for the property. There will be minimal removal of trees, etc. and this is a win for the Town, and the best possible outcome.

B Sarrantonio asked if anyone wished to speak in opposition.

Speaking in opposition; Mike Tevis, Tevis Holdings LP, 1 Foxboro, stated that he is a low-income housing advocate. Mr. Tevis stated that he owns #2 and #4 Main Street and his rents would qualify as affordable housing. Mr. Tevis noted that there are four rentable structures on the proposed property, and granting this variance is spot zoning, which stands to create a precedent. M Tevis stated that we need more affordable housing and stated that he cannot see a hardship associated with this proposal.

R Weiner, stated that M Tevis is a competing buyer who has proposed dense property, which would increase the concentration of buildings on this property.

M Tevis, stated that he made an offer and was in contract with the previous owner, however he is not interested in the property at this time.

There was a letter submitted on behalf of this application from The CT River Gateway Commission stating no objection to this proposal. The three structures are proposed to be far enough away from the cove so as to not create ecological concerns. The Gateway Commission noted that a more detailed report may occur pending the Planning and Zoning meeting on this application.

E Cassella stated that there is no hardship, however there are unique nuances that apply to these proposed homes to include reduction of nonconformity.

**MOTION** by Susan Feaster to close public hearing on **Application No. 23-01** on behalf of Essex House, LLC, **63 South Main Street, Essex, CT**, Assessor's Map 46 Lot 33, RU District, requesting variances to Sections 40B, 40E and 61B for the creation of three (3) lots 40,537 sq ft each where 80,000 sq ft is required, and 2 lots having a lot width of 144.5 ft and 1 lot having a lot width of 124.5 ft where 150 feet is required at 8:06pm p.m.; **SECONDED** by P Beckman; **IN FAVOR**; Sarrantonio, P Beckman, P Schaller, R Rybak, S Feaster; **OPPOSED**: None; **ABSTAINING**: None; **MOTION CARRIED** 5-0-0. **Discussion**: No further discussion.

## 2. Regular Meeting

Discussion and Possible Decision on Application for **Application No. 23-01** on behalf of Essex House, LLC, **63 South Main Street, Essex, CT**.

R Rybak stated that disposing of the current existing structures will be a benefit to the town.

P Beckman stated that this proposal presents reduction to significant nonconformities and noted that there are other properties that would be more conducive to affordable housing.

S Feaster stated that she appreciates the reduction of nonconformity, and the intent surrounding the occupants of the property.

P Schaller stated that there is not a hardship associated with this proposal, and noted that a proposal comprised of two proposed homes vs three proposed homes, would be preferable. P Schaller stated that he has no objection to this proposal.

B Sarrantonio stated that she is in favor of affordable and subsidized housing, however affordable housing is not part of this application. B Sarrantonio stated that this proposal does present a significant reduction of nonconformities, and that is grounds for granting a variance.

**MOTION** made by P Beckman to approve a variance application for **Application No. 23-01** on behalf of Essex House, LLC, **63 South Main Street, Essex, CT**, Assessor's Map 46 Lot 33, RU District, requesting variances to Sections 40B, 40E and 61B for the creation of three (3) lots 40,537 sq ft each where 80,000 sq ft is required, and 2 lots having a lot width of 144.5 ft and 1 lot having a lot width of 124.5 ft where 150 feet is required. Variance is approved based on the significant reductions in nonconformities, with the following conditions: (a) approval from the Health Department and the Planning and Zoning Commission; (b) arborvitae or fence buffer between 63 South Main Street and 26 Mack Lane; This proposal is approved in accordance with the plans as submitted; **SECONDED** by R Rybak; **IN FAVOR:** B Sarrantonio, P Schaller, P Beckman, S Feaster, R Rybak; **ABSTAINING:** None; **MOTION CARRIED 5-0-0.** **Discussion:** No further discussion.

**3. Old Business**

Approval of Minutes – March 21, 2023

**MOTION** made by P Beckman to table the review of the March 21, 2023 Minutes; **SECONDED** by S Feaster; **IN FAVOR:** B Sarrantonio, P Schaller, P Beckman, S Feaster, R Rybak, W Feirer; **ABSTAINING:** None; **OPPOSED:** None; **MOTION CARRIED 6-0-0.**  
**Discussion:** No further discussion.

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

**5. Correspondence** – There was no correspondence.

**6. Adjournment**

**MOTION** made by P Beckman to adjourn the meeting at 8:16 pm to the next regularly scheduled meeting which will be held on Tuesday, May 16, 2023 at 7:00 p.m., at the Essex Town Hall and accessible via online. Refer to Town of Essex website for the Zoom link and related information; **SECONDED** by S Feaster; **IN FAVOR:** B Sarrantonio, P Schaller, P Beckman, R Rybak, S Feaster, W Feirer; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED 6-0-0.**  
**Discussion:** No further discussion.

Respectfully submitted,

Stella A Caione, Recording Clerk