



TOWN OF ESSEX
Zoning Board of Appeals

Executive Board
W. T. Furgueson, Chair
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Philip P Schaller, Secretary

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Regular Members
B. Sarrantonio
Philip J Beckman
Alternate Members
George Wendell
Richard Rybak

Unapproved

Minutes
May 18, 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, May 18, 2021 at 7:00 p.m. This meeting was made available to the public via Zoom.

[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. Furgueson, P Schaller, R Rybak, P Beckman. B Sarrantonio joined the meeting at 7:10pm. G Wendell joined the meeting at 7:15pm.

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

EZBA Chairman W T Furgueson 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 5 audience members present.

2. Public Hearing

- **Application No. 21-17** on behalf of Kevin Morrissey, 95 Book Hill Road, Essex, CT, Assessor's Map 6 Lot 12-1, RU District, requesting variances to sections 40C, 40D, 40I.1,

61B of the zoning regulations to add a garage to be 8.2 feet from the side property line where 30 feet is required and coverage of 18.9% where 15% is allowed.

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

This is a continuation from the April 20, 2021 meeting. The applicant did not request a variance for coverage which is also required for the proposed garage addition. This application is for a garage addition to an existing single-family home that would be 8.2 feet from the side property line where 30 feet is required. And lot coverage would be 18.9%.

At the April 20, 2020 meeting lot coverage was not addressed in the application. C Duques suggested that this petition be continued to this evening's meeting so as to address the coverage. The applicant was offered to amend his current application to update the potential problem areas, to include coverage and update the requested variances. It was questioned if the applicant has considered reducing the existing nonconformities. There are two sheds on the property. The applicant requested to have this petition continued to this evening's meeting.

Carey Duques reported that difference in this application is there is clarification to include variance request for coverage at 18.9% and requested setback is 8.2 feet. The previous application did not include coverage, otherwise the details in the previous application are the same; the previous application was a proposal for location of a garage 8 feet from property line, and this application is for was to add a garage to be 8.2 feet from the side property line.

Kevin Morrissey who presented stated that there is an existing structure on the property which is currently not large enough to house a car. The ceiling height is at 7 feet which would not accommodate a small vehicle. Mr. Morrissey submitted an option which was to take what was left of the garage and bump it out. However, in order to make the swing to access the proposed garage, a number of trees would need to be removed, which would have more impact on the property than the current proposal. Mr. Morrissey stated that the other nonconforming structures on the property were existing when he purchased the property and noted that one shed is one foot into the setback, and the other shed which is situated on the side of the property, is only 6 feet from the side setback, where 30 feet is required. Mr. Morrissey stated that he consulted with the department of public health and it was stated by health official that only other location for that shed would be to in the area of the leach field which is not recommended. Mr. Morrissey stated that all of the surrounding properties have the benefit of a garage, and all of which are situated well within the setback. Mr. Morrissey stated that he is not asking for anything that is not typical within this neighborhood. The proposed garage will be a one-story structure.

Letter dated May 13, 2021 received from Attorney Terrance Lomme was submitted in which Attorney Lomme states that the applicant's property has intrusions into three setbacks in that Mr. Morrissey's house is situated in the front setback, there is a shed in the south side setback, and another shed in the rear setback, situated on the south side, which is not allowed, per Attorney Lomme. Attorney Lomme stated that said shed is not shown on the 2016 aerial map but is visible on the 2019 aerial, and thus the shed must have been placed there between 2016 and 2019, some two or three years after he purchased the property.

Mr. Morrissey stated that when he purchased the property the neighbor to the left of his property who was moving, gave him the shed which was always situated in its current location. Mr. Morrissey stated that he has not moved the shed other than to turn the structure so that the door is facing his property. This shed has been in the same spot for as long as he has owned the house. Mr. Morrissey stated that he would consider the removal of that shed if allowance of the construction of the garage were conditioned on removal of the shed.

Letter received from CT River Gateway Commission in which it is stated that the construction of a two-car garage will not be seen from the CT River or coves of Essex to the location of the property and the surrounding structures and trees. Members of the Gateway Commission would not oppose the granting of the requested variances.

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

Attorney Terrance Lomme on behalf of Mrs. Virginia Connor, 97 Book Hill Road, stated that two thirds of the proposed garage are in the setback and this proposal creates a substantial intrusion into Ms. Connor's property. Attorney Lomme noted that if this proposal is allowed, there would be intrusions on every side of the applicant's property and he noted that the hardship is self-created. Attorney Lomme stated that the proposed garage is as big as Ms. Connor's house. The proposal is 816 sf, it is 77% in the setback and it dramatically increases the size and coverage of this house. Attorney Lomme stated that situating this garage 8 feet from the fence line and will dominate Ms. Connor's property, noting that this proposal is too much, too big and too close. There is no hardship and if there is, it is self-created.

There was no further public comment and no further comment from the Board.

MOTION made by W T Furgueson to close the public hearing for **Application No. 21-17** on behalf of Kevin Morrissey, 95 Book Hill Road, Essex, CT, Assessor's Map 6 Lot 12-1, RU District at 7:40pm; **SECONDED** by P Schaller; **IN FAVOR:** W T Furgueson, B Sarrantonio, P Schaller, P Beckman, R Rybak; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED** 5-0-0. No Discussion.

- **Application No. 21-22** on behalf of Laura Lewis, 12 Blake Street, Ivoryton, CT, Assessor's Map 58, Lot 6, VR District, requesting variances to sections 40C, 40D, 40E, 40Q, of the zoning regulations to locate an above ground pool to be located 16 feet from the side property line where 20 feet is required for a pool.

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

This application is for an above ground pool that would be 16 feet from the side property line where 20 feet is required.

Laura Lewis who presented stated that she would like to install a pool and spoke with the neighbor at 10 Blake Street who stated no opposition to the location of this pool. The lot is rectangular and about 65 feet in width. Ken Lewis stated that the front of this property is narrower than the back and the proposed location is level and would accommodate the proposed pool.

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 for **Application No. 21-22** on behalf of Laura Lewis, 12 Blake Street, Ivoryton, CT, Assessor's Map 58, Lot 6, VR District, at 7:46 pm; **SECONDED** by P Beckman; **IN FAVOR:** W T Furgueson, P Schaller, B Sarrantonio, R Rybak, P Beckman; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED** 5-0-0. No Discussion.

- **Application No. 21-23** on behalf of Kathy and Larry Heebner, 18 Cedar Street, Centerbrook, CT, Assessor's Map 43, Lot 73, VR District, requesting variances to sections 40D, 40E, and 60B of the zoning regulations to build a deck and allow an increase in coverage to 12.3% where 10% is allowed.

Seated were W T Furgueson, P Schaller, B Sarrantonio, P Beckman, W Feirer.

This application is for a deck addition to an existing single-family home that would increase the lot coverage to 12.3% where 10% is allowed.

Previous variance request, #90-19, was granted June 29, 1990, allowing Lot 26 to be created as a separate parcel from the adjacent land because the lot was pre-existing non-conforming.

Larry Heber who presented on behalf of this application stated that there is no level area on this property. Mr. Heber stated that his 93-year-old father just moved in and he cannot walk in the yard. The abutting neighbors have stated no objections and have submitted letter to that affect. This proposal would add value to the house and to the neighborhood, in general. There is no level area on the property due to the slope. This variance request is for coverage and they comply with setbacks.

Mr. Heber stated that the proposed deck will be 29 feet length and 12 feet in width. Attorney Rutkowska stated that the plan must be consistent with what the application states. Attorney Rutkowska suggested that if the Board is considering the granting of a variance, as a condition of approval, it should be stated in the approval that the applicant should file plans with the proposal as presented this evening.

Attorney Rutkowska recommended that the articulation would include that the proposal is not to exceed 12.3%, and the Board is approving the coverage that will be shown on the revised plan with the dimension going straight down to the house.

Letters of support submitted from 16 Cedar Street, 15 Earl Street, 20 Cedar, 14 Cedar Street.

W T Furgueson asked if anyone wished to speak in favor or in opposition to this application. There were no comments.

MOTION made by W T Furgueson to close the public hearing for **Application No. 21-23** on behalf of Kathy and Larry Heebner, 18 Cedar Street, Centerbrook, CT, Assessor's Map 43, Lot 73, VR District, at 7:57pm; **SECONDED** by P Schaller; **IN FAVOR:** W T Furgueson, B Sarrantonio, R Rybak, P Schaller, P Beckman; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED** 5-0-0. No Discussion.

- **Application No. 21-24** on behalf of Jon and Kelly Larson, 15 High Street, Essex, CT, VR District, Assessors Map 27 Lot 74, requesting variances to sections 40C, 40D, 40E, 50D, 60B to rebuild a deck located within 11.6 feet from the side property line where 25 feet is required and increase coverage to 14% where 10% is allowed.

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

This application is for a deck addition to an existing single-family home that would increase the lot coverage to 14% where 10% is allowed and allow for a setback of 11 ft 6 inches where 25 feet is required.

Previous variance request, #16-17, was granted on July 19, 2016 allowing a second-floor expansion into the front yard setback and to allow front porch addition into the front yard setback 12'3", and also allow for an increase in coverage from 12.4% to 13.1%.

Jon Larson who presented stated that he purchased the house 4 years ago and it was in a state of serious disrepair. Mr. Larson is in-process of rehabbing the house and in order to do the necessary repairs, he stated that he had to take down the deck. The previously granted variance was at 13.1% and this is a .9% increase to that proposal. Mr. Larson noted that he wants to square the deck and he stated that the house was built in 1854, and the entire house is situated within the setback.

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

Letter received from the CT River Gateway Commission in which it is stated that the proposal for enlargement of the open deck will not create a negative impact and members of the Gateway Commission would not oppose the granting of the requested variances.

There was no further comment from the Board.

MOTION made by W T Furgueson to close the public hearing for **Application No. 21-24** on behalf of Jon and Kelly Larson, 15 High Street, Essex, CT, VR District, Assessors Map 27 Lot 74, at 8:03pm; **SECONDED** by P Beckman; **IN FAVOR:** W T Furgueson, B Sarrantonio, R Rybak, P Schaller, P Beckman; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED** 5-0-0. No Discussion.

2. Regular Meeting

- Variance **Application No. 21-17** on behalf of Kevin Morrissey, 95 Book Hill Road, Essex, CT, Assessor's Map 6 Lot 12-1, RU District.

It was noted that the removal of the shed is not a part of the application. The only relevance to the sheds is if the applicant is proposing to move them. The original listing on Realtor.com reflected that the property was marketed with a 2-car garage. It was noted that the existing garage is a vintage garage, and by current standards would not be acceptable.

MOTION made by B Sarrantonio to deny a Variance **Application No. 21-17** on behalf of Kevin Morrissey, 95 Book Hill Road, Essex, CT, Assessor's Map 6 Lot 12-1, RU District, requesting variances to sections 40C, 40D, 40I.1, 61B of the zoning regulations to add a garage to be 8.2 feet from the side property line where 30 feet is required and coverage of 18.9% where 15% is required. The granting of a variance is denied because there are reasonable alternatives that are less intrusive and less in violation of the Essex zoning regulations; **SECONDED** by W T Furgueson; **IN FAVOR:** W T Furgueson, P Schaller, B Sarrantonio, P Beckman, R Rybak; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED 5-0-0. Discussion:** No discussion.

- **Application No. 21-22** on behalf of Laura Lewis, 12 Blake Street, Ivoryton, CT, Assessor's Map 58, Lot 6, VR District

It was noted that the topography of the land is difficult and the narrow lot creates a hardship. There are no alternative locations on which to install the pool.

MOTION made by W T Furgueson to approve a Variance for **Application No. 21-22** on behalf of Laura Lewis, 12 Blake Street, Ivoryton, CT, Assessor's Map 58, Lot 6, VR District, requesting variances to sections 40C, 40D, 40E, 40Q, of the zoning to locate an above ground pool to be located 16 feet from the side property line where 20 feet is required for a pool. The hardship associated with this application is the narrowness of the lot and the topography of the land; This proposal is approved in accordance with the plans as submitted; **SECONDED** by P Schaller; **IN FAVOR:** W T Furgueson, P Schaller, B Sarrantonio, P Beckman, R Rybak; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED 5-0-0. Discussion:** No discussion.

- **Application No. 21-23** on behalf of Kathy and Larry Heebner, 18 Cedar Street, Centerbrook, CT, Assessor's Map 43, Lot 73, VR District.

It was noted that the lot is sloped and there is no feasible location on which to place a patio.

MOTION made by P Schaller to approve a variance for **Application No. 21-23** on behalf of Kathy and Larry Heebner, 18 Cedar Street, Centerbrook, CT, Assessor's Map 43, Lot 73, VR District, requesting variances to sections 40D, 40E, and 60B of the zoning regulations to build a deck and allow an increase in coverage to 12.3% where 10% is allowed. A contingency of this variance is a portion of the deck will not be constructed and the issuance of a variance is contingent on submission of revised plans to the zoning enforcement officer. The hardship associated with this proposal surrounds the topography of the land and the lot size being significantly smaller than what is required by current zoning regulations. The size of the deck is of reasonable dimensions and square footage. This proposal is approved in accordance with the requisite submission of revised plans to the zoning enforcement officer; **SECONDED** by W T Furgueson; **IN FAVOR:** W. T. Furgueson,

Schaller, R Rybak, B Sarrantonio, P Beckman; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED 5-0-0. Discussion:** No discussion.

3. New Business

There was no new business.

4. Old Business

Approval of Minutes – April 20, 2021.

MOTION made by W T Furgueson to approve the April 20, 2021 Minutes as presented; **SECONDED** by R Rybak; **IN FAVOR:** W. T. Furgueson, R Rybak, P Schaller, B Sarrantonio, P Beckman; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED 5-0-0. Discussion:** No further discussion.

a. Other

It was noted that the country will begin the process of re-opening as Covid-19 pandemic restrictions lighten. Members agreed that they would like to resume in-person, monthly ZBA meetings. Carey Duques, Zoning Enforcement Officer will inquire of the Selectman's office if in-person meetings at the Essex Town Hall is permissible, beginning in June 2021.

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 8:20 pm to the next regularly scheduled meeting which will be held on Tuesday, June 15, 2021 at 7:00 p.m., location TBD; **SECONDED** by B Sarrantonio; **IN FAVOR:** W. T. Furgueson, R Rybak, P Schaller, B Sarrantonio, P Beckman; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED 5-0-0. No Discussion.**

Respectfully submitted,
Stella A. Caione
Stella A Caione