



TOWN OF ESSEX
Zoning Board of Appeals

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

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

Regular Members
B. Sarrantonio
Philip J Beckman

Alternate Members
George Wendell
Richard Rybak
Susan Feaster

Unapproved

Minutes
September 20, 2022 – Zoning Board of Appeals

Call to Order and Seating of Members

The Essex Zoning Board of Appeals conducted their regularly scheduled meeting on Tuesday, September 20, 2022 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 W T Furgueson, B Sarantonio, W Feirer, P Schaller, P Beckman, and S Feaster.

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

W T Furgueson welcomed everyone to the Essex Zoning Board of Appeals meeting.

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

Public Hearings

Application No. 22-06 on behalf of Patrick & Susanna Smith, 50 Crosstrees Hill Rd., Essex,CT, Assessor's Map 70 Lot 8, RU District, requesting variances to Sections, 40D, 40E, 101.E For a pergola and greenhouse where a chicken coop was removed. The applicant has requested a continuance.

MOTION made by W T Furgueson to continue the Public Hearing for **Application No. 22-06 on behalf of Patrick & Susanna Smith, 50 Crosstrees Hill Rd., Essex, CT,** Assessor's Map 70 Lot 8, RU District, requesting variances to Sections, 40D, 40E, 101.E, for a pergola and greenhouse where a chicken coop was removed; **SECONDED** by W Feirer; **IN FAVOR:** W T Furgueson, B Sarantonio, W Feirer, P Schaller, P Beckman; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED 5-0-0. Discussion:** No further discussion.

1. Public Hearings

Application No. 22-07 on behalf of Kristine Thomas, 5 River Road Essex,CT, Assessor's Map 17 Lot 4, RU District, requesting variances to Sections, 40C, 40D, 40E,50D and 61B for an addition to an existing home to have a setback of 14.4 feet where 30 feet is required. Continued from the August 2022 Public Hearing.

This application is for an addition to be attached to the existing home, to be located 14.4 ft off the property line where 30 feet is required. The existing house is located 22.5 ft off the property where 30 ft is required.

A prior variance was issued in 2016 for an addition that is almost identical to the existing variance request. However, the addition was not constructed, and the new request is slightly less non-conforming than the original variance granted in 2016.

The parcel is 0.36 ac/15,681 sq ft, which is undersized for the zone which requires min of 80,000 sq ft/1.8 ac. The lot is 98 ft wide at the street which is also undersized for the zone which requires 150 ft.

Previous variance requests: ZBA #16-12 June 21, 2016 approved for an addition to the existing structure.

Hope Proctor, architect testified at the August 16, 2022 ZBA meeting that a variance fore side yard setback is requested along the south edge of the property line. The existing house has an existing nonconforming setback of 22.5' off the property line where 30'.0" is required. The proposal is to add an addition to the back of the house which would be within the side yard setback putting it at 14.4' off the property line. The property has a previously approved variance for a side yard setback of 13.1' and Ms. Proctor is seeking approval to reduce the approved non-conformity of the side yard setback from 13.1 to 14.4' off the property line.

This evening Ms. Proctor stated that she is amending **Application 22-07** to add section 40I.1 of the Essex zoning regulations. H Proctor stated that in 2016 she sought a variance for a side yard setback of 15 feet and at that time there was a fairly large, detached garage on the property. As a condition of the previously granted variance, the applicant agreed to remove the existing garage with that variance, and move the proposed addition 13 feet in from the property line. H Proctor indicated that the variance was approved, however the applicant decided to postpone the construction of the addition and complete the other renovations, at that time.

Ms. Proctor stated that she is here this evening with a request to build a slightly smaller, similar addition, which further encroaches on the nonconforming lot to 14 feet, and she is seeking permission to change the variance. This proposal reduces a nonconformity.

It was suggested that the applicant consider abandoning the 2016 variance as a contingency of approval.

Attorney Rutkowska stated that there is not a stipulation with regard to abandonment. A condition would be to request that the applicant is intending to abandon the 2016 variance, if this variance is granted. If it is denied, then the 2016 variance remains in play. Attorney Rutkowska advised that the Board needs to know what the intention is related to the 2016 variance.

Attorney Rutkowska suggested that if it is the wish of the applicant, Ms. Proctor should, at this time request to amend the application to add Section 40I.1, and further suggested to continue the hearing.

Attorney Rutkowska stated that the Board has the authority to determine if this is an amendment to the existing variance, or a new variance. It can be called the same thing if the change is considered to be substantial.

MOTION made by B Sarrantonio to amend **Application No. 22-07** on behalf of **Kristine Thomas, 5 River Road Essex,CT**, Assessor's Map 17 Lot 4, RU District, requesting variances to Sections, 40C, 40D, 40E,50D and 61B for an addition to an existing home to have a setback of 14.4 feet where 30 feet is required, to include a reference to Section 40I.1 of the Essex Zoning Regulations; **SECONDED** by P Beckman; **IN FAVOR:** W T Furgueson, B Sarantonio, W Feirer, P Schaller, P Beckman; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED 5-0-0.**
Discussion: No further discussion.

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

Francis and Dorene Grasso, 1 River Road presented. F Grasso stated that he has lived in his current home for the past 5 years. He indicated that the previous owner was not available to participate in the proceedings surrounding the consideration and subsequent approval of the 2016 variance proposal. F Grasso stated that the applicant received approval 6 years ago, and

per Section 140J of the Essex zoning regulations, this variance should have expired, as it is not a variance until the construction is complete. F Grasso stated that the variance should have terminated in accordance with the Essex Zoning Regulations.

S Rutkowska stated that 140J is subject to Interpretation by Carey Duques, the zoning enforcement officer (ZEO). C Ducques determined that the variance did not expire. Attorney Rutkowska went on to say that this is not a decision the Board can make, however it is only the ZEO who can make that determination.

F. Grasso stated that it is specifically listed in the application that the variance terminates if construction does not occur within one year.

Attorney Rutkowska stated that we are not here this evening on an appeal of any type, and she clarified that she wishes to be certain that the issues are not being muddled.

W T Furgueson stated that the Board cannot overrule Ms. Duques at this Hearing. W Furgueson stated that the Board is not here to make a decision on what Ms. Ducques ruled, and the Board is not here to discuss the approved 2016 variance. Mr. Furgueson stated that the Board needs to look at all options, and this hearing is for a variance for a change in the building.

C Duques stated that the 2016 variance is still in play and the applicant received a variance to build. If they wish to start the construction, Ms. Duques will then sign off.

F. Grasso read into the record a superior court ruling related to nonconformity.

This testimony has been entered into the record as, Exhibit A: "Statement in Opposition to Thomas Zoning Variance Application from Frank and Dorene Grasso, property owners, 1 River Road, Essex CT".

H Proctor stated that the applicant is making an effort to create a smaller structure, and improve upon the variance. The second-floor addition is smaller than it was in the original proposal.

Robert Surdam, 4 River Road stated that a variance is allowed based on a hardship, and Mr. Sundam questioned the associated hardship to this proposal.

Attorney Rutkowska noted that a reduction of a nonconformity, along with the other variables, is sufficient basis for Board to grant a variance.

W Feirer stated that the Board is not here to discuss why the 2016 variance was granted, however they are here to consider the proposal before the Board.

Board members were presented with additional materials relevant to this application and it was noted that additional time would be needed to read and review this documentation.

MOTION made by W Feirer to continue the Public Hearing for **Application No. 22-07 on behalf of Kristine Thomas, 5 River Road Essex, CT**, Assessor's Map 17 Lot 4, RU District, requesting variances to Sections, 40C, 40D, 40E, 50D and 61B for an addition to an existing home to have a setback of 14.4 feet where 30 feet is required; **SECONDED** by W T Furgueson; **IN FAVOR:** W T Furgueson, B Sarantonio, W Feirer, P Schaller, P Beckman; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED** 5-0-0. **Discussion:** No further discussion.

Application No. 22-08 on behalf of Lynn Cochrane, 51 Comstock Ave, Ivoryton, CT, Assessor's Map 57 Lot 45, VR District, requesting variances to Sections 40D, 40E, 50D, and 60B for reconstruction of a barn that will be demolished and made more conforming.

This application is for construction of a new barn. The existing shed/barn, which is non-conforming, is proposed to be demolished and the new barn will meet the setback requirements, but will cause an increase in the coverage of the lot, exceeding 10% by 0.43.

A prior variance was issued in 2020 for an addition to a shed 11 feet from a side property line where 25 feet is required and to allow an increase in building coverage to 11.89% where 10% is allowed. However, the addition was not constructed. The property owner would like to demolish the existing shed and building a new barn in the proposed conforming location, with a variance request for an increase in coverage.

The parcel is 0.50 ac/21,780 sq ft, which is undersized and nonconforming for the zone which requires min of 60,000 sq ft/1.37 ac. The lot is 90 ft wide at the street which is also undersized for the zone which requires 120 ft.

Previous variance requests: ZBA #20-26 December 15, 2020 approved for an addition to the existing structure and an increase in coverage to 11.89%.

Joe Shay, AJ Shay construction who presented on behalf of this proposal stated that there is an existing shed/barn situated in the setback. There was a prior variance granted in 2020, and the applicant is proposing to construct a new building and workshop, so it is conforming with size and sides. Mr. Shay stated that there is one small existing lot coverage which will go from 10.4 to 10.43 at 3/10's increase; the previously approved was 11.07. J Shay stated that the hardship is that the lot was subdivided and the old barn became a nonconforming use because of the subdivision.

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

There was no public comment.

There were no letters submitted.

No further comments from the Board members.

MOTION made by W T Furgueson to close the Public Hearing at 8:22pm, for **Application No. 22-08** on behalf of **Lynn Cochrane, 51 Comstock Ave, Ivoryton, CT**, Assessor's Map 57 Lot 45, VR District, requesting variances to Sections 40D, 40E, 50D, and 60B for reconstruction of a barn that will be demolished and made more conforming; **SECONDED** by B Sarrantonio; **IN FAVOR:** W T Furgueson, B Sarantonio, W Feirer, P Schaller, P Beckman; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED 5-0-0. Discussion:** No further discussion.

Application No. 22-09 on behalf of Scott Barger, 3 Andrews Road, Essex, CT, Assessor's Map 1 Lot 8, RRR District, requesting variances to Sections 40D, 40E, and 101E for an 18' X 20' patio 10 feet from the coastal jurisdiction line where 100 feet is required.

Scott Barger who presented on behalf of this proposal stated that he proposed to build a patio near his dock, which is in the coastal jurisdiction line.

This proposal went before the Essex IWWC which was approved.

Mr. Barger stated that the hardship is the topography of the land.

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

There was no public comment.

Letter from CT River Gateway submitted indicating no opposition to this proposal providing there will be no installation of lights, no power, and the applicant abide by suggested planting recommendations.

No further comments from the Board members.

MOTION made by W T Furgueson to close the Public Hearing at 8:28 pm for **Application No. 22-09** on behalf of **Scott Barger, 3 Andrews Road, Essex, CT**, Assessor's Map 1 Lot 8, RRR District, requesting variances to Sections 40D, 40E, and 101E for an 18' X 20' patio 10 feet from the coastal jurisdiction line where 100 feet is required; **SECONDED** by B Sarrantonio; **IN FAVOR:** W T Furgueson, B Sarantonio, W Feirer, P Schaller, P Beckman; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED 5-0-0. Discussion:** No further discussion.

Application No. 22-10 on behalf of Steven Hall and Stephanie Hartel, 6 Bank Lane, Essex, CT, Assessor's Map 47 Lot 93, VR District, requesting variances to Sections 40C, 40D, 40E, 40I.1, 50D, and 60B for an ADA compliant enclosed ramp and lift to the existing house, addition of a

second floor to the existing house, and increase in coverage from 14.7% to 16.8% where 10% is allowed.

This application is to move the existing garage out of the front setback and substantially out of the side setback, and for addition of an ADA compliant enclosed ramp and lift to the existing house and addition of a second floor including access to the lift.

The parcel is 0.22 ac/9,583 sq ft, which is undersized and nonconforming for the zone which requires min of 60,000 sq ft/1.37 ac. The lot does not have the required frontage of 120 linear feet; it has 80 feet of frontage on Bank Lane.

As a result of the proposed changes variances are being requested for side setback intrusion and increase in coverage.

Previous variance requests: ZBA #00-04 January 18, 2000 approved for an addition to the existing structure and reduction of required setback.

Attorney Terrance Lomme who presented on behalf of the proposal stated that the current garage is in the front and side setback and is 5 feet from the neighbor's house. The applicant proposes to move the garage so it will be back 15 feet off of the property line. The applicant will be in need of an ADA compliant ramp, and will need a lift to get to the second floor. which will be on the north side of the covered porch, and the lift will be 12 feet from the sideline. The second story will be brought out so as to offer access from the lift, which will serve to increase the height in the setback. The ramp and addition will be enclosed. Property to north is a commercial lot and there will be no residential structure close to the subject sideline. The house is 1550 s.f. and will increase to 2000 s.f., which will be consistent with the other modest homes in the area.

Hardships associated with this proposal are, the property was developed in 1857, the house is located in front and side setbacks, and the property itself is trapezoidal. This proposal will provide a reduction in a nonconformity, and the ADA ramp will provide a safety feature for the applicant.

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

Jeffrey Paul, property abutter on 3 sides, spoke in favor of this proposal.

Letter received from the CT River Gateway Commission stating no opposition to this proposal.
Letter received from Greig Todd, 10 Bank Lane, Essex.

The following Exhibits were entered into the record for Application No. 22-09 on behalf of Scott Barger, 3 Andrews Road, Essex, CT:

- Exhibit A: Sylvia Trovato and Sharleen Durost Vs City of Manchester NH.

- Exhibit B: Dadian vs Village of Wilmette.
- Exhibit C: Letter of support from Greig Todd, 10 Bank Lane Essex.

There were no further comments from the Board members.

MOTION made by W Feirer to close the Public Hearing at 8:45 pm for **Application No. 22-10** on behalf of Steven Hall and Stephanie Hartel, **6 Bank Lane, Essex, CT**, Assessor's Map 47 Lot 93, VR District, requesting variances to Sections 40C, 40D, 40E, 40I.1, 50D, and 60B for an ADA compliant enclosed ramp and lift to the existing house, addition of a second floor to the existing house, and increase in coverage from 14.7% to 16.8% where 10% is allowed. **SECONDED** by B Sarrantonio; **IN FAVOR:** W T Furgueson, B Sarantonio, W Feirer, P Schaller, P Beckman; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED 5-0-0.** **Discussion:** No further discussion.

2. Regular Meeting

Discussion and possible decision on applications:

Application No. 22-08 on behalf of **Lynn Cochrane, 51 Comstock Ave, Ivoryton, CT**

MOTION made by W Feirer to approve a permit **Application No. 22-08** on behalf of Lynn Cochrane, **51 Comstock Ave, Ivoryton, CT** Assessor's Map 57 Lot 45, VR District, requesting variances to Sections 40D, 40E, 50D, and 60B for reconstruction of a barn that will be demolished and made more conforming; This application presents a reduction of nonconformity and coverage. This proposal is approved in accordance with the plans as submitted; **SECONDED** by B Sarrantonio; **IN FAVOR:** W T Furgueson, B Sarantonio, W Feirer, P Schaller, P Beckman; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED 5-0-0.** **Discussion:** No further discussion.

Application No. 22-09 on behalf of **Scott Barger, 3 Andrews Road, Essex, CT**

MOTION made by W T Furgueson to approve a permit **Application No. 22-09** on behalf of Scott Barger, **3 Andrews Road, Essex, CT**, Assessor's Map 1 Lot 8, RRR District, requesting variances to Sections 40D, 40E, and 101E for an 18' X 20' patio 10 feet from the coastal jurisdiction line where 100 feet is required; The hardship associated with this application is the topography of the land. The variance is approved with the stipulations made by the CT River Gateway Commission and the installation of low-lying vegetation. This proposal is approved in accordance with the plans as submitted; **SECONDED** by B Sarrantonio; **IN FAVOR:** W T Furgueson, B Sarantonio, W Feirer, P Schaller, P Beckman; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED 5-0-0.** **Discussion:** No further discussion.

Application No. 22-10 on behalf of Steven Hall and Stephanie Hartel, **6 Bank Lane, Essex, CT**

MOTION made by P Beckman to approve a permit **Application No. 22-10** on behalf of Steven Hall and Stephanie Hartel, **6 Bank Lane, Essex, CT**, Assessor's Map 47 Lot 93, VR District, requesting variances to Sections 40C, 40D, 40E, 40I.1, 50D, and 60B for an ADA compliant enclosed ramp and lift to the existing house, addition of a second floor to the existing house, and increase in coverage from 14.7% to 16.8% where 10% is allowed; The hardship associated with this application is the house preexists zoning and the odd trapezoidal-shaped lot. Further, this proposal presents a reasonable accommodation for ADA. This proposal is approved in accordance with the plans as submitted; **SECONDED** by W Feirer; **IN FAVOR:** W T Furgueson, B Sarantonio, W Feirer, P Schaller, P Beckman; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED 5-0-0. Discussion:** No further discussion.

3. Unfinished Business

Approval of Minutes – August 16, 2022

MOTION made by W Feirer to approve the August 16, 2022 Minutes as presented; **SECONDED** by P Beckman; **IN FAVOR:** B Sarantonio, W Feirer, P Schaller, P Beckman, S Feaster; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED 5-0-0. Discussion:** No further discussion.

New Business

4. Correspondence – There was no correspondence.

5. Adjournment

MOTION made by W T Furgueson to adjourn the meeting at 8:58 pm to the next regularly scheduled meeting which will be held on Tuesday, October 18, 2022 at 7:00 p.m., at the Essex Town Hall, in Meeting Room A, and accessible via online. Refer to Town of Essex website for the Zoom link and related information; **SECONDED** by W Feirer; **IN FAVOR:** W T Furgueson, B Sarantonio, W Feirer, P Schaller, P Beckman; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED 5-0-0. Discussion:** No further discussion.

Respectfully submitted,

Stella A Caione, Recording Clerk

Next scheduled meeting: **Tuesday October 18, 2022**