



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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B. Sarrantonio
Philip J Beckman

Alternate Members
George Wendell
Richard Rybak
Susan Feaster

Unapproved

Minutes

August 15, 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, August 15, 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 W T Furgueson, W Feirer, P Schaller, P Beckman, R Rybak.

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

W T Furgueson chaired this evening's 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

- **Application No. 23-09** on behalf of 9197CCAS LLC c/o Crystian Morales, **91 Pond Meadow Road** Ivoryton, CT, Assessor's Map 88 Lot 2, RU District, requesting variances of Sections 40C, 40D, 40I.1, 50D, and 60B for an addition of a porch with a side setback of 27 ft 7 inches where 40 ft is required.

This application is to request variances for a porch extending around the perimeter of the house into the front setback.

The setback line that is proposed to be encroached upon is the front setback which is along the front and side of the house.

The property is 21.53 acres and contains two homes on the parcel; one of which is located with the required front setback, built in 1950. The other home was built in 1890.

Previous Variance requests; None

Seated for this application: W T Furgueson, W Feirer, P Schaller, P Beckman, R Rybak.

John Paul, Abarca Design and Build LLC, who presented on behalf of this application noted the subject property is a preexisting house on a preexisting lot and the applicant is seeking a variance because the subject building is within the setback. The hardship is the existing stairs on the first floor. J Paul stated that the porch is proposed to be L-shaped.

It was noted that the setback goes through the middle of the house.

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

Paul Riggio, representative from the Harbor Management Commission commented on a homeowner who knowingly purchased a piece of property and then appears before the Board seeking approval for a variance.

There was no further comment from the Board.

MOTION by W T Furgueson to close public hearing on **Application No. 23-09** on behalf of 9197CCAS LLC c/o Crystian Morales, **91 Pond Meadow Road** Ivoryton, CT, Assessor's Map 88 Lot 2, RU District, requesting variances of Sections 40C, 40D, 40I.1, 50D, and 60B for an addition of a porch with a side setback of 15 ft where 40 ft is required, at 7:45pm; **SECONDED** by W Feirer; **IN FAVOR** W T Furgueson, W Feirer, P Schaller, P Beckman, R Rybak; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED** 5-0-0. **Discussion:** No further discussion.

- **Application No. 23-10** on behalf of Annelisa Santoro, **54 Main Street** Essex, CT, Assessor's Map 47 Lot 23, WF District, requesting variances of Sections 40D and 101E for patio to be located within 100 feet of the coastal jurisdiction line and the Gateway Buffer Area.

The original application was to request variances for a patio, stone pillars, and sitting wall.

The property is 0.14 acres, and the existing garage is non-conforming both in use and location. The application is to make improvements within the 100-foot coastal jurisdiction line. The existing use of the property is a garage/storage and space with a bathroom.

Gateway met and reviewed this application.

Previous Variance requests; None

Seated for this application: W T Furgueson, W Feirer, R Rybak, P Schaller, P Beckman.

Annelisa Santoro and Anthony Niro, Landscape Architect, presented on behalf of this application. A. Santoro distributed a photo of the boat house as it was when she purchased the property.

A. Niro discussed the planting plan, the proposed patio and the proposed installation of a fire pit.

A Board member questioned the installation of the fire pit noting that if it is proposed to be an inground, masonry fire pit, questioned the impact on the fire pit when the waters come in.

A. Niro indicated that the lines are wrapped and waterproof.

The applicant indicated that she would be willing to install any type of fire pit that the Board recommends.

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

Letter from CT River Gateway Commission noting no opposition to this application.

Essex Inlands Wetlands and Watercourse Commission referral:

The Inland Wetlands and Watercourses Commission discussed the ZBA application 23-10 seeking a Variance to Section 101E of the zoning regulations for a hardscape patio, stone pillars, and a sitting wall within 100 feet of the coastal jurisdiction line, the Gateway Buffer Zone.

The IWWC would appreciate a mitigation plan to accommodate for possible flooding, specifically relating to the fire pit if it is proposed and any fuel that is used, not expanding any non-conformities, using native plants on site, and if there is any excavation, proper sedimentation and erosion controls shall be installed.

It was noted that the lot is preexisting to zoning and entire building is inside of the setbacks or within the Gateway Conservation District. Anything the applicant wishes to do to the building and improvements within 100 feet of the coastal jurisdiction line would require a variance.

Attorney Royston noted that thoughtful regard to ADA factors should be considered as alternative to hardship, so if an applicant wishes to install a surface that accommodates a wheelchair, that is acceptable. D Royston noted that the term accommodate equals reasonable accommodation which is sufficient basis to grant the pathway and make the grassed area a surface on which a wheelchair could smoothly traverse. Attorney Royston stated that ZBA members should consider if what is proposed is consistent with the general intent of the zoning laws.

Sherri Athay, 92 Ingham Hill Rd. spoke in favor of this proposal.

Moyra was one person who spoke in favor of the application.

Anthony Niro (applicant's landscape architect) spoke in favor of this application.

Bill Cullihan spoke in favor of this proposal.

A gentleman who is a friend of the applicant spoke in favor of this proposal.

Paul Riggio on behalf of Harbor Management Commission (HMC) stated concern over the surface, noting earlier mention of bluestone which is not a pervious product. The HMC would like to see a cross-section plan showing a truly pervious system proposal. P Riggio noted that if the plan involves a portable fire pit with a permanent tank, FEMA must be involved. In order to be ADA compliant, criteria for a walkway to the house includes a 3-foot walkway, and every turn is a 5.5 foot area. P. Riggio expressed clarification on docks, noting that there are virtually no docks in-town that are concrete and mostly wood products. The HMC is also concerned about a surface that could run contaminants into the river.

There was no further comment from the Board.

Letter from Michael Furgueson stating concern of this proposal.

Letter from CT River Gateway Commission.

MOTION by W T Furgueson to close the public hearing on **Application No. 23-10** on behalf of Annelisa Santoro, **54 Main Street** Essex, CT, Assessor's Map 47 Lot 23, WF District, requesting variances of Sections 40D and 101E for patio to be located within 100 feet of the coastal jurisdiction line and the Gateway Buffer Area, at 8:21pm; **SECONDED** by W Feirer; **IN FAVOR**; W T Furgueson, W Feirer, P Schaller, P Beckman, R Rybak; **OPPOSED**: None; **ABSTAINING**: None; **MOTION CARRIED** 5-0-0. **Discussion**: No further discussion.

- **Application No. 23-11** on behalf of Lawrence and Sherri Athay, **92 Ingham Hill Road** Essex, CT, Assessor's Map 94 Lot 4, RU District, requesting variances of Sections 40C, 40D, 40I.1, 50D, and 61B for an addition to the existing house for a bedroom addition and proposed garage addition to be 30 ft 3 inches from the front property line where 40 feet is required and 24ft from the northern side property line where 30 feet is required.

Seated for this application: W T Furgueson, W Feirer, R Rybak, P Schaller, P Beckman.

This application is to request variances for two additions, one to the southwest side of the house for a bedroom and one on the northeast side for a garage. The additions require setback variances to encroach on the front setback as well as the side.

The property is 0.45 acres and contains a single-family home that was built in 1950 and is preexisting non-conforming because it is located within the front setback.

Coverage allowed is 15% or 2,940 sq ft. The house footprint is currently 1,048 or 5.3% coverage.

Previous Variance requests; None

Larry Athay who presented on behalf of this proposal stated that the house was built in 1950 and would like to have the addition even with the house. The lot is .43 acres and the addition is proposed to be situated on the north side of the 24 x 42, two-car garage. The hardship is the small lot and consideration of the house which was constructed prior to the zoning regulations.

This application was received at the August 2023 IWWC meeting and was continued to their September 2023 meeting.

W T Furgueson opened the application.

There were no letters submitted on behalf of this proposal.

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

MOTION by W T Furgueson to close the public hearing on **Application No. 23-11** on behalf of Lawrence and Sherri Athay, **92 Ingham Hill Road** Essex, CT, Assessor's Map 94 Lot 4, RU District, requesting variances of Sections 40C, 40D, 40I.1, 50D, and 61B for an addition to the existing house for a bedroom addition and proposed garage addition to be 30 ft 3 inches from the front property line where 40 feet is required and 24ft from the northern side property line where 30 feet is required, at 8:37pm; **SECONDED** by P Beckman; **IN FAVOR** W T Furgueson, W Feirer, P Schaller, P Beckman, R Rybak; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED** 5-0-0. **Discussion:** No further discussion.

2. Regular Meeting

- Discussion and Possible Decision on **Application No. 23-09** on behalf of 9197CCAS LLC c/o Crystian Morales, **91 Pond Meadow Road** Ivoryton, CT.

It was noted that this proposal is modest in scope and this proposal would rectify a safety issue. Based on the land, this is not a lot adjacent to a road, yet it has a front setback that is more confining than the side setback, combined with remedying the safety issue.

MOTION made by W Feirer to approve a variance **Application No. 23-09** on behalf of 9197CCAS LLC c/o Crystian Morales, **91 Pond Meadow Road** Ivoryton, CT, Assessor's Map 88 Lot 2, RU District, requesting variances of Sections 40C, 40D, 40I.1, 50D, and 60B for an addition of a porch with a side setback of 15 ft where 40 ft is required. This proposal is modest in scope and this proposal would rectify a safety issue. The hardship is land based – this is not a lot adjacent to a road, yet it has a front setback that is more restrictive than the side setback; This proposal is approved in accordance with the plans as submitted; **SECONDED** by P Beckman; **IN FAVOR:** W T Furgueson, W Feirer, P

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

- Discussion and Possible Decision on **Application No. 23-10** on behalf of Annelisa Santoro, **54 Main Street** Essex, CT.

Members discussed this property in proximity to the harbor, and it was noted that the Board has to take a hard look as to what is going into the ground.

Attorney Royston stated that the Board is leaning toward denying this application, they can opt to deny without prejudice, and note the Board concerns of potential pollution to the river, and express the requirements of the HMC. A new application must address the concerns of the Board. Attorney Royston stated that the Board has the option to approve or deny, or to deny without prejudice, and a reapplication addressing the Board's concerns, or continue this proposal. The Board can set conditions related to the landscaping, and conditions relating to the maintenance of the view.

It was noted that the Board could approve, with notation of the pervious surface that maximizes, to the fullest extent possible, the suggestions made by the ZBA and the HMC.

If the Board opts to continue this public hearing, a revised plan must be submitted that addresses the concerns of the HMC and the other issues raised.

MOTION made by W T Furgueson to re-open the public hearing a variance **Application No. 23-10** on behalf of Annelisa Santoro, **54 Main Street** Essex, CT, Assessor's Map 47 Lot 23, WF District, requesting variances of Sections 40D and 101E for patio to be located within 100 feet of the coastal jurisdiction line and the Gateway Buffer Area; **SECONDED:** R Rybak; **IN FAVOR:** W T Furgueson, W Feirer, P Schaller, P Beckman, R Rybak; **MOTION CARRIED 5-0-0.** **Discussion:** No further discussion.

MOTION made by P Beckman to continue the public hearing a variance **Application No. 23-10** on behalf of Annelisa Santoro, **54 Main Street** Essex, CT, Assessor's Map 47 Lot 23, WF District, requesting variances of Sections 40D and 101E for patio to be located within 100 feet of the coastal jurisdiction line and the Gateway Buffer Area. The intent of the continuance is to re-hear this application, and the applicant is invited to investigate a plan without a fire pit, and a plan that addresses the concerns and suggestions of the CT River Gateway Commission and the HMC; **SECONDED:** R Ryback; **IN FAVOR:** W T Furgueson, W Feirer, P Schaller, P Beckman, R Rybak; **MOTION CARRIED 5-0-0.** **Discussion:** No further discussion.

- Discussion and possible decision on variance **Application No. 23-11** on behalf of Lawrence and Sherri Athay, **92 Ingham Hill Road** Essex, CT.

Attorney Royston suggested that mention be made noting that the final approved plan will not exceed 15% ground coverage.

MOTION made by W T Feirer to approve a variance **Application No. 23-11** on behalf of Lawrence and Sherri Athay, **92 Ingham Hill Road** Essex, CT, Assessor's Map 94 Lot 4, RU District, requesting variances of Sections 40C, 40D, 40I.1, 50D, and 61B for an addition to the existing house for a bedroom addition and proposed garage addition to be 30 ft 3 inches from the front property line where 40 feet is required and 24ft from the northern side property line where 30 feet is required. The hardship associated with the application is the land, and the size of the lot. The ground coverage is not to exceed 15%. This proposal is approved in accordance with the plans as submitted; **SECONDED**; P Beckman; **IN FAVOR**: W T Furgueson, W Feirer, P Beckman, R Rybak; **OPPOSED**: P Schaller; **ABSTAINING**: None; **MOTION CARRIED**; **4-1-0**.

3. Old Business

- Approval of Minutes – July 18, 2023

MOTION made by W T Furgueson to approve the July 18, 2023 Minutes with following amendment: Page 5 -First sentence duplicated. Remove the duplication; **SECONDED** by W Feirer; **IN FAVOR**: W T Furgueson, W Feirer, P Schaller, P Beckman, R Rybak; **OPPOSED**: None; **ABSTAINING**: None; **MOTION CARRIED** 5-0-0. **Discussion**: No further discussion.

4. New Business – There was no new business.

5. Correspondence – There was no correspondence.

6. Adjournment

MOTION made by W T Furgueson to adjourn the meeting at 9:04pm to the next regularly scheduled meeting which will be held on Tuesday, September 19, 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 P Beckman; **IN FAVOR**: W T Furgueson, W Feirer, R Rybak, P Schaller, P Beckman; **OPPOSED**: None; **ABSTAINING**: None; **MOTION CARRIED** 5-0-0. **Discussion**: No further discussion.

Respectfully submitted,

Stella A Caione, Recording Clerk