



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
July 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, July 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 W T Furgueson, W Feirer, B Sarrantonio, P Schaller, P Beckman, S Feaster, R Rybak, G Wendell.

Staff present: Carey Duques, Zoning Enforcement Officer, Stella Caione, Recording Clerk and Sylvia Rutkowska, 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. 23-07** on behalf of Thad and Cathy King, **14 Book Hill Road**, Essex, CT, Assessor's Map 10 Lot 26, RU District, requesting variances of Sections 40C, 40D, 40I.1, 50D, and 61B for expansion of an existing garage including a second story addition on the existing garage with a side setback of 9 ft where 30 ft is required.

This application is to request variances to allow for an expansion of an existing garage by adding to the south and east of the building as well as adding a second floor. The variance requests are for setback encroachments.

The property is 0.82 acres, and the existing garage is non-conforming. The proposed addition would be towards the side yard and front yard but would be in compliance with the front setback.

Height will not exceed the allowed 35 ft and coverage is also not a concern.

Previous Variance requests; None

Seated for this application: W T Furgueson, W Feirer, B Sarrantonio, P Schaller, P Beckman

Thad and Cathy King presented on behalf of this application. T King referenced a plan that shows the existing garage. T King stated that the lot predates zoning and became nonconforming with the inception of zoning. The location of the house is up to the front setback and there is a 10% slope across the lot. T King stated that he looked at various locations on the property, on which the garage could potentially be placed, and the size of the lot, the number of boulders and ledge on the property, and the location of the septic, limited available placement. The proposed location offers a minor encroachment relative to the alternatives. The hardship associated with this proposal is the location, the topography and the property predates zoning.

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

Letter in support from neighbors, Ian and Erin Neviasher of 18 Book Hill Road Essex.

Letter stating no opposition to this property from the CT River Gateway Commission. Please refer to the Land Use Office for further file details.

The Health Department reviewed this proposal and stated no opposition.

There was no further comment from the Board.

MOTION by W T Furgueson to close public hearing on **Application No. 23-07** on behalf of Thad and Cathy King, **14 Book Hill Road**, Essex, CT, Assessor's Map 10 Lot 26, RU District, requesting variances of Sections 40C, 40D, 40I.1, 50D, and 61B for expansion of an existing garage including a second story addition on the existing garage with a side setback of 9 ft where 30 ft is required, at 7:23pm; **SECONDED** by W Feirer; **IN FAVOR** W T Furgueson, W Feirer, P Schaller, P Beckman, B Sarrantonio; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED** 5-0-0. **Discussion:** No further discussion.

- **Application No. 23-08** on behalf of Marc and Laura Loew, **20 North Main Street** Essex, CT, Assessor's Map 31 Lot 39, VR District, requesting variances after-the-fact of Sections 40C, 40D, 40I.1, 50D, and 60B for a pergola over an existing deck 17'5" X 11'3" which is 4'6" from a side property line where 25 ft is required.

This application is to request variances after-the-fact for a pergola attached to the main building. The variance requests are for setback encroachments.

The property is 0.24 acres, and the existing house and garage are non-conforming. The pergola is located to the northern side of the house and encroaches on the side setback. The encroachment requested is 4' 6" from the property line where 25 feet is required. The house is currently 9 feet from the property line.

Height will not exceed the allowed 35 ft and a pergola is not counted towards coverage.

Previous variance requests: Application #12-16 front dormer extension and rear addition, variances for side yard and front setback encroachment and an increase in coverage to 20.87%.

Seated for this application: W T Furgueson, W Feirer, B Sarrantonio, P Schaller, P Beckman.

Marc and Laura Loew presented on behalf of this application. M Loew read a letter into the record in which he stated that he was unaware of the need to obtain permits to install the pergola over the existing deck. Please refer to the Land Use Office for further file details.

M Loew stated that the deck which was constructed on a cement slab is preexisting from previous owners. L Loew stated that the retaining wall and sloped topography on the property create the hardship surrounding this application.

There was discussion related to the property line. Attorney Rutkowska stated that the property line on the subject property is not specifically defined, and this is not relevant to the Board. The ZBA will focus on the vertical expansion. The ZBA is not making representations or confirmations as to where the property line is, or who has ownership. The encroachment exists, whether or not the pergola was in place. The zoning regs state that a vertical expansion is an expansion of a nonconformity. There is a preexisting shed and a preexisting garage referenced on the plans. Attorney Rutkowska suggested that the Board consider if this is a reduction of a nonconformity, and if that is a significant justification in lieu of a hardship. If the Board finds there is not a hardship, the variance is denied. If there are alternatives, i.e. a relocation or shifting of the shed and the Board will decide if that reduction, as opposed to the elimination, is acceptable.

Attorney Rutkowska noted that the logic of trading one nonconformity is an established practice. The board is struggling because they must find a hardship. A legal technicality in order to satisfy legal hardship requirements.

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

A letter dated July 14, 2023, was received from Robert and Susan Cornell, 22 North Main Street stating opposition to this application. This letter will be entered into the file as an exhibit.

Email dated July 14, 2023 from prior owner of this property, Steven Babjak, stating that he agreed with The Loews, that a row of Skip Laurels could be planted.

Letter from neighbors at 22 North Main Street, the Cornells dated July 14, 2023.

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

Jeanne Kiernan, 11 Prospect Street stated no opposition to this application.

Molly Sofer stated support for this application.

Bob and Sue Cornell, 22 North Main Street spoke in opposition to this application.

Bob Cornell stated that he spoke with the surveyor, who provided a 2001 survey. B Cornell stated that he objects the visual representation of the pergola and the proximity of the pergola, to his property line.

There was no further comment from the Board.

MOTION by W Feirer to close the public hearing on **Application No. 23-08** on behalf of Marc and Laura Loew, **20 North Main Street** Essex, CT, Assessor's Map 31 Lot 39, VR District, requesting variances after-the-fact of Sections 40C, 40D, 40I.1, 50D, and 60B for a pergola over an existing deck 17'5" X 11'3" which is 4'6" from a side property line where 25 ft is required, at 8:04pm; **SECONDED** by W T Furgueson; **IN FAVOR**; W T Furgueson, W Feirer, B Sarrantonio, P Schaller, P Beckman; **OPPOSED**: None; **ABSTAINING**: None; **MOTION CARRIED** 5-0-0. **Discussion**: No further discussion.

- **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 61B

C Duques stated that this application was published incorrectly. Attorney Rutkowska suggested that the Board open the application and continue the public hearing on this proposal.

Seated for this application: W T Furgueson, W Feirer, B Sarrantonio, P Schaller, P Beckman.

W T Furgueson opened the application.

C Morales stated that he wishes to place the porch in the side yard, which is the front of the house, so as to provide shelter from inclement weather. The entire parcel is 28 acres, that has 2 dwelling units and 3 structures.

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

MOTION by W Feirer to continue the 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 61B; **SECONDED** by P Beckman; **IN FAVOR** W T Furgueson, W Feirer, B Sarrantonio, P Schaller, P Beckman; **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.

This application is 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.

The CT River Gateway Commission has not yet met to review this application, and as such, Gateway has requested a continuation of this application to the August 15, 2023 meeting.

Previous variance requests: None

MOTION by P Beckman to continue 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, to the August 15, 2023 ZBA meeting; **SECONDED** by W T Furgueson; **IN FAVOR** W T Furgueson, W Feirer, B Sarrantonio, 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 **Application No. 23-07** on behalf of Thad and Cathy King, **14 Book Hill Road**, Essex, CT.

It was noted that this a narrow, vintage 1960s garage and there is an unusual hardship associated with this petition. There is no good location on the property on which to locate that garage.

It was noted that the existing one-car garage is below the standard in this area, and a 2 car garage is a reasonable expectation in the Town of Essex.

This is a reasonable request and there is not a reasonable alternative. The hardship is the topography and preexisting status of this property.

MOTION made by P Beckman to approve a variance for **Application No. 23-07** on behalf of Thad and Cathy King, **14 Book Hill Road**, Essex, CT, Assessor's Map 10 Lot 26, RU District, requesting variances of Sections 40C, 40D, 40I.1, 50D, and 61B for expansion of an existing garage including a second story addition on the existing garage with a side setback of 9 ft where 30 ft is required. The hardship surrounding this application is the location of the septic, the location of the geological rock formations and the grade of the property around that portion of the property, and to minimize the impervious surface, were the garage to be placed in a different location; This proposal is approved in accordance with the plans as submitted; **SECONDED** by B Sarrantonio; **IN FAVOR:** W T Furgueson, W Feirer, B Sarrantonio, P Beckman; **OPPOSED:** P Schaller; **ABSTAINING:** None; **MOTION CARRIED 4-1-0.** Motion carried. **Discussion:** No further discussion.

- Discussion and Possible Decision on **Application No. 23-08** on behalf of Marc and Laura Loew, **20 North Main Street** Essex, CT.

It was noted that a similar application was denied two months previous. There is no hardship associated with this proposal.

MOTION made by W Feirer to approve a variance **Application No. 23-08** on behalf of Marc and Laura Loew, **20 North Main Street** Essex, CT, Assessor's Map 31 Lot 39, VR District, requesting variances after-the-fact of Sections 40C, 40D, 40I.1, 50D, and 60B for a pergola over an existing deck 17'5" X 11'3" which is 4'6" from a side property line where 25 ft is required. The hardship surrounding this application is the existing patio and the contour of the land. This proposal is approved in accordance with the plans as submitted; **SECONDED; No second; MOTION to approve is failed.**

MOTION made by B Sarrantonio to deny a variance **Application No. 23-08** on behalf of Marc and Laura Loew, **20 North Main Street** Essex, CT, Assessor's Map 31 Lot 39, VR District, requesting variances after-the-fact of Sections 40C, 40D, 40I.1, 50D, and 60B for a pergola over an existing deck 17'5" X 11'3" which is 4'6" from a side property line where 25 ft is required. There is no hardship associated with the application; **SECONDED; P Beckman; IN FAVOR:** W T Furgueson, B Sarrantonio, P Schaller, P Beckman; **OPPOSED:** W Feirer; **ABSTAINING:** None; **MOTION TO DENY, CARRIED 4-1-0.**

3. Old Business

- Approval of Minutes – May 16, 2023 and June 20, 2023

MOTION made by W T Furgueson to approve the May 16, 2023 Minutes with following amendment: Page 5 -First sentence duplicated. Remove the duplication; **SECONDED** by W Feirer; **IN FAVOR:** W T Furgueson, W Feirer, B Sarrantonio, P Schaller, P Beckman; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED 5-0-0. Discussion:** No further discussion.

MOTION made by W Feirer to approve the June 20, 2023 Minutes as presented; **SECONDED** by W T Furgueson; **IN FAVOR:** W T Furgueson, W Feirer, B Sarrantonio, P Schaller, P Beckman; **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 8:40 pm to the next regularly scheduled meeting which will be held on Tuesday, August 15, 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, B Sarrantonio, P

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

Respectfully submitted,

Stella A Caione, Recording Clerk