



TOWN OF ESSEX
Zoning Board of Appeals

Executive Board
W. T. Fergusson, 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
April 16, 2024 – 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 16, 2024 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 Fergusson, W Feirer, P Schaller, P Beckman, R Rybak, and G Wendell. Members seated were W T Fergusson, W Feirer, P Schaller, P Beckman and R Rybak.

Staff present: Carey Duques, Zoning Enforcement Officer.

W T Fergusson, Chair, opened the meeting.

1. Public Hearing

Application No. 24-8 on behalf of Monique and John Nelsen, **9 South Cove Lane Essex, CT**, Assessor’s Map 74 Lot 6, RU District, requesting variances of Sections 40C, 40D, 40E, and 45D.4, for conversion of pre-existing non-conforming structure to an accessory dwelling unit.

Applicant requested a continuance.

MOTION by W T Fergusson to continue **Application No. 24-8**. **SECONDED** by W Feirer; **IN FAVOR**; W T Fergusson, W Feirer, P Schaller, P Beckman, R Rybak; **OPPOSED**: None; **ABSTAINING**: None; **MOTION CARRIED** 5-0-0. **Discussion**: No further discussion.

Application No. 24-7 on behalf of Andrew Guziewicz, **10 Collins Lane Essex, CT**, Assessor’s Map 46 Lot 14, VR District, requesting variances of Sections 40D, 40E, and 101E for construction of a dry-laid stone patio, inground pool and spa and a reconstructed open deck as well as a reduction in the pre-existing non-conforming coverage which eliminates the existing non-conformity.

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

Attorney Terry Lomme spoke about the reduction of the coverage. Since last month's application was denied, the application has reduced the coverage so it is conforming. He says that the only issue now is the Connecticut River Gateway Commission conflict, since the property is entirely within the 100-foot setback.

He also spoke about how the proposed inground pool being an accommodation for K Guzewicz's - the other property owner - physical health, rather than a luxury item.

W T Furgueson asked what nonconformity this application was eliminating.

T Lomme explained that the coverage was being eliminated as a nonconformity by reducing the size of the deck.

P Schaller asked T Lomme about the hardship that was being addressed in the application.

T Lomme responded that the hardship is that the house within the property is within the 100-foot setback line and that narrows the area where the pool can be placed unless it is placed closer to the water.

W Feirer asked if there were other houses that are within the 100-foot setback of the cove.

T Lomme said that a lot of the houses in the area are not. He listed a few that are within the setback that also have pools within the setback.

P Beckman asked to be reminded where the reduction in the nonconformity was.

T Lomme explained that the size of the existing deck area is being reduced.

Joe Wren, a professional engineer from Old Saybrook, spoke at length about the application's changes from March's application, notably the changes to the deck size and the shed being removed from the plan, which make the property conforming whereas the previous application had only reduced the property's nonconformity. He detailed other proposed changes of the property in the application that would be reductions in the nonconformity. J Wren also explained that the Connecticut River Gateway Commission would defer to the Zoning Board of Appeals' decision regarding the application as they cannot support changes within the 100-foot setback due to their policies, but praised the changes that they were applying for nonetheless.

Denise VonDassel, the project architect, spoke in detail about the reductive changes to the deck in the backyard of the property. She also explained how the patio and the pool would be very discreet due to the changes in the landscaping that are proposed.

Mark Kwan, the landscaping designer, explained the en masse native plantings around the property. He cited the use of plants that were capable of taking groundwater in case of saturation from storms or survive inundation from encroaching water.

W Feirer brought up John Forster, a concerned neighbor of the Guziewicz property, who raised concerns of obstructive trees that could potentially devalue his house by obscuring his view of the cove, in the Board's meeting in March.

A Guziewicz recalled that he spoke to J Forster and said that he did not plan to have the trees grow tall enough to obscure his view of the cove. M Kwan clarified that the planned trees would be easy to control height-wise, but A Guziewicz also assured the Board that he would be willing to change the trees to any type that would be easy for him to maintain so as not to disturb his neighbors.

T Lomme spoke up that J Forster's property overlooks A Guziewicz's property from a hill and the height of the trees they intend to plant will not disturb his view of the cove.

P Beckman asked if T Lomme had confirmed the sightlines and elevations with the planned trees.

T Lomme assured P Beckman that the elevation difference of A Guziewicz and J Forster's properties is significant and that the planned trees will not obstruct his view.

J Wren clarified that the new application now plans to specifically have their newly planted trees be no taller than 10-feet tall, where the previous one did not have specifications.

P Schaller asked for clarity about Connecticut River Gateway Commission's statement regarding this application as it appears to have a stronger opposition to it than the previous month.

J Wren explained that Connecticut River Gateway Commission cannot grant a variance for the application's proposed renovations because their regulations do not allow work within 100 feet of the setback while the work is all within that distance. He then explained that the Zoning Board of Appeals is still allowed to grant a variance if they find that there is a hardship and a combination of reductions of nonconformities. He reminded the Board that while the Connecticut River Gateway Commission cannot grant a variance for this work, they commend the applicant for the improvements that they intend to make.

D VonDassel also interjected that the planned pool is more akin to a plunge pool, namely half the width and length of a normal backyard pool, and is only 5 feet deep, therefore requiring very little excavation compared to a pool with a deep end.

P Schaller asked for clarity in a portion of Connecticut River Gateway Commission's statement stating that the improvements do not offset the impact of the permanent raised structure and patio.

T Lomme explained that the impact in this context refers to visual impact and that the landscaping additions to the property are meant to reduce that impact.

J Wren also elaborated on the benefits of the improvements to the property, including improving stormwater run-off and quality, and that the native plants they plan to add will take nutrients from the stormwater and reduce run-off.

Attorney Rutkowska asked for clarity on the planned reduction of the vertical bulk of the setback from the deck.

D VonDassel and T Lomme agreed, saying that the deck will be significantly reduced in square footage. They explained that the proposed changes to the deck were intended to reduce the visible size of the house from the perspective of the cove.

W T Furgueson opened the hearing to the public.

John Forster supported the application citing that he appreciated the application's accommodations towards his property's view of the cove.

T Lomme briefly summarized the application's proposed changes.

The Board compared the Connecticut River Gateway Commission's letter and minutes regarding this application from March to April. P Schaller read Connecticut River Gateway Commission's letter aloud.

Attorney Rutkowska asked T Lomme about his mentions of reasonable accommodations and the medical aspects of the application and if that was meant to be interpreted from an ADA perspective. T Lomme agreed.

W Feirer asked why ADA compliance was not mentioned in the application explicitly.

J Wren recited a passage from the application that does not explicitly mention ADA compliance but says specifically that the application is meant to reduce the number of stairs into and out of the home and that one of the homeowners has declining medical mobility concerns.

Attorney Rutkowska clarified that ADA does apply to private residences, that it speaks about access, and that it does not limit things to access. P Beckman asked if a reasonable accommodation does not have to be ADA compliant. Attorney Rutkowska said that was correct, that a reasonable accommodation does not have to be ADA compliant to be considered an accommodation.

R Rybak asked if the pool would be heated.

A Guziewicz said that has not been decided yet but it is the intention to heat it.

R Rybak asked what K Guziewicz will do for the non-summer months that the pool would be difficult to use during.

A Guziewicz responds that there will also be a spa for use. T Lomme added that a heated pool could be used for a few more months beyond typical pool season.

MOTION by W T Furgueson to close the public hearing on **Application No. 24-7** on behalf of Andrew Guziewicz, **10 Collins Lane Essex**, CT, Assessor's Map 46 Lot 14, VR District, requesting variances of

Sections 40D, 40E, and 101E for construction of a dry-laid stone patio, inground pool and spa and a reconstructed open deck. **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 applications:

- **Application No. 24-7** on behalf of Andrew Guziewicz, **10 Collins Lane Essex**.

W T Furgueson argued against Connecticut River Gateway Commission’s stance on this application, citing that the application worked specifically to cater to the Commission’s by reducing nonconformities and avoiding building in view of the river, but the Commission still did not support the application. He said, with all due respect, that the Commission’s consistent stance on not supporting work within the 100-foot setback was not nuanced enough to accommodate the needs of individual property owners that have properties in the area.

P Beckman clarified that Connecticut River Gateway Commission is not the one that votes for zoning and that they were sent zoning regulations by the Zoning Board of Appeals and they approved them. He continued that the Board was the one that had the authority to approve or disapprove of any variance.

MOTION by P Beckman to approve **Application No. 24-7** on behalf of Andrew Guziewicz, **10 Collins Lane Essex, CT**, Assessor’s Map 46 Lot 14, VR District, requesting variances of Sections 40D, 40E, and 101E for construction of a dry-laid stone patio, inground pool and spa and a reconstructed open deck. The hardship is the lot pre-exists zoning is undersized and the house is entirely within the 100 foot Gateway Conservation Zone, reduction in building coverage which reduces a non-conformity, reduction in visual bulk, plantings within the 100 foot Gateway Conservation Zone will minimize the impact; This proposal is approved in accordance with the plans as submitted with the condition that the plantings on the western side of the proposed patio be maintained at 10 feet measured vertically starting at the patio; **SECONDED** by W T Furgueson ; **IN FAVOR**; W T Furgueson, P Beckman, W Feirer, R Rybak; **OPPOSED**: P Schaller; **ABSTAINING**: None; **MOTION CARRIED: 4-1-0**.
Discussion: No further discussion.

3. Old Business

- Approval of Minutes – March 19, 2024

MOTION made by W T Furgueson to approve the March 19, 2024 Minutes as submitted **SECONDED** by P Schaller; **IN FAVOR**: W T Furgueson, W Feirer, P Schaller, R Rybak, P Beckman; **OPPOSED**: None; **ABSTAINING**: None; **MOTION CARRIED 5-0-0**.

4. New Business – No new business.

5. Correspondence – There was no correspondence.

6. Adjournment

MOTION made by R Rybak to adjourn the meeting at 8:28pm to the next regularly scheduled meeting which will be held on Tuesday, May 21, 2024 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 B Sarrantonio; **IN FAVOR:** W T Furgueson, W Feirer, P Schaller, R Rybak, P Beckman; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED 5-0-0.**

Respectfully submitted,

Elson Guo, Recording Clerk