

# **Town of Essex - Zoning Board of Appeals**

**29 West Avenue  
Essex, CT 06426**

## **MINUTES**

### **May 17, 2011 – Regular Meeting**

The Essex Zoning Board of Appeals conducted their regularly scheduled meeting on Tuesday, May 17, 2011 at 8:00 p.m. in Room A of the Essex Town Hall. Members present were Stu Ingersoll, Al Daddona, Doug Demarest, Alix Walmsley Paul Greenberg and Lynn Faulstick. Also present, John Bennet legal counsel to the Board and Stella Beaudoin, Recording Secretary.

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- a. Application #11-5 on behalf of Patrick M. Callahan, property located at 16 Grove Street, Essex, ct, Assessor's Ta Map 32 Lot 24-1. VR District,** requesting a Variance of Sections 40C, 40D, 40I and 50F.3 and 60B of the Essex of the Essex zoning regulations. This is an application to add 120 square feet to an existing non-conforming accessory structure that is located entirely within the rear setback area.

Attorney Lomme presented on behalf of the applicants. Behind the house there were two barns and one of the barns collapsed over the course of the winter as a result of a snowstorm. The existing barn is fairly narrow and short and the property owners wish to rebuild the collapsed barn and extend it two feet forward and four feet over so that the applicant's cars can also be housed. This barn along with the adjoining barn is in a setback area. The property is comprised of 19,166 s/f the existing house covers 1,279 s.f. The existing coverage 11.05% of coverage and this proposal would change the coverage to 11.056% which is a very minor increase. The applicants purchased the property in 1976 which was prior to the change in the zoning regulations.

The finished structure is proposed to be 20' x 20' whereas a typical garage would be 24 x 24 by today's standards. The depth of the barn that was destroyed was 18 feet. The adjoining barn is 20 feet and the rebuild would have a parallel face to the adjoining barn. The house is elevated with a patio and the property then drops off. Mr. Lomme stated that this is the only feasible location for the proposed barn. The hardship is that this property precedes the zoning regulations; this is an historic structure and property. The house was built at the turn of the century. The height of the building will be similar to that which previously existed however not as high as to the existing garage structure. This will be a post and beam design barn.

Mr. Ingersoll asked if anyone wished to speak in favor or in opposition to this application.

Mr. Ingersoll submitted four letters for the record; three were in favor of this application with one letter in opposition.

Mr. Lomme responded to the correspondence submitted opposing this application, noting that the structure cannot be moved out of the setback due to the topography of the land.

- b. Application #11-6 on behalf of Patrick Kilty for Heritage Cove Condominium, property located at 85 River Road, Essex, CT, Assessor's Map 12 Lot 7, RU District**, requesting a Variance of Sections 40C, 40D, 40I.1 and 61B of the Essex zoning regulations. The property is comprised of a 15.6 acre parcel comprised of a multi-dwelling establishment. The applicant is proposing to change the roof pitch on each parking structure. Some of these structures are situated in the front setback of the property.

Patrick Kilty presented on behalf of this application. Mr. Kilty is the manager of the Heritage Cove Condominium complex. Mr. Kilty stated that there are seven carport structures in this proposal. Mr. Kilty noted that this proposal involves three designs, as opposed to "three existing carports", as was stated in the legal notice.

This plan is part of a 3 million dollar rebuild. Mr. Kilty stated that this will be a cosmetic siding project utilizing the existing roof system. Mr. Kilty proposed to reduce the nonconformity with this application. The overall footprint will be reduced 18' x 40'. The elevation is less than seven feet. In conjunction with Centerbrook Architects this design was to create as little impact to the structures as possible. This is a six pitch roof which is minimal in New England. There is a fairly complicated roof design which allows for good drainage.

Mr. Daddona stated that anything you do within the setbacks on this property would be in nonconformance. The hardship is that this complex was built in 1965 which predates the zoning regulations. Mr. Kilty noted that the property is heavily treed.

Mr. Ingersoll asked if anyone wished to speak in favor or in opposition to this application.

Greg Godbout, 77 River Road, Essex, CT which is adjacent to a portion of the project discussed this evening. Mr. Godbout stated that this proposal will have a big impact on his home and property. Mr. Godbout indicated that review of the plans is the first he has seen or heard of this application, noting written notification was not sent out. Mr. Godbout expressed his concern over the pitch of the roof; the existing structure is going from a flat roof to a pitched. Heritage condos are six feet from Mr. Godbout's property line which Mr. Godbout indicated presents a detriment to his living situation. Mr. Godbout acknowledged the presently the roofs are flat and he noted that he understands that this past winter was very difficult. However a flat roof can be made to adapt to the weather. Mr. Godbout stated his concern about how this completed proposal will look aesthetically and he further questioned the hardship surrounding this application.

Mr. Kilty stated that the pitch will be an additional six feet above the existing flat roof. Mr. Kilty went on to say that the existing flat roofed condos were re-done ten years ago and the flat roof is just not efficient. Mr. Kilty stated that the proposed is a positive roof system that will handle drainage and this will be a roof structure that will withstand heavy snowstorms.

Tom Maclean, 75 River Road, Essex, CT stated that there is a structure which is located close to his house in which there will be a recycling center. This structure will go one foot higher than the rest of the building in one area. Mr. Maclean noted that there are many trees along the property line and there are a few of those trees located on Mr. Maclean's property line. Mr. Maclean stated that as an abutter he was not notified in writing of this proposal and he first heard of this application when he read it in the newspaper.

- c. Application # 11-7 on behalf of Robert J. Kolp Jr., property located at 24 Cove Rest Pentway, Essex, CT Assessor's Map 71 Lot 21-1 RU District** requesting a Variance of Sections 61B of the Essex Zoning Regulations. This is an application to locate an 8' x 20' accessory structure on the property. The lot coverage would increase from 7.05% to 7.93% where 7.5% is the maximum.

Robert Kolp presented on behalf of this application. Two years ago Mr. Kolp presented a plan for a two-car garage for the property was proposed to be located at the point furthest away from the water. There is a

small triangular spot where the proposed shed is. In terms of storage, there is currently a canoe sitting on saw horses and shovels are stored in a crawl space under the house. The Variance is strictly lot coverage.

Mr. Kolp stated that the last proposal which came before the Essex ZBA was deemed too tall. This structure will be less than eleven feet in height. The sanitation is not an issue as the water can soak into the ground; the proposed location is still over 100 feet set back from the water. The proposed structure is 8 feet wide by 20 feet which is long enough to house the canoe. The coverage is going up to 7.9%.

Ms. Walmsley stated that this Variance request is for a shed and she wishes to be clear that this structure will not house a car.

The shed will be situated on a gravel pad. Clouter farms will install the shed.

Mr. Ingersoll asked if anyone wished to speak in favor or in opposition of this application.

There were no letters on behalf of this application.

## **DELIBERATION**

- **Motion** made by Al Daddona to approve a Variance for Application #11-5 on behalf of Patrick M. Callahan, property located at 16 Grove Street, Essex, CT, Assessor's Map 32 Lot 24-1 VR District, requesting a Variance of Sections 40C, 40D, 40I and 50F.3 and 60B of the Essex of the Essex zoning regulations. This is an application to add 120 square feet to an existing non-conforming accessory structure that is located entirely within the rear setback area. Variance granted based on the fact that the existing barn is situated in the setback. The new structure will present similar intrusions on the setback as was that of the previous barn. There is a minimal increase in coverage and any modification to the footprint will be a hardship because it is not in accordance with the zoning regulations. This proposal replaces a building that was severely compromised by a sever winter. The structure had to be torn down and replaced with a new structure. This Variance is based in accordance with plans dated April 15, 2011 - Callahan Site, 16 Grove Street, Essex CT, as submitted.

**Motion** seconded by Alix Walmsley and passed. Lynn Faulstick abstained from the vote.

- **Motion** made by Doug Demarest to approve a Variance for Application #11-6 on behalf of Patrick Kilty for Heritage Cove Condominium, property located at 85 River Road, Essex, CT, Assessor's Map 12 Lot 7, RU District, requesting a Variance of Sections 40C, 40D, 40I.1 and 61B of the Essex zoning regulations. This is an application to replace the roofs of six to seven existing carports that encroach the front yard setback area. This Variance is granted on the basis that these are existing structures that were in place prior to the Essex zoning regulations, the height of the building is within code and there is opposition to this from only one neighbor. The height is only 5" above the regulated height. The building is also within 15 feet of the setback area. The hardship associated with this proposal; the construction of the entire complex occurred before zoning. It is reasonable to use the minor modifications to upgrade these buildings. This Variance is approved in accordance with the drawings submitted dated April 21, 2011 – Angus McDonald Gary Sharpe & Associates, Inc. Site Development Plan property of HERITAGE COVE CONDOMINIUM, River Road, Essex, CT dated March 28, 2011.

**Discussion:**

Attorney John Bennet indicated that if the setback for a 15-foot high building is five feet, would that make this proposal exempt.

Mr. Ingersoll referenced Zoning regulation 40I.2 and noted that this proposal is not a rear lot line. This application is for a multi condo project which is no longer allowed in the regulations.

Mr. Daddona noted that any change in this proposal is nonconforming.

Doug Demarest stated that the big change is the height of the building. The drawings should specify the height of the structures.

The Board discussed the fact that the relevant line is a rear lot line and they are outside of the five foot setback; and it is considered an accessory structure.

Mr. Ingersoll noted that all of the buildings are within the setback are and no matter what is done, a Variance will be required due to the recent addition of the "Hyde" amendment to the Essex Zoning Regulations. Mr. Ingersoll noted that the problem was created when this complex was built which was prior to zoning. The construction of a flat roof versus a pitched roof is not something the Zoning Board of Appeals will make a decision on. That said, a pitch on the roof would look better and would be more practical.

**Motion** seconded by Paul Greenberg and passed. Lynn Faulstick abstained from the vote.

- **Motion** made by Al Daddona to grant a Variance for Application # 11-7 on behalf of Robert J. Kolp Jr., property located at 24 Cove Rest Pentway, Essex, CT Assessor's Map 71 Lot 21-1 RU District requesting a Variance of Sections 61B of the Essex Zoning Regulations. This is an application to locate an 8' x 20' accessory structure on the property. This Variance is granted based on the fact that the lot coverage would increase from 7.05% to 7.93% where 7.5% is the maximum. This proposal involves only an accessory structure with an increase in coverage of .8%. Anything done on this property will not be in accordance with the Essex zoning regulations and a storage shed will not be an imposition on the lot. The hardship for this proposal lies within the Essex zoning regulations. This Variance is granted in accordance with the plans as submitted on April 26, 2011: Richard W. Gates, LS Proposed Shed Location on land of Robert J Jr. & Pamela Kolp, 24 Cove Rest Pentway, Essex, CT.

**Discussion:** This proposal creates a minimal increase in coverage.

**Motion** seconded by Paul Greenberg and passed. Lynn Faulstick abstained from the vote.

Respectfully submitted

Stella C. Beaudoin  
Administrative Assistant