



TOWN OF ESSEX
Zoning Board of Appeals

Executive Board

W. T. Fergusson, Chair
W Feirer, Vice Chair
Philip P Schaller, Secretary

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

Regular Members

B. Sarrantonio
Brian Weinstein

Alternate Members

Philip J. Beckman
George Wendell
Richard Rybak

Unapproved

Minutes

January 21, 2020 – Zoning Board of Appeals

The Essex Zoning Board of Appeals conducted their regularly scheduled meeting on Tuesday, January 21, 2020 at 7:00 p.m. in Room A of the Essex Town Hall. Seated: Ward Feirer, Barbara Sarrantonio, Brian Weinstein, Phillip Schaller, Phillip Beckman, George Wendell.

Staff:

Stella Caione, Recording Secretary

W Feirer, Vice Chair called the meeting to order at 7:00 p.m.

1. PUBLIC HEARINGS

Application No. 19-36 on behalf of Essex Glen, LLC, 14 Essex Glen Drive Essex CT, Assessor's Map 76, Lot 14-1, AAC District, requesting variances to sections 40D, 40E, 40I and 63-2B of the zoning regulations to locate a deck to a point 34 feet from a front property line where 40 feet is required.

Seated for this proposal were Ward Feirer, Barbara Sarrantonio, Brian Weinstein, Phillip Schaller, George Wendell.

The property at 14 Essex Glen Drive is approximately 11 acres in size and is the site of an ongoing construction of a 26 unit planned development. Thus far close to 13 homes have been built and sold. The property is situated atop a hill with sloping terrain going westward down to Bokum Road.

House #1 which the subject house to this application was the first house built and is a spec house. It was approved with a patio off the rear and at some point a deck was built in place of the patio. The deck is to the rear of the house, however the rear of this house also fronts the proposed cul de

sac of Essex Glen Drive. The deck is 34 feet from the front property line where 40 feet is required, an encroachment of 6 feet.

Attorney Terrance Lomme who presented on behalf of Essex Glen stated that when the property was developed the front of the subject property was Bokum Road and the rear was the newly created road. T Lomme stated that in order to be in conformity with the zoning regulations as related to the location of the deck on the spec house, he looked at a design relocation of the road which would have been a huge undertaking. T Lomme noted that the road is 45 feet in width and there is significant distance from the existing deck to the property situated on the other side of the street on which there is currently no building.

W Feirer stated that this is an event that occurred subsequent to approval of the subdivision and all of the adjustments involved with a proposed relocation of the road, for what may be the Town's oversight, does not make sense.

T Lomme stated that because this house was a spec house a Certificate of Occupancy was not required. T Lomme stated that the hardship relates to the miscommunication and a misunderstanding of the regulation and when the property was initially developed the thought was that the front of the property was Bokum Road. All of the regulatory considerations to the existing road construction are in place, i.e., catch basins, drainage, etc. and any other solution is not feasible and unreasonable.

B Sarrantonio stated the only one house would potentially be affected.

There was no further comment from the Board.

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

Herb Clark asked for the granting of variance in order to resolve the problem.

There was no further comment from the Board.

The public hearing closed at 7:26pm.

Application No. 20-01 on behalf of Sherry Morgan, 39 Prospect Street Essex, CT, Assessor's Map 32, Lot 52, VR District, requesting variances to sections 40D, 40E, 40I.1, 50D and 60B of the zoning regulations to locate an external stairway to appoint 8 inches from a side property line where 25 feet is required to a point 20 feet from the rear property line where 30 feet is required and 29 feet from the front property line where 30 feet is required.

Seated for this proposal were Ward Feirer, Barbara Sarrantonio, Brian Weinstein, Phillip Schaller, Phillip Beckman.

The applicant is proposing a staircase off the rear of the deck. A 36 s.f. triangle portion of extra deck would have to be built to a point 8" from the property line to lead to the proposed stairs. The

edge of the stairs would come to a point 1 foot from the property line. The shed as denoted on the site plan map is under a Notice of Violation since September 2019.

Sherry Morgan who presented on behalf of this application stated that in 1959 the property was split off and the lot on which her house is situated is seventy, one-hundredths of an acre in size and was created prior to zoning. S Morgan stated that she wants to create a second exit to the house for safety purposes and proposes to do so by adding steps to the back door which would create another entry and provide a second fire exit to the house.

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

Louis Spann, 41 Prospect Street noted that he is fully in favor of safety however Ms. Morgan must walk across 50% of his property in order to utilize this safety exit. L Spann further stated his concern over potential liability. L Spann stated that he would welcome a dialogue with Ms. Morgan to come up with a solution.

Ms. Morgan noted that Mr. Spann has recently constructed a shed which encroaches on her property and he did so without seeking prior approval from the Town.

W Feirer read a letter into the record from Jim and Betsy Goodman, in favor of this application.

B Sarrantonio stated that this issue is beyond the jurisdiction of the ZBA.

W Feirer noted that Mr. Spann's property is also encroaching on to the applicant's property, to the point where he may have to use Ms. Morgan's property to access his property.

W Feirer asked if this application could be delayed. B Sarrantonio stated that there is no reason to delay the decision on this application and it is a safety issue.

There was no further comment from the Board.

The public hearing closed at 7:55pm.

2. Regular Meeting

Discussion and possible decision on applications:

- **Application No. 19-36** on behalf of Essex Glen, LLC, 14 Essex Glen Drive Essex CT, Assessor's Map 76, Lot 14-1.

MOTION made by B Sarrantonio to approve **Application No. 19-36** on behalf of Essex Glen, LLC, 14 Essex Glen Drive Essex CT, Assessor's Map 76, Lot 14-1, AAC District, requesting variances to sections 40D, 40E, 40I and 63-2B of the zoning regulations to locate a deck to a point 34 feet from a front property line where 40 feet is required. This is a reasonable request, a minor incursion and the hardship associated with this application is that there is no other reasonable solution. This proposal is approved in accordance with the submitted plans; **SECONDED** by P Schaller; **IN FAVOR:** Ward

Feirer, Barbara Sarrantonio, Brian Weinstein, Phillip Schaller, George Wendell; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED** 5-0-0.

Application No. 20-01 on behalf of Sherry Morgan, 39 Prospect Street Essex, CT, Assessor's Map 32, Lot 52.

P Schaller stated that he understands the safety issue and also understands the liability as stated by the neighbor.

B Weinstein stated that technically there is no way that the applicant would not encroach on the neighbor's property.

P Beckman stated that the safety issue is on the forefront of this application.

W Feirer stated that it is uncertain as to the exact demarcation of the property line, however this is a safety issue which needs to be addressed and the applicant and the neighbor need to work together toward resolution.

MOTION made by W Feirer to approve a Variance for **Application No. 20-01** on behalf of Sherry Morgan, 39 Prospect Street Essex, CT, Assessor's Map 32, Lot 52, VR District, requesting variances to sections 40D, 40E, 40I.1, 50D and 60B of the zoning regulations to locate an external stairway to appoint 8 inches from a side property line where 25 feet is required, to a point 20 feet from the rear property line where 30 feet is required and 29 feet from the front property line where 30 feet is required. The hardship associated with this proposal is the existence of one exit in the house which precludes any emergency exit. This proposal is approved in accordance with the plans as submitted; **SECONDED** by B Sarrantonio; **IN FAVOR:** Ward Feirer, Barbara Sarrantonio, Brian Weinstein, Phillip Beckman; **OPPOSED:** None; **ABSTAINING:** P Schaller; **MOTION CARRIED** 5-0-1.

3. New Business

There was no new business.

4. Old Business

Approval of Minutes – December 17, 2019.

MOTION made by W Feirer to approve the December 17, 2019 Minutes with following correction; 1) Page 4, 3rd paragraph, 6th line which reads: "provided a robust planting plan with plantings that compliment and obscure the retaining wall." Change the word "compliment" to "*complement*"; **SECONDED** by B Weinstein; **IN FAVOR:** Ward Feirer, Barbara Sarrantonio, Brian Weinstein, Phillip Schaller, Phillip Beckman; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED** 5-0-0.

5. Correspondence and Invoices

There was no correspondence and there were no invoices.

6. Adjournment

MOTION made by P Schaller to adjourn the meeting at 8:05p.m.to the next regularly scheduled meeting which will be held on Tuesday, February 18, 2020 at 7:00 p.m. at the Essex Town Hall, Conference Room A, 29 West Avenue, Essex, CT; **SECONDED** by W Feirer; **IN FAVOR:** Ward Feirer, Barbara Sarrantonio, Brian Weinstein, Phillip Schaller, Phillip Beckman; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED** 5-0-0.

Stella A Caione
Recording Secretary