



TOWN OF ESSEX  
**Zoning Board of Appeals**

**Executive Board**

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

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**Regular Members**

*B. Sarrantonio*  
*Brian Weinstein*

**Alternate Members**

*Philip J. Beckman*  
*George Wendell*  
*Richard Rybak*

**Unapproved**

**Minutes**

**April 21, 2020 – Zoning Board of Appeals**

**1. Call to Order and Seating of Members**

The Essex Zoning Board of Appeals conducted their regularly scheduled meeting on Tuesday, April 21, 2020 at 7:00 p.m. This meeting was made available to the public via Zoom at <https://zoom.us/j/93634398280?pwd=aVhIUjVZN0hvTGZLNDA1Y3NZY0xrZz09>; Meeting ID: 936-3439-8280; Meeting Password: 501446

Commission members present: W T Fergusson, B Sarrantonio, B Weinstein, W Feirer, P Schaller, R Rybak, and P Beckman.

Staff present: Joseph Budrow, Zoning Enforcement Officer, Stella Caione, Recording Clerk and Sylvia Rutkowska, ZBA Legal Counsel.

EZBA Chairman W T Fergusson welcomed everyone to the first Essex Zoning Board of Appeals public access meeting which was conducted remotely based on the Governor's suspension of the In-Person Open Meeting Requirements. In order to protect those interested in attending such public meetings, the Town of Essex is using an online audio meeting service, a new technology which allows the public to listen and participate in a meeting in real time. This service is new to us and we thank you for your patience as we learn the system.

The Zoning Board of Appeals members 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.

**2. PUBLIC HEARINGS**

- **Application No. 20-5** on behalf of Jeanne Vigen, 9 Clark Lane, Essex, CT, Assessor's Map 17, Lot 27, VR District, requesting variances to sections 40D, 40I.1, 50D and 60B of the zoning regulations to locate a 14' x 20' garage addition to a point 0 feet from a side property line

where 25 feet is required, and to a point 22 feet from the front property line where 30 feet is required. Also, to allow the building coverage to increase from 9.2% to 11% where 10% maximum building coverage is allowed.

Jeanne Vigen who presented stated that the house was constructed in the 1950's. J Vigen stated that the original garage had been converted to a family room and indicated that she spoke with the sellers at the time of purchase about the likelihood of adding a garage onto the side of the house which would offer a coverage and safety feature. J Vigen stated that she spoke with all of the abutting neighbors and there was no stated objection to this proposal. J Vigen indicated that there is a 20-foot in width by 60-foot in height bank of Hemlock trees between the north side of the house that separates the abutting property and as such the proposed garage will present no visual impact. J Vigen stated that since purchasing this house she has installed a new roof and portico which has served to increase the value of her home as well as the value of other properties on Clark Lane.

The current driveway would be eliminated and relocated to the left side of the house allowing entry into the proposed garage. J Vigen stated that the curb appeal created by this proposal would be a great asset to the neighborhood. The hardship associated with this proposal is that there is currently no coverage in inclement weather, creating a safety issue.

Joe Budrow stated that he worked with the Essex Town Clerk to locate an old survey map of the area and found a map from an approved subdivision plan which was brought to scale, and J Budrow stated that he felt confident that this plan is accurate.

There was confusion between the application request and the legal notice and J Vigen clarified that she is seeking a 14' x 20' garage.

Sylvia Rutkowska, ZBA legal counsel stated that the ZEO memorandum on this application reflects that looking at the corner of the existing house, in the furthest northern corner, the notation is that it is 10 feet from the property line. The westerly portion of the proposed garage will be situated at an angle and that dimension to the northwesterly corner of the property line will change. S Rutkowska noted that the most northeasterly corner will be one-foot from the setback and the northwesterly corner will be more than one foot from the property line. S Rutkowski stated that there will be an increased setback the further west you go.

J Budrow stated that the garage is noted on the site plan is to scale.

S Rutkowska requested that if the Board approves this application, a revised site plan must be submitted.

P Beckman asked the applicant if this property has been surveyed. J Vigan stated that J Budrow provided the original maps from which the proposal was created.

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

Ms. Vigen's daughter stated that she lives next door and she is in favor of the proposed application.

There were no further comments from the audience.

There were four letters submitted in support of this proposal and have been made a part of the record.

A letter dated February 10, 2020 was submitted from J H Torrance Downes, Deputy Director, River COG the CT River Gateway Commission stating that this application proposes a small project that will not create any significant visual impact to the “natural and traditional river scene” and Gateway does not oppose the granting of a variance.

There was no further comment from the Board.

The public hearing closed at 7:25pm.

- **Application No. 20-7** on behalf of Louis G. Spann, Jr, 41 Prospect Street, Essex, CT, Assessor’s Map 32, Lot 51, VR District, requesting variances to sections 40C, 40D, 40I.1 and 60B of the zoning regulations to allow an unapproved shed at a point 4 feet from a side property line where a 25 feet is required. Also, to allow the building coverage to increase from 13.4% to 14% where 10% maximum building coverage is allowed.

Louis Spann who presented on behalf of this proposal stated that he constructed a small utility shed to house a portable generator and a lawn mower and a few woodworking items. He constructed a 7-foot high, 44 s.f. custom built shed which is 3 feet higher than what was approved. The shed is situated behind a retaining wall. L Spann stated that he presented at the February 2020 ZBA meeting and indicated at that time that he did not realize that he was in violation and offered to remove the gutter and the soffit so as to remediate the height issue. It was noted that the original permit granted approval for a shed four feet in height and L Spann constructed a shed seven feet in height. L Spann stated that the peak of the roof is 7’1” and the height as it stands, does not obscure any views. The plan as originally drawn and submitted, permits were approved for an accessory building.

J Budrow, Zoning Enforcement Officer displayed a briefing package as was submitted by the applicant related to his amended proposal.

L Spann stated that he now proposes to move the shed 5’6” inside the property line allowing for a 4’ distance from the property line for the soffit with gutter 4’. L Spann stated that he will install an Arborvitae privacy buffer along property line.

L Spann reviewed the Briefing Package with the Board.

B Sarrantonio asked if the shed could be shifted further west and L Spann stated that due to various constraints, it could not.

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

Sherry Morgan, 39 Prospect Street Essex stated that when she purchased her house in 2018 she became aware that Mr. Spann applied for a permit to construct 4' x 11' structure and he then built a 7.5' x 12.1' structure exceeding the size that was originally permitted. S Morgan noted that L Spann did not have the property line surveyed. S Morgan stated that Mr. Spann now proposes to move the structure 5'6" from the property line when in fact he is only moving it 4' from where it currently exists and she stated that moving the shed 4' from the property line will not change the view from her property and moving the shed 4' from her property is not acceptable. S Morgan noted that this shed is 1/3<sup>rd</sup> the size of his existing 2 story garage. The shed is unapproved because of its size and location and it is unapproved because it increases the coverage on Mr. Spann's lot.

S Morgan stated that this shed can easily be placed along side of the existing patio and S Morgan noted that looking at this huge roof outside of her dining room window is not pleasing to her, and the 2-story garage is already located too close to her property line. S Morgan stated that the shed blocks all the light and all the air along the property line border is not in keeping with zoning which addresses the requirement to provide adequate light and air. S Morgan stated that as related to the installation of the Arborvitae, upon maturity of the trees, they will go right to her back door. Mr. Spann proposed to plant the Arborvitae in a 4' space and her back door is 3' from the 4' space, leaving Mr. Spann in a position to trespass on her property in order to maintain the Arborvitae. S Morgan stated that Mr. Spann can place the shed within the 24-foot setback along the patio which would not block her air and her light and further serve to decrease the value of her property. S Morgan stated that the construction of this shed will block the entire westerly portion of her property.

Mr. Spann stated that the site survey reflects the actual dimensions and are clearly marked in the briefing package. The foundation would be 5'6" away from Ms. Morgan's property. Mr. Spann stated that the shed sits 4' down from her property and will not block her air or her light. Insofar as the Arborvitae installation, Mr. Spann stated that he will maintain the trees and they will not grow to 20' in height based on the location in which it will be situated. The 3 proposed Arborvitae will be 3' wide.

W Feirer asked S Morgan if she is selling her house. S Morgan stated that she is selling her house and after researching the property boundary lines, she had to disclose that Mr. Spann's shed is located on her property which creates a hardship. S Morgan stated that when she looks out of her back door, the only thing that can be seen is the roof of Mr. Spann's shed. S Morgan stated that she is naturally concerned about the views and stated again that this shed will potentially devalue her property and create hardship in the sale of her real estate.

P Beckman questioned if S Morgan has realized a loss in property value or and questioned if a realtor has stated that the location of the shed is a detriment to the offering price of the property.

Sylvia Rutkowska, ZBA legal counsel stated and sought to clarify that the existing house is at an angle, with the most northeasterly corner being 10 feet from the property line (precise distance not specified). Therefore, the proposed attached garage would also be at an angle with the most northeasterly corner, one foot from the property line and the northwesterly corner being greater than one foot (precise distance also not specified). As such, the proposed setback would be greater at the northwesterly corner of the garage.

S Rutkowska noted that generally an individual property owner can express an opinion on the value of her property and loss thereto without obtaining an appraisal. However, S Rutkowska noted the questions should be more to Mr. Spann to determine that he can prove his burden so as to show there is a hardship and if his proposal is consistent with the comprehensive plan. S Rutkowska stated that the photos/documents displayed this evening are not in the file and asked that Ms. Morgan and Mr. Spann send these photos via email to the ZEO to be made a part of the record. Also, there was some discussion regarding the specifics of the zoning permit Mr. Spann obtained for the structure he then proposed and whether that permit should be made a part of the file. S Rutkowska noted, that permit was not for the existing structure and not relevant to the Board's considerations as to the existing structure.

W T Furgueson asked Ms. Morgan if relocating the shed and changing the landscaping makes a difference to her insofar as addressing the crux of the issue. S Morgan stated that she would be willing to see a proposal in which the shed moved 10 or 12 feet from the roofline and to rotate the shed sideways so that she is not looking at all roof. S Morgan reiterated that the existing shed is an unapproved structure.

There were no further comments from the audience.

There were no letters submitted on behalf of this proposal.

There was no further comment from the Board.

The public hearing closed at 8:39pm.

- **Application No. 20-8** – On behalf of Peter Williams, 7 Hanna Lane, Essex, CT, Assessor's Map 28, Lot 54, VR District, requesting variances to sections 40C, 40D, 40I.1 and 60B of the zoning regulations to allow a detached garage to a point 12.5 feet from a side property line where 25 feet is required.

Joseph Wren, PE who presented on behalf of this proposal stated that this is a proposal for the construction of a two-car detached garage. J Wren stated that the hardship associated with this proposal is this preexisting lot prior to zoning and the topography of the property to include inland wetlands on significant portions of the site.

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

There were no comments from the audience.

J Wren stated that he contacted J H Torrance Downes, Deputy Director, River COG the CT River Gateway Commission and Mr. Downes stated no objection to this proposal.

There were six letters submitted in support of this proposal and have been made a part of the record.

There was no further comment from the Board.

The public hearing closed at 9:08pm.

- **Application No. 20-9** - on behalf of David and Joan Kirsch, 7 High Street, Essex, CT, Assessor's Map 27, Lot 10, VR District, requesting variances to sections 40D, 40E, 50D and 60B of the zoning regulations to construct a deck that will increase the maximum building coverage from 12.2 to 13.65% where 10% is the maximum building coverage allowed.

David Kirsch who presented on behalf of this proposal stated that he proposes to install a deck on the back of the house in the area where he took down an old glass porch.

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

There were no comments from the audience.

There were no letters submitted.

There were no further comment from the Board.

The public hearing closed at 9:14pm.

### **3. PUBLIC HEARINGS**

- **Application No. 20-5** on behalf of Jeanne Vigen, 9 Clark Lane, Essex, CT, Assessor's Map 17, Map 27, VR District.

Seated for this proposal were W T Furgueson, B Sarrantonio B Weinstein, P Schaller.

**MOTION** made by P Schaller to approve a Variance for **Application No. 20-5** on behalf of Jeanne Vigen, 9 Clark Lane, Essex, CT, Assessor's Map 17, Map 27, VR District, requesting variances to sections 40D, 40I.1, 50D and 60B of the zoning regulations to locate an 14' x 20' garage addition to a point 0 feet from a side property line where 25 feet is required, and to a point 22 feet from the front property line where 30 feet is required. Also, to allow the building coverage to increase from 9.2% to 11% where 10% maximum building coverage is allowed. The hardship associated with this proposal is that this is the most practical location on which to place the 14' x 20' garage. The variance permit will reflect that the site plan will be amended to reflect approval of a "14' x 20' garage with a one-foot space between the northeast corner and the property line." This proposal is approved in accordance with the plans as submitted; **SECONDED** by B Weinstein; **IN FAVOR:** W T Furgueson, B Sarrantonio B Weinstein, P Schaller; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED** 4-0-0.

- **Application No. 20-7** on behalf of Louis G. Spann, Jr, 41 Prospect Street, Essex, CT, Assessor's Map 32, Lot 51, VR District.

Seated for this proposal were W T Furgueson, W Feirer, B Weinstein, B Sarrantonio, P Schaller.

Members agreed that there are several reasonable alternatives to the location of this structure.

P Schaller stated that this shed is not as obtrusive as stated in the testimony this evening and he suggested that members look at this proposal with different perspective.

W T Furgueson stated for record that he is viewing this proposal as a new application. What separates this from other applications heard this evening is the fact that the existing shed that was previously constructed was not approved and it is existing directly on the neighbor's property line.

**MOTION** made by W T Furgueson to deny a Variance for **Application No. 20-7** on behalf of Louis G. Spann, Jr, 41 Prospect Street, Essex, CT, Assessor's Map 32, Lot 51, VR District, requesting variances to sections 40C, 40D, 40I.1 and 60B of the zoning regulations to allow an unapproved shed at a point 4 feet from a side property line where a 25 feet is required. Also, to allow the building coverage to increase from 13.4% to 14% where 10% maximum building coverage is allowed; **SECONDED** by B Sarrantonio; **IN FAVOR:** W T Furgueson, W Feirer, B Weinstein, B Sarrantonio; **OPPOSED:** P Schaller; **ABSTAINING:** None; **MOTION CARRIED** 4-1-0.

- **Application No. 20-8** – On behalf of Peter Williams, 7 Hanna Lane, Essex, CT, Assessor's Map 28, Lot 54, VR District.

Seated for this proposal were W T Furgueson, W Feirer, B Weinstein, B Sarrantonio, P Schaller.

**MOTION** made by W T Furgueson to approve a variance for **Application No. 20-8** – On behalf of Peter Williams, 7 Hanna Lane, Essex, CT, Assessor's Map 28, Lot 54, VR District, requesting variances to sections 40C, 40D, 40I.1 and 60B of the zoning regulations to allow a detached garage to a point 12.5 feet from a side property line where 25 feet is required. The hardship associated with this proposal is that there is no other rational place on this property in which to place a garage. This is an unusual lot with a tremendous amount of wetlands as well as other site line restrictions; This proposal is approved in accordance with the plans as submitted; **SECONDED** by B Weinstein; **IN FAVOR:** W T Furgueson, W Feirer, B Weinstein, B Sarrantonio, P Schaller; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED** 5-0-0.

- **Application No. 20-9** - on behalf of David and Joan Kirsch, 7 High Street, Essex, CT, Assessor's Map 27, Lot 10, VR District

Seated for this proposal were W T Furgueson, W Feirer, B Sarrantonio, B Weinstein, P Schaller.

**MOTION** made by B Sarrantonio to approve a variance for **Application No. 20-9** - on behalf of David and Joan Kirsch, 7 High Street, Essex, CT, Assessor's Map 27, Lot 10, VR District, requesting variances to sections 40D, 40E, 50D and 60B of the zoning regulations to construct a deck that will increase the maximum building coverage from 12.2 to 13.65% where 10% is the maximum building coverage allowed. The hardship associated with this proposal is the replaces a porch and above ground oil tank and the incursion is for lot coverage only and does not violate setbacks. There was testimony that the prior porch was unsafe and this proposal creates a safe alternative. This proposal is approved in accordance with the plans as submitted; **SECONDED** by B Weinstein; **IN FAVOR:** W T

Furgueson, W Feirer, B Weinstein, B Sarrantonio, P Schaller; **OPPOSED:** None; **ABSTAINING:** None;  
**MOTION CARRIED** 5-0-0.

**4. New Business**

There was no new business.

**5. Old Business**

Approval of Minutes – February 18, 2020.

**MOTION** made by B Weinstein to approve the February 18, 2020 Minutes with following amendment: 1) Page 3, to read “permit authorized for electrical work done on the shed”;  
**SECONDED** by W Feirer; **IN FAVOR: FAVOR:** W T Furgueson, W Feirer, B Weinstein, B Sarrantonio, P Schaller; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED** 5-0-0.

**6. Correspondence and Invoices**

There was no correspondence and there were no invoices.

**7. Adjournment**

**MOTION** made by W T Furgueson to adjourn the meeting at 9:40p.m.to the next regularly scheduled meeting which will be held on Tuesday, May 19, 2020 at 7:00 p.m. at the Essex Town Hall, Conference Room A, 29 West Avenue, Essex, CT; **SECONDED** by B Sarrantonio; **FAVOR:** W T Furgueson, W Feirer, B Weinstein, B Sarrantonio, P Schaller; **OPPOSED:** None; **ABSTAINING:** None;  
**MOTION CARRIED** 5-0-0.

Respectfully submitted,  
*Stella A. Paione*  
Stella A. Caione, Recording Clerk