



TOWN OF ESSEX
Zoning Board of Appeals

Executive Board

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

29 West Avenue • Essex, Connecticut 06426
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Regular Members

B. Sarrantonio
Brian Weinstein

Alternate Members

Philip J. Beckman
George Wendell
Richard Rybak

Unapproved

Minutes
May 19, 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, May 19, 2020 at 7:00 p.m. This meeting was made available to the public via Zoom at <https://us02web.zoom.us/j/82708202716?pwd=d09ZNU9reW5pR1JFbzZyOVZyQ3ZxZz09> Meeting ID: 827-0820-2716 Meeting Password: 195664

EZBA Chairman W T Furgueson welcomed everyone to the 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.

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.

Commission members present: W T Furgueson, B Sarrantonio, W Feirer, P Schaller, R Rybak, G Wendell, and P Beckman.

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

Audience: Ken and Sally McGovern, applicant; Louis Spann, applicant; Michael Cegan, landscape architect of Richter and Cegan, Inc.

2. PUBLIC HEARINGS

- **Application No. 20-10** on behalf of Ken and Sally McGovern, 19 Navy Lane, Essex, CT, Assessor's Map 9, Lot 2, RRR District, requesting variances to sections 40C, 40D, 40J and 64B

of the zoning regulations to construct a new house to a building height of 38 feet, 3 inches where 35 feet is the maximum building height allowed.

Seated were W T Furgueson, P Beckman, P Schaller, W Feirer, B Sarrantonio. G Wendell recused himself from this proposal.

This proposal is for the construction of a new house at 19 Navy Lane. The 2.53 acre parcel is in the River Road Residential Zone. The lot is currently vacant as the former building was removed a number of years ago. The variance is based on the fact that the proposed house is set on a steeply sloping topography and the natural grade at the back of the proposed house is significantly lower than the grade at the front. The house elevation could not be lowered any further due to subsurface bedrock. The building height would be well within the maximum height allowed from finished grade however height is measured from the lowest natural grade. The difference is a landscaped fill slope at the back, south elevation and the actual building elevation that is visible above finished grade never exceeds 35'.

Mike Cegan, landscape architect of Richter and Cegan who presented on behalf of the property owners reiterated the details of this proposal and stated that the hardship relates to the physical constraints of the land.

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

G Wendell, 20 Navy Lane commented on the hardship and stated his support of this proposal.

There were no further comments from the audience.

There was one letter from Patricia Tripoli submitted in support of this proposal which has been made a part of the record. Patricia Tripoli lives at 30 Navy Lane which is to the east of the subject property.

There was no further comment from the Board.

The public hearing closed at 7:15pm.

- **Application No. 20-11** 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 a 7' x 12.5' shed to a point 5 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.

Seated were W T Furgueson, B Sarrantonio, P Beckman, P Schaller, W Feirer.

This proposal as stated on the submitted application is to relocate a 4'8" wide by 11'8" long by 7'2" high utility shed to a new location where the soffit corners are 5' at the closest point and 6'2" at the furthest point from the property line, 90 degrees and so it is in parallel with an existing garage such that the corner of the shed aligns with the corner of the garage; to relocate a propane tank from

the corner of the property line to a location next to the garage stairs behind the shed and to add privacy landscaping and natural wood fence between 41 and 39 Prospect Street.

L Spann stated that the distance of the proposed shed to the property line is just over five feet and noted that he rotated the shed and pulled it off of the retaining wall. L Spann stated that he will remove the concrete pad on which the existing shed is situated and in that location he will install natural wood fencing of Arborvitae and Bamboo.

B Sarrantonio questioned why the shed cannot be placed next to the patio.

L Spann stated that his property sits at the intersection of West Street and South Main Street and he noted that placing the shed on the patio would destroy the entire backyard and it would be conspicuous. L Spann stated that the property sits 12 feet above Chapman Square and to construct a 7-foot building at that grade would place the structure 17 feet over Chapman Square. L Spann noted that the hardship is that this is the only location on the property on which the shed could be placed.

W Feirer asked the applicant to clarify the size of the shed.

L Spann stated that the doors are 5'6" and the peak of the roof is 7'.

P Beckman questioned what prevented the applicant from moving the shed 2-5 feet.

L Spann stated that he would have to re-grade everything to the west and architecturally the shed would be placed in the middle of the yard.

W T Furgueson stated that Sherry Morgan is not in the audience this evening. J Budrow stated that S Morgan submitted a letter stating opposition to this proposal.

D Royston stated that Ms. Morgan's letter will be made a part of the record and suggested that J Budrow provide a synopsis for the Board this evening: S Morgan requested that the Board review the application as a shed that has not been built and noted a lack of hardship associated with this proposal. S Morgan stated that she does not support this proposal. S Morgan noted that the applicant has made little effort to minimize the encroachment.

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

There were no further comments from the audience.

In addition to the letter submitted by Sherry Morgan, there was one additional letter from Jim Godsman, 11 West Avenue stating support on behalf of this proposal.

It was noted that five members of the Board visited the property subject to this application.

There was no further comment from the Board.

The public hearing closed at 7:48pm.

3. REGULAR MEETING

- **Application No. 20-10** on behalf of Ken and Sally McGovern, 19 Navy Lane, Essex, CT, Assessor's Map 9, Lot 2, RRR District

W T Furgueson stated that the topography of the land has created a hardship noting that the applicant has made every effort to keep the profile of the structure low.

MOTION made by W T Furgueson to approve a Variance for **Application No. 20-10** on behalf of Ken and Sally McGovern, 19 Navy Lane, Essex, CT, Assessor's Map 9, Lot 2, RRR District, requesting variances to sections 40C, 40D, 40J and 64B of the zoning regulations to construct a new house to a building height of 38 feet, 3 inches where 35 feet is the maximum building height allowed. The hardship associated with this proposal is based on the topography. This proposal is approved in accordance with the plans as submitted; **SECONDED** by W Feirer; **IN FAVOR:** W T Furgueson, P Beckman, P Schaller, W Feirer, B Sarrantonio; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED** 5-0-0.

- **Application No. 20-11** on behalf of Louis G. Spann, Jr, 41 Prospect Street, Essex, CT, Assessor's Map 32, Lot 51, VR District

W Feirer stated that S Morgan previously indicated that she was in favor of the applicant turning/rotating the shed.

B Sarrantonio stated that the applicant tried hard to reduce the intrusion and a shed is a reasonable request to have on a property, and the applicant explained why other locations are not feasible. Aesthetics cannot be criteria, however sometimes it must come into play. The applicant has done a commendable job of bringing this as close to reasonable as possible and the hardship is the location of the septic and the slope on the property making it not feasible to place shed somewhere else.

P Schaller stated that the rotation of the structure and moving the shed away from the property indicates great effort.

W Feirer stated that applicant has made a lot of effort to accommodate the objections of his neighbor. There is potential to further minimize the nonconformity and he will defer to Attorney Royston to discuss possible conditions.

D Royston stated that there is evidence cited of hardship being the topography and the location. There is a question if this proposal is consistent with the comprehensive plan of zoning and does it represent a good thing for zoning, meeting the minimum requirements. In order to meet that criteria, the Board may impose conditions. A condition such as moving the shed however many feet that is necessary may be put in place.

W T Furgueson stated that the plan presented was radically different than what was built. That said, an effort has been made and Ms. Morgan did state that she would be more open to the

applicant turning the building and by pulling the structure to the west. W T Furgueson stated that he is in favor of approving this proposal as presented.

MOTION made by W T Furgueson to approve a Variance for **Application No. 20-11** 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 a 7' x 12.5' shed to a point 5 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; The hardship is the topography of the land and the numerous efforts that the applicant has made to comply with zoning and with the neighbor. This property predates zoning and as such there are existing violations on the property. This proposal is approved in accordance with the plans submitted; **SECONDED** by P Schaller; **IN FAVOR:** W T Furgueson, P Schaller, W Feirer, B Sarrantonio; **OPPOSED:** P Beckman; **ABSTAINING:** None; **MOTION CARRIED** 4-1-0.

4. New Business

There was no new business.

5. Old Business

Approval of Minutes – April 21, 2020.

MOTION made by W T Furgueson to approve the April 21, 2020 Minutes with following amendments: 1) G Wendell was at the 4/21/2020 ZBA meeting however he was not seated; 2) Page 4, 2nd paragraph, 4th line, place a comma after "border"; 3) Page 4, last paragraph to be removed; 4) Page 6, related to Application 20-9, remove the word *glass*; 5) Page 5, 2nd paragraph, 3rd line to read, "10 or 12 feet from property line"; 6) Page 6, last line to read: "this proposal is approved in accordance with the plans as *amended*"; 7) W Feirer was seated for Application 20-5; 8) P Beckman was seated for and he made the motion for Application 20-5; **SECONDED** by P Schaller; **IN FAVOR:** W T Furgueson, W Feirer, B Sarrantonio, P Schaller, P Beckman; **OPPOSED:** None; **ABSTAINING:** None; **MOTION CARRIED** 5-0-0.

a. Other

G Wendell noted that the mailing of the agenda and the plans from the Essex Town Hall was postmarked May 12th, however he did not receive until May 19th.

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 8:13p.m.to the next regularly scheduled meeting which will be held on Tuesday, June 16, 2020 at 7:00 p.m. at the Essex Town Hall, Conference Room A, 29 West Avenue, Essex, CT; **SECONDED** by P Beckman; **FAVOR:** W T

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

Respectfully submitted,

Stella A. Caione

Stella A. Caione, Recording Clerk