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ENFIELD ZONING BOARD OF APPEALS
REGULAR MEETING
MINUTES

MONDAY, April 26, 2021 7:00 PM
Virtual Meeting

Call to Order

Chairman Maurice LaRosa called the meeting to order at 7:02 p.m.

Roll Call

Commissioner Turner took the roll and present were Commissioners Maurice LaRosa, Kelly Davis, Charles Mastroberti, Mary Ann Turner, Andrew Urbanowicz and Alternate Commissioners Catherine Plopper, Robert Kwasnicki and Richard Stroiney.

Also present were Laurie Whitten, Director of Development Services; Jennifer Pacacha, Assistant Town Planner; Ricardo Rachele, Zoning Enforcement Officer and Elizabeth Bouley, Recording Secretary.

Discussion took place regarding difficulties that some Commissioners are having with the Teams app.

Old Business

New Business

- a. **ZBA# 2021-04-21** – 4 Hollywood Drive – Variance Application to allow for a 4.5 foot side yard where 10-feet is required to allow a residential garage and breezeway addition; Michael Haughn, owner/applicant; Map 73/Lot 37; R-33 Zone.

Commissioner Turner read the legal notice. Michael Haughn, 4 Hollywood Drive, addressed the Commission. He stated that he is looking for a variance for a nonconforming property line. Mr. Haughn stated that he would like to reduce the side yard setback to square off the back corner of the garage to meet the back of the house. He described the angle of his property line.

Commissioner Turner asked where the second floor is going to be put, to which Mr. Haughn replied that it will be above the garage and breezeway.

Commissioner Stroiney asked if the current corner of the house is 5.2 feet from the property line, to which Mr. Haughn replied that it is.

Commissioner Turner asked if the garage is already two stories, to which Mr. Haughn replied that it is not. Commissioner Turner asked if only the second floor of the L-shaped section would be added. Mr. Haughn explained that it would be the entire section.

Commissioner Kwasnicki asked if the addition of the second story on the garage will make the roof line continuous. Mr. Haughn stated that there will be gable roofs added on to blend everything in properly.

Commissioner Turner asked how they make sure that the minimum ends up in the correct documents. Ms. Whitten suggested they can state that the variance is only for this addition from this application, and shall be no less than 4.5 feet from the property line. She went on to state that they should clarify it will be a two-story addition, or that the garage will become two-story.

Chairman LaRosa asked three times if anyone would like to speak in favor or against the application; no one came forward.

Motion: Commissioner Turner made a motion, seconded by Commissioner Mastroberti, to close the Public Hearing.

Commissioner Turner stated that the least necessary is that 4.5 and the request is minor and has no impact on the neighbors.

Commissioner Urbanowicz stated that the lots are parallelograms, which creates a hardship.

Discussion took place regarding the exact wording of the approval.

Motion: Commissioner Turner made a motion, seconded by Commissioner Urbanowicz, to approve ZBA# 2021-04-21.

The motion passed with a 5-0-0 vote.

Votes: 5-0-0

- b. **ZBA# 2021-04-14** – 11 Pearl Street – Variance application to allow a deck to encroach 2-feet from the rear property line where a 10-foot rear yard setback is required under Section 8.121; Winter Street Corp, owner; Patrick & Jeannette Tallarita, applicants; Map 24/Lot 65; TD-5 Zone.

Commissioner Turner read the legal notice.

Patrick and Jeannette Tallarita, 1400 Enfield Street, addressed the Commission. Mr. Tallarita provided the Commission with an overview of his application. He stated that they are trying to do an adaptive reuse of the vacant firehouse, and that they are trying to turn it into a mixed use building. Mr. Tallarita stated that the first floor would be a commercial application and the second floor would have a residence where they would live. He stated that the building encompasses 90% of the property and the rest is pavement/driveway, so they would like to build a deck for outdoor living purposes. Mr. Tallarita stated that the deck will be on the second level and is only for their own private use.

Commissioner Turner pointed out a blue item on the drawing and asked what it is. Mr. Tallarita stated that it is the top of the tower where the horns were located. Commissioner Turner asked if it will be removed, to which Mr. Tallarita replied that they are not taking the tower out or changing the structure of the building at all but rather would like to preserve it.

Discussion took place regarding a similar project on Mechanic Avenue in Windsor.

Chairman LaRosa asked three times if anyone would like to speak in favor or against the application; no one came forward.

Motion: Commissioner Turner made a motion, seconded by Commissioner Davis, to close the Public Hearing.

The motion passed with a 5-0-0 vote.

Votes: 5-0-0

Commissioner Turner stated that it is a wonderful project and she is looking forward to it.

Motion: Commissioner Turner made a motion, seconded by Commissioner Urbanowicz, to approve ZBA# 2021-04-14.

Chairman LaRosa stated that it is a great idea and there is a clear hardship with the property.

The motion passed with a 5-0-0 vote.

Votes: 5-0-0

- c. **ZBA# 2021-02-08** – 69 Broad Brook Road – Appeal of the Zoning Enforcement Officer's Notice of Violation of section 4.10 – Residential Lot & Bulk Requirements; Jarmoc Farm LLC and Jarmoc Real Estate LLC, owner/applicant; Map 102/Lot 49; R-88 Zone.

Commissioner Turner read the legal notice. Commissioner Urbanowicz recused himself from ZBA# 2021-02-08 and ZBA# 2021-03-23. Chairman LaRosa seated Commissioner Stroiney.

Attorney Landolina suggested that they hear both hearings at the same time rather than separately as a lot of the issues are intermingled. Chairman LaRosa stated that he would rather hear them separately.

Mr. Landolina stated that ZEO Rachele's report was factual. He went over some of the emails between Mr. Martin and Mr. Rachele. He stated that the Building Permit never got issued and two months later the building went up without it.

Mr. Landolina stated that the traveling building company measured 50 feet off the pavement rather than 50 feet off the right of way, which is what created the problem. He stated that the setback still remains and the nonconforming status is not lost. Mr. Landolina stated that Mr. Rachele told the applicant to comply with a 50 foot setback requirement when the regulations state that it is a 100 foot setback requirement.

Chairman LaRosa asked if Mr. Landolina is saying the Cease & Desist (C&D) is a good order. Mr. Landolina stated that the building is 34.1 feet from the right of way and the regulations require a 100 foot setback, but the town would be estopped from enforcing anything greater than 50 feet due to the remarks in writing from Mr. Rachele.

Mr. Landolina stated that if they are in violation, they are in violation 5.9 feet. Chairman LaRosa stated that he is in violation and it does not matter by how much.

Chairman LaRosa asked if anyone would like to speak in favor or against the application.

Votes: 5-0-0

- d. **ZBA# 2021-03-23** – 69 Broad Brook Road – Variance application to allow for a barn to be located 34.1 feet from the front setback where 100-feet is required under Section 4.60.2 (A); Jarmoc Farms LLC & Jarmoc Real Estate LLC, owner; Stephen Jarmoc, applicant; Map 102; Lot 49; R-88 Zone.

Commissioner Turner read the legal notice.

Chairman LaRosa reminded the Commission that this is an application for a variance and they are looking for a hardship on the property.

Mr. Landolina stated that according to the regulations this building in this zone should have a front yard of 100 feet, and that Mr. Rachele had informed the applicant that it was 50 feet. He stated that there was a previously-demolished building in this location that was 40 feet from the right of way, and the nonconforming status of that setback was not abandoned since the new building replaced the old one.

Mr. Landolina directed the Commission to section 3.40.2 of the regulations. He stated that the previously-demolished structure was built in 1917 and was a nonconforming structure as it did not meet the dimensional requirements of the regulations. Mr. Landolina continued reading through section 3.40.2 of the regulations.

Chairman LaRosa stated that Mr. Landolina is not expanding an existing structure, which is what this section of the regulations is about. Mr. Landolina stated that he disagrees that they would have needed a variance if they had built the structure in the 40-foot area.

Mr. Landolina stated that the variance they are seeking is only 5.9 feet since they could have built the barn at 40 feet off of the right of way and still been in compliance with the regulations. Chairman LaRosa stated that the 40 feet doesn't matter since the building was demolished. He stated that once the building comes into conformity it is done.

Mr. Landolina stated that the regulations require a hardship shown. He stated that farming is a commercial activity and there are no boundaries as to where it can take place. Mr. Landolina referenced the photographs submitted, stating that this new barn is no different in terms of location from all of the other buildings on the property. He pointed out that there are no abutters or close neighbors, and this building is in harmony with the area.

Mr. Landolina concluded that he believes this to be a proposal which is in harmony with the neighborhood and which shows a unique hardship for this property that may not exist for other properties similarly situated.

Commissioner Turner stated that the barn was built without a permit, which makes this much more difficult. She asked what is behind the barn. Mr. Jarmoc stated that there is another barn behind this one with prime tillable farmland between the barns. He stated that farmland is becoming scarce in Enfield so they are looking for farmland everywhere they can find it.

Commissioner Turner asked what the hardship is. Chairman LaRosa explained what constitutes a hardship. Mr. Jarmoc stated that the hardship is scarce tillable land, and by moving the building back they would be sacrificing 65 feet of farmland.

Commissioner Turner asked why the barn is so large, to which Mr. Jarmoc replied that the size of the barn is relative to the operation. Commissioner Turner stated that the prime soil is under the new barn, to which Mr. Jarmoc replied that this is incorrect since all of the organics and topsoil were stripped and redistributed to some of their other farm fields.

Chairman LaRosa stated that they could have moved the barn back and farmed closer to the road, to which Mr. Jarmoc replied that road salt, debris and emissions can contaminate the land. Chairman LaRosa stated that there are crops growing within 10 feet of the road in other farm fields in town.

Mr. Rachele stated that the hardship cannot be self-imposed and there is enough area 100 feet back to place the barn. He stated that there are eight buildings on the property so jamming in another barn structure on the property is self-imposed.

Ms. Whitten stated that according to the regulations you can expand as long as you are not enhancing the nonconformity. She stated that all of this could have been prevented if they had built the house with a Building Permit.

Commissioner Stroiney asked if the demolition of the previous structure removes the nonconformity, to which Chairman LaRosa replied that it does.

Ms. Whitten stated that the nonconforming status has changed per the statutes and case law, so that structure would still have nonconforming status even if it was demolished. Chairman LaRosa stated that they took down a house and did not replace it but rather put something different there so the 40 feet has been abandoned.

Chairman LaRosa asked if anyone in the audience would like to speak in favor or against the application.

Mr. Landolina stated that the notion of a self-imposed hardship is incorrect. He stated that the applicant is building barns because he needs them for his growing business.

Mr. Landolina stated the 5.9 feet is a de minimis request and the Commission can grant that request.

Chairman LaRosa left the meeting and rejoined.

Commissioner Turner stated that if the applicant had come for a variance she gets it, but she cannot get past the fact that they do not have a Building Permit. She stated that they need to be careful about how they communicate with each other in writing. Mr. Landolina stated that they are requesting the Commission look past that at this time as it is a de minimis request.

Commissioner Turner stated that farmers should not feel that their hands are tied if they need that leeway on their property. She stated that the Commission should be very careful with written commentary as it does not help with an outcome. Ms. Whitten stated that most towns do not require a 100 foot setback for a barn unless it is housing animals.

Mr. Jarmoc stated that all of their subsequent barns have been built with a permit and they have a good relationship with all of the town departments.

Commissioner Stroiney asked what is going into the barn, to which Mr. Jarmoc replied that they will store some non-motorized farm equipment and other products such as pumpkins and hay.

Motion: Commissioner Turner made a motion, seconded by Commissioner Stroiney, to close the Public Hearing.

The motion passed with a 5-0-0 vote.

Votes: 5-0-0

Commissioner Turner stated that she is unhappy that there is no Building Permit and also with the emails that went back and forth with Mr. Rachele. She stated that they do need to have some leeway with the applicant.

Commissioner Davis asked if, because there was no Building Permit and if the variance is granted, there is something that gets done on that end. Chairman LaRosa stated that they do not care about the building and are granting a variance to the land. He stated that it is up to the town if they want him to pull a Building Permit or not.

Commissioner Stroiney asked if this will create a precedent for other farmers in town who will build too close to the property lines.

Chairman LaRosa stated that they have to pretend the barn is not sitting there and focus on the variance. He stated that he does not see that hardship as there are many places on the property to put a barn. He stated that giving leeway to something will backfire on them. Further discussion took place regarding the existence of a hardship.

Motion: Commissioner Turner made a motion, seconded by Commissioner Davis, to approve ZBA# 2021-03-23.

The motion failed with a 1-4-0 vote with Commissioners LaRosa, Turner, Stroiney and Mastroberti voting against.

Votes: 1-4-0

- e. **ZBA# 2021-03-30** — 128 Moody Road — Appeal of the Zoning Enforcement Officer's Cease & Desist Order following a Notice of Violation of section 6.2 — Industrial Zones Use Table; 128 Moody Road, LLC., owner/applicant; Map 93/Lot 5; I-1 Zone.

Commissioner Turner read the request for continuance letter that they had received regarding this application.

Motion: Commissioner Turner made a motion, seconded by Commissioner Stroiney, to table ZBA# 2021-03-30.

The motion passed with a 5-0-0 vote.

Votes: 5-0-0

Approval of Minutes

a. March 22, 2021 – Regular Meeting

Motion: Commissioner Turner made a motion, seconded by Commissioner Stroiney, to approve the minutes from the March 22, 2021 Regular Meeting.

The motion passed with a 5-0-0 vote.

Votes: 5-0-0

Correspondence/Staff Reports

Assistant Town Planner Georgianne Driver introduced herself and provided some of her experience and credentials.

Ms. Pacacha stated that there was a POCD meeting last week and there will be another this week that is a public forum.

Ms. Pacacha stated that they have new permitting software. Commissioner Stroiney asked if there will still be paper versions, to which Ms. Pacacha replied that there will.

Commissioner Turner stated that they have to be very careful what words they use when referring to a K7. She stated that she would like to see the definition of a variance in their packet at every meeting so they can read it to the public.

Ms. Pacacha stated that the Zoning Technician requested that they bring back their envelopes from the packets.

Chairman LaRosa asked if they will be meeting in the town hall anytime soon, to which Ms. Whitten replied that the earliest would be June but she has not heard specifically.

Adjournment

Commissioner Turner made a motion to adjourn. The meeting was adjourned at 9:11 p.m.

Prepared by: Elizabeth Bouley, Recording Secretary

Respectfully Submitted,



Mary Ann Turner, Secretary