

ENFIELD ZONING BOARD OF APPEALS
REGULAR MEETING
MINUTES
MONDAY, JUNE 22, 2020 7:00 PM
Virtual Meeting

Call to Order

Chairman Maurice LaRosa called the meeting to order at 7:01 p.m.

Roll Call

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

Absent were Commissioners Andrew Urbanowicz and Catherine Plopper.

Chairman LaRosa seated Commissioner Stroiney for the absent Commissioner.

Also present were Jennifer Pacacha, Assistant Town Planner and Elizabeth Bouley, Recording Secretary.

Motion: Commissioner Turner made a motion, seconded by Commissioner Davis, to move Old Business from item 5 to below item 7 on the agenda.

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

Votes: 5-0-0

New Business

- a. **ZBA# 2020-05-18** – 110 Cottage Road – Variance application to allow an accessory detached garage to be located forward of the rear line of the home; Tamara Pleasant, owner/applicant; Map 95/Lot 33; R-33 Zone.

Chairman LaRosa read the definition of a variance.

Tamara Pleasant, 110 Cottage Road, stated that when she purchased the house it seemed to very clearly have a place for a garage on the side of the house. Ms. Pleasant stated that her landscape slopes down quickly and is very different from her neighbors. She stated that it is not possible to put the garage at the setback with the stairs there, and she would have to tear the deck out and grade the backyard.

Commissioner Turner asked about the fire restraint requirements mentioned by the Fire Marshal. Ms. Pacacha explained that the Fire Marshal and Building Department had been concerned about fire ratings for the proposed garage, but that concern was eliminated when the proposed garage was found to be more than five feet away from the side of the house.

Commissioner Stroiney asked for clarification on which drawing in the packet was being used.

Ms. Pacacha stated that there had been a former A2 survey from when the house was built that showed a future attached garage on that side of the house.

Commissioner Turner asked if the applicant would be using the structure as a garage or a shed. Ms. Pleasant stated that she has a golf cart and snow removal equipment and no shelter for any of them.

Commissioner Kwasnicki asked Ms. Pacacha to explain the difference between an accessory structure and attached structure as pertains to the zoning regulations. Ms. Pacacha provided the definitions of and requirements for both accessory structures and attached structures.

Chairman LaRosa stated that there is a regulation saying an accessory structure has to be more than five feet from the main dwelling, to which Ms. Pacacha replied that this is a Building Department requirement and not actually contained within the current regulations.

Ms. Pacacha stated that the garage is proposed to be six feet from the house so it meets the regulations regardless. She stated that the variance is to allow it to be right next to the house rather than set back behind the rear line of the house, as putting it there would obstruct entry to the deck in the back. Ms. Pacacha went on to explain that the grade sloping down prevents the applicant from being able to push it back farther.

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

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

Votes: 5-0-0

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

Chairman LaRosa closed the Public Hearing.

Commissioner Kwasnicki asked for the definition of an attached structure, to which Ms. Pacacha replied that it has to be structurally connected to the home. Chairman LaRosa stated that a breezeway or other cover can attach it roof to roof and be considered attached.

Commissioner Turner stated that there is a slope in the back and it is against some marshy land, so there is a hardship because of the property. Commissioner Turner stated that due to this hardship, she is in favor of granting the variance.

Commissioner Davis agreed with Commissioner Turner.

Motion: Commissioner Turner made a motion, seconded by Commissioner Stroiney, to grant the variance for ZBA# 2020-05-18.

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

Votes: 5-0-0

Motion: Commissioner Turner made a motion, seconded by Commissioner Davis, to enter into a recess while she deals with technical difficulties.

The Commission voted by a 5-0-0 roll call vote to come back into session.

- b. **ZBA# 2020-05-22** – 37 Tabor Road – Variance application to allow a reduction in minimum front yard setbacks from 35-feet to 22.5 feet along Booth Street; Jennifer Bouchard, owner/applicant; Map 59/Lot 179; R-33 Zone.

Jennifer Bouchard, 37 Tabor Road, addressed the Commission stating that she is looking to add a family room to her house. Ms. Bouchard stated that her property is a corner lot and the house is on an angle rather than parallel to the street, and has two required 35-foot setbacks. She stated that she does not meet the required setbacks and requires the variance to reduce the front yard setback.

Commissioner Turner stated that the applicant has two side yard frontages so there is a clear hardship with the property. She stated that she appreciates the property having been clearly marked out because it is aggravating when this is not done.

Chairman LaRosa asked twice if anyone in the audience 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 roll call vote.

Votes: 5-0-0

Commissioner Turner stated that the property was clearly marked and she has no issue with it.

Chairman LaRosa stated that with a corner lot, the regulations require two front yard setbacks of 35 feet, which is why the variance is required.

Commissioner Stroiney asked if the property already has the variance in place since the front corners are already closer than 35 feet. Ms. Pacacha stated that a regulation allows the expansion of a nonconforming structure as long as it does not further encroach into the setback requirements. She explained that in this case due to the angle of the house, there is no way to expand on either side without encroaching, which is why the variance is needed.

Motion: Commissioner Turner made a motion, seconded by Commissioner Davis, to approve ZBA# 2020-05-22.

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

Votes: 5-0-0

- c. **ZBA# 2020-06-05** – 55 Cottage Road – Variance application to allow an increase in maximum lot coverage from 20% to 23%; Randy Daigle, owner/applicant; Map 80/Lot 178; R-33 Zone.

Randy Daigle, 55 Cottage Road, provided the Commission with an explanation for his variance request. He stated that the lots in this area are all nonconforming and he is trying to make his house one level and handicap accessible and also add a small bedroom and a two-car garage. Mr. Daigle stated that there used to be a garage on the property, and he is only looking for 3% over the existing 20% coverage. Mr. Daigle described some of his neighbors who have much more coverage and concluded that they are just trying to make their house livable for the rest of their lives.

Commissioner Stroiney asked if the addition would be going on the street side of the house, which Mr. Daigle replied that it is.

Commissioner Turner stated that the property is not causing any hardship and there are already two attached structures on the property that the applicant now wants to incorporate into the home. Mr. Daigle explained that they would be using one shed to increase the size of their bathroom in order to make it handicap accessible. Commissioner pointed out the boat and quonset hut on the property, which Mr. Daigle stated would be coming out and the boat had been sold.

Commissioner Turner explained that the property itself is not causing any problems, to which Mr. Daigle replied that the property is so small that it is not allowing them to achieve 20% coverage and they are only going over by 3%. Commissioner Turner went over some portions of the changes going into the back.

Mr. Daigle reiterated that the lot size itself is so small, it is not allowing him to do anything without going over the 20%. He stated that he is only going over by 3% when the houses on either side of him are over 30% of lot coverage. Chairman LaRosa stated that the Commission cannot look at the neighbors' property and can only consider the applicant's property.

Mr. Daigle stated that there used to be a garage out front and was taken down, to which Commissioner Turner replied that it was a single bay garage.

Commissioner Turner stated that he can go up, to which Mr. Daigle replied that he cannot since the house is on piers rather than foundation.

Commissioner Turner stated that if the applicant were to do this legally and go to the back of the building, it is ten feet to the side line rather than five. Ms. Pacacha confirmed that the side yard setback requirement is ten feet.

Commissioner Turner asked how wide the garage is; Mr. Daigle provided the dimensions of the garage. He stated that he redesigned it several times and cannot make it handicap accessible any other way.

Commissioner Kwasnicki asked for clarification on whether the house could be two stories. Mr. Daigle stated that his mortgage country will not allow him to demolish the house, which is the only way to move farther away from the lake.

Commissioner Turner suggested that the covered porch can be made into part of the house, to which Mr. Daigle replied that he would then have no access to the backyard. Commissioner Turner stated that if the applicant made the covered porch part of the house, got rid of the addition in the front and moved the garage toward the house, he would be within the required coverage and still get exactly what he is asking for.

Commissioner Turner asked if an accessory structure of a deck is considered coverage, to which Ms. Pacacha replied that it is considered coverage and a patio is not.

Commissioner Stroiney asked if the applicant would consider going down to a one bay garage, to which Mr. Daigle replied that he needs the second bay for storage.

Chairman LaRosa asked if they need the second story to the garage. Mr. Daigle stated that he can take the second story out as it is not needed.

Chairman LaRosa stated that the land itself shows no hardship, to which Mr. Daigle replied that the location and size of the lot are a hardship.

Chairman LaRosa stated that all of the properties around the lake are small and asked what makes this property unique. Mr. Daigle stated that there has already been a precedent set with several other properties in the area.

Commissioner Turner asked how much room is between the quonset hut and the neighbors, to which Mr. Daigle replied that it is 12 or 15 feet.

Discussion took place regarding the dimensions on the plans and possible options to make the design work. The Commission examined the site sketch via shared screen and Mr. Daigle explained the reasons for the dimensions of the two-car garage.

Commissioner Turner reiterated that it is not a hardship but rather a want. She stated that there are other options, such as making the garage smaller, getting rid of the porch or reconfiguring the interior of the house.

Mr. Daigle stated that he cannot put the garage on the other side due to the setback as he is expanding off of the existing corner. He stated that the location of the existing house and the angle of the property causes a hardship. Chairman LaRosa stated that the structure is causing a hardship, not the property itself. He added that if the size of the garage was cut down, the variance would not be needed. Commissioner Turner stated that if he makes the covered porch part of the house, that solves some of the problem.

The Commission discussed the dimensions of various features onsite, including the deck and covered porch.

Mr. Daigle stated that he cannot move the garage over because it will cover the entire entrance to the house. Chairman LaRosa stated that they are worried about the coverage of the land, not the placement of the garage. Mr. Daigle pointed out that this is why they are asking for the variance, and it is only 3%.

Commissioner Turner stated that it is not the Commission's place to give adjustments or suggestions. She stated that they can only look at whether it is a financial hardship, self-imposed, or the land causing an issue.

Mr. Daigle stated that it is the land, since they cannot go up because it is on piers, because of the shape and because it is so small. Commissioner Turner stated that there is no slope, dip, wetlands, encroachment or anything else on the land that is causing the problems.

Chairman LaRosa asked if anyone in the audience would like to speak.

Bill Creedon, 57 Cottage Road, stated that he lives right next door. He stated that the plans show a 40-foot addition with a 35-foot setback and there is not 75 feet from the road back so the plans need to be modified anyway. He stated that it does not meet the setback requirement and the garage has to be modified anyway.

Mr. Daigle concluded that the hardship is that he cannot go up due to the high water table and the property does not allow him to move the garage to the other side based on the angles and the size. He stated that he is looking for 3% variance of the lot coverage and a lot of the other houses in the area have much more than that.

Motion: Commissioner Davis 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 Davis asked why they cannot consider that the lot size is so small. Chairman LaRosa stated that when you buy a parcel of land, you buy it the size that it is. He stated that there are many areas in town where the parcels are small but they cannot allow people to go over the allowed coverage.

Commissioner Kwasnicki asked if there is a height limit, to which Chairman LaRosa replied that it is 2.5 stories.

Commissioner Kwasnicki asked if the water table issue is something that would be considered a hindrance unique to a property, requiring it to go out rather than up. Commissioner Turner stated that the houses in this area were meant to be cottages rather than full time housing. She stated that other newer properties down there have multiple stories, and that it is an expense rather than an engineering problem.

Commissioner Stroiney shared his screen to show for the record that the applicant is within the appropriate setbacks. The Commission examined the dimensions on the site plan and discussed the pertinent square footages and possible solutions to eliminate the need for a variance.

Chairman LaRosa stated that the size of the land is not a hardship and went on to provide examples of acceptable hardships, such as topography.

Commissioner Mastroberti stated that it cannot be self-imposed, so if someone buys a small property they cannot get a variance in order to expand. Chairman LaRosa stated that he cannot find the hardship as the applicant can reduce the size of his garage and get what he wants. He explained why the other two applications tonight were granted the requested variances.

Motion: Commissioner Turner made a motion, seconded by Commissioner Stroiney, to approve ZBA# 2020-06-05.

The motion failed with a 1-4-0 vote with Commissioner Davis voting in favor.

Votes: 1-4-0

Public Participation

The Commission discussed whether Public Participation should be included on the agenda, ultimately decided to omit it from the agenda.

Old Business

- a. Review of Bylaws – *Tabled*

Motion: Commissioner Turner made a motion, seconded by Commissioner Kwasnicki, to table the review of bylaws.

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

Votes: 5-0-0

- b. Instructional Guides & Application Forms – *Awaiting Review*

Chairman LaRosa properties should be staked out so Commissioners can see what the project is going to look like.

Motion: Commissioner Turner made a motion, seconded by Commissioner Stroiney, to table Instructional Guides & Application Forms.

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

Votes: 5-0-0

Approval of Minutes

a. May 4, 2020- Special Meeting

Motion: Commissioner Stroiney made a motion, seconded by Commissioner Davis, to approve the minutes from May 4, 2020.

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

Votes: 5-0-0

Correspondence / Staff Reports

Ms. Pacacha stated that the new Assistant Town Planner has started and the Commission will be meeting her soon. She stated that Secretary Pam Schweitzer will be retiring at the end of the week and that they have started interviews for consultants for the Zoning Regulation and Plan of Conservation & Development (POCD) updates. Commissioner Turner requested that ZBA have a seat at those tables, which Ms. Pacacha replied that she will pass that along.

At Commissioner Turner's request, Ms. Pacacha provided the Commission with the new Assistant Town Planner's credentials.

Other Business

a. ZEO APPEALS FEE – *Legal Opinion – Tabled*

Ms. Pacacha stated that there was a Town Attorney opinion on this and they have not had a chance to circle back to it.

Chairman LaRosa asked if the outdoor dining is permanent, to which Ms. Pacacha replied that it is temporary pending when the Executive Orders are lifted.

Chairman LaRosa stated that he had visited an interactive aquatic and zoo business and something like this should be included in the mall

Adjournment

Motion: Commissioner Turner made a motion, seconded by Commissioner Davis to adjourn for the night. The meeting was adjourned at 8:47 p.m.

Prepared by: Elizabeth Bouley, Recording Secretary

Respectfully Submitted,

Mary Ann Turner, Secretary