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MINUTES

ENFIELD ZONING BOARD OF APPEALS
REGULAR MEETING
MONDAY, March 28, 2016 – 7:00 P.M.
ENFIELD TOWN HALL – COUNCIL CHAMBERS
820 ENFIELD STREET - ENFIELD, CT

1. Call to Order:

Chairman LaRosa called the meeting to order at 7:00 PM.

2. Roll Call:

Secretary Mary Ann Turner took the roll.

Present: Chairman Maurice LaRosa, Vice Chairman Andrew Urbanowicz, Secretary Mary Ann Turner, Member Charles J. Mastroberti, and Alternate Virginia Higley.

Also present: Roger J. O'Brien, Director of Planning.

Absent: Member Lynn A. Scull and Alternate Bob Kwasnicki.

3. Fire Evacuation Notice:

Chairman LaRosa gave evacuation instructions in the event of a fire.

4. Pledge of Allegiance:

The Pledge of Allegiance was recited.

5. Public Hearing(s) / Procedural & Policy Statements by Chairman:

Chairman LaRosa outlined the procedure of conducting business. He said the Secretary would read the legal notice. The applicant would then be asked to come up and sit at the desk before the Board. They would state their name and address for the record and present their application. He said the Board may or may not have questions. The audience would be given an opportunity to speak in favor or against the application. If an audience member spoke, the applicant would then have an opportunity to give a final comment.

6. Reading of the Legal Notice:

Ms. Turner read the Legal Notice. The Enfield Zoning Board of Appeals will hold public hearings on Monday, March 28, 2016 at 7:00 p.m. in the Council Chambers of Town Hall, 1st floor, 820 Enfield Street, Enfield, Connecticut concerning ZBA 2016 -02-01 – Robie Realty, LLC, Applicant/Owner, 9 Anngina Drive, Map 082/Lot 56, I-1 Zone. Request to allow a 10' rear yard, where 20' is required and 10' side yard, where 25' is required to construct a 2800 square foot addition to the existing structure. Information on file in the Planning Office. Posted in the Journal Inquirer on February 17, 2016 and February 25, 2016.

7. Public Hearing:

A. **ZBA 2016-02-01 – Robie Realty, LLC**, Applicant/Owner, 9 Anngina Drive, Map 082/Lot 56, I-1 Zone. Request to allow a 10' rear yard, where 20' is required and 10' side yard, where 25' is required to construct a 2800 S.F. addition to the existing structure.

Todd Clark, of Aeschliman Land Surveying, Inc., 1379 Main Street, East Hartford, approached the Board.

Chairman LaRosa stated that in Ms. Scull's absence Alternate Virginia Higley would be seated with the Board as a full member.

Mr. Urbanowicz informed the applicant that he would be recusing himself from this application because he represents an abutting property owner and there may be a conflict with him going forward.

Ms. Higley stated for the record she viewed the previous hearing and reviewed the minutes so she feels she is capable of voting.

Chairman LaRosa stated since there were now only four Board members where there are usually five, the applicant can either move forward tonight with the four members or table the application until next month when there would be five members. If the applicant moves forward with four members, the vote must be unanimous in order for the applicant to receive the variance. If there were five members, an application may be approved with a vote of 4-1.

The applicant stated they would proceed tonight.

Mr. O'Brien stated in the map in the handout the applicant has incorrectly labeled the side yard and the rear yard. What is listed as the rear yard is actually the side yard; what is listed as the side yard is actually the rear yard. What the applicant is actually asking for is a 13' side yard where 25' is required, and 12' rear yard where 20' is required.

Mr. LaRosa asked if that made the Legal Notice incorrect.

Mr. O'Brien stated no since they are both less than what was legally advertised. Should the Board choose to grant the variance it would be granting less than the applicant asked. The original map was labeled correctly.

Mr. Clark presented a copy of the as built site plan. They do show a 25' side yard and a 20' rear yard.

Mr. Clark stated last month the applicant was proposing a 2800 sq. ft. building which has since been reduced by a little over 200 sq. ft. and were now requesting 12' and 13' setbacks. He explained that when the building went in after site plan review, between the engineer and the town the best spot for underground storm water detention area was determined. Now with an addition needed, it boxes him into the corner.

Mr. Clark stated they provided Mr. Staples with five copies for all family members of the Polek Family LLC. He has not heard any negative comments back.

Mr. Clark explained that they looked at the grading. They determined there is no need for any grading outside of the building. Regarding the impervious area, it is a wash. They are taking pieces of the parking lot along the side and in front of the building, and the square footage comes out about 20 sq. ft. more.

Mr. Clark asked the Board if they had any questions.

Mr. O'Brien asked Mr. Clark to show the elevation drawings as well, which Mr. Clark did.

Ms. Turner asked, since the applicant was taking out the storage containers; why not put the new building in that location. Mr. Clark answered they would probably lose too many parking spaces and would be in the Wetlands buffer. Mr. Clark added that the proposed addition would be just outside the wetlands regulated area. The door to the addition will be on the 68' side.

Mr. Clark stated when the applicant looked at a possible detached building one of the concerns was getting product in and out of the storage area. It would not be practical for them to go across the parking lot with material.

Ms. Turner asked what the applicant was storing in the building.

Robie Staples, 1145 Enfield Street, approached the Board. Mr. Staples answered it was mostly repair items the applicant would be storing.

Ms. Turner said when she asked last month Mr. Staples answered they would be putting in an overhead door in the parking lot. Mr. Staples talked to the fire marshall. There is a 50' requirement for a fire exit.

Chairman LaRosa stated that if the building was detached they could come within 5'. Mr. O'Brien answered that the 5' requirement is for a smaller building. The proposed building is over the height and over the square footage that could be 5'.

Mr. Staples stated the addition was reduced from 40' to 38' on one side and 70' to 68'.

Ms. Turner asked what is the property doing that is not allowing the applicant to use the property.

Mr. Staples answered that this is the only spot that he can place the building without causing more issues.

Ms. Higley asked if the applicant showed the buffer between the two zones.

Mr. O'Brien stated that he looked it up. He stated the farms are in I-1 zone as well, so there would not be a required buffer.

Chairman LaRosa addressed the applicant, regarding question 4 of the application, "What difficulty or unnecessary hardship would result if the variance were not granted?" On the application it stated the tenant would vacate the existing location. Chairman LaRosa said the applicant needs to explain how that is not a financial hardship; the Board can not legally look at a financial hardship. It must be something the property is causing as a hardship. The property being too small for a building project does not necessarily make the property a hardship.

Mr. Staples stated the drainage that was required by the town is a sophisticated drainage system. Moving the drainage would put the company out of business.

Ms. Turner asked if Staff had the file from when the building was built, but Mr. O'Brien responded he did not have it with him.

Mr. O'Brien, regarding the staff report he provided to the Board, stated the Wetland buffer on one side, the conservation easement, the galleries on the other side and where the loading docks were, those are things that run with the land that could be considered unusual hardship and difficulty. Mr. O'Brien stated the property would not be too small if those things did not exist, but the Board has to make that determination.

Ms. Turner stated when the applicant purchased the property those problems existed and he worked around them to build.

Mr. Mastroberti said the buffers have changed over the years, and suggested maybe the problems were not there before but are now.

Ms. Higley stated the Wetlands have been 100 ft. for a long time; they were 50 but that was almost twenty years ago. Ms. Turner added that the building was built in 2008.

Ms. Higley asked if there was any way the applicant could expand on the other parcel he owned. Mr. Staples said no.

Mr. O'Brien stated technically it is one parcel. There are two buildings, but it is one parcel.

Mr. Staples stated he was doing the best he could to try to help the customer out. He can not expand up because he would have to close the building and he can't do that to the customer.

Mr. LaRosa asked if any audience members wished to speak for or against the application.

Karen LaPlante, 166 North Maple Street, approached the Board.

Ms. LaPlante stated that the plan she has shows the proposed building as 68.8 ft on the north side and only 68.0 ft on the south side. One of the requirements is that anything that comes before the Board that is Industrial has to meet the Article 9, Site Plan Approval and Special Permits. The plans are supposed to show any trees over 12 inches in diameter and none are shown. Ms. LaPlante stated there are at least 6 trees greater than 12 inches in diameter on the north side that may be impacted, and more than that on the west side.

She stated there were already 2 buildings on the property. She did not know what the rule is, but you can not put 2 houses on a lot so she does not understand how you can put 2 industrial buildings on a lot. Regarding the underground structures, the drainage is modular. The applicant would have to dig up the parking lot, but it can be added on to and it can be moved.

Ms. LaPlante stated she did not see this as anything other than a financial issue. The wet conditions were existing. The applicant is trying to put too much building on the property.

Mr. O'Brien clarified that Article 9 would refer to an application to the Planning & Zoning Commission, which would be required next depending upon whether the Board grants the variance. If the variance is not granted, then the applicant would not be going to P&ZC.

Ms. Turner said the problem is the applicant is asking for a variance for a project that more than likely will change once it goes to P&ZC. It is possible that a different plan could be made which would not be the plan from which ZBA granted the variances.

Mr. O'Brien answered that is true, but the only thing before the Board tonight is whether it is appropriate to reduce the side yard variance from 25' to 13' and to reduce the rear yard from 20' to 12'. Everything else is subject to review and approval by possibly the Wetlands Commission and approval by P&ZC.

Chairman LaRosa asked if the applicant would like to make any final comments.

Mr. Clark said the foundation wall would overlap so there would be 0.8 ft further in the back than in the front; it is not an error just an overlapping foundation wall. He stated regarding the number of buildings on the property, this is what was approved. There will still be two buildings on the property.

Mr. Staples added that the drainage system is almost 30 ft long. He said there is no more space on the street; those buildings are all sold. The customer employs about 120-122 people.

Ms. Turner made a motion, seconded by Mr. Mastroberti, to approve the application.

Chairman LaRosa asked if there was any discussion.

Ms. Turner stated she can not move forward with a variance when it is all financially driven.

Chairman LaRosa pointed out on the map that the Board would be granting a variance on the side yard and the rear yard, not necessarily the square footage. If you grant a rear yard setback or side yard setback it runs the length of the property on both sides, ten years from now this could potentially be a variance for a very large building.

The motion was denied with a 0-4-0 vote.

(Mr. Urbanowicz then rejoined the meeting).

8. Old Business:

Ms. Turner asked Mr. O'Brien if Staff was going to provide the report which states what is open, what closed, and when it got done. Mr. O'Brien explained they are constructing one report for all the commissions, so he asked for the Board's continued patience as they would be given the report shortly.

9. New Business:

Regarding the Land Use meeting scheduled for April 6, 2016 at 7 p.m., Ms. Turner asked Mr. O'Brien to make sure all Commissioners of all Land Use Boards are notified. Ms. Turner requested that the town attorney be there because she has a question for him.

Mr. O'Brien stated that Peter Bryanton asked the Council leadership how they wanted to proceed. The Council leadership wanted to combine the joint Land Use meeting with the Council of Chairs meetings. Ms. Turner stated the meeting was on the books and she felt it was important that it take place.

10. Approval of Minutes:

A. February 29, 2016

Ms. Turner made a motion, seconded by Mr. Urbanowicz, to approve the minutes of January 25, 2016.

Chairman LaRosa asked if there were any changes or discussion. There was none.

The motion passed with a 4-0-1 vote. Ms. Higley abstained.

11. Correspondence / Staff Report:

Mr. O'Brien stated in the Board's packets there was a letter from Ms. Mullen that she asked be distributed regarding the CREC property.

There is also a March 28 report from Maria Elsdon on behalf of Chris Bromson providing an update on CREC v. Enfield.

12. Other Business:

Chairman LaRosa asked if there was a recording secretary. Mr. O'Brien stated the recording secretary could not be at the meeting. The meeting was being taped and the minutes would be done.

13. Adjournment:

Ms. Turner made a motion to adjourn. The meeting was adjourned at 7:54 p.m.

Minutes prepared by – Lynn Ballard

Respectfully submitted,

Mary Ann Turner, Secretary