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## MINUTES

ENFIELD ZONING BOARD OF APPEALS  
REGULAR MEETING  
MONDAY, APRIL 25, 2016 – 7:00 P.M.  
ENFIELD TOWN HALL – COUNCIL CHAMBERS  
820 ENFIELD STREET - ENFIELD, CT

THE MEETING WILL ADJOURN AT 9:00 P.M.

1. Call to Order:

Chairman LaRosa called the meeting to order at 7:02 PM.

2. Roll Call:

Secretary Mary Ann Turner took the roll.

Present: Chairman Maurice LaRosa, Vice Chairman Andrew Urbanowicz, Secretary, Mary Ann Turner, Charles J. Mastroberti, Lynn A. Scull and Alternates Ginny Higley and Bob Kwasnicki.

Also present: Roger O'Brien, Town Planner, and Rick Rachele, Code Inspection.

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. Any additional information the applicant wanted to submit into public record that wasn't presented to the Board during their presentation had to be submitted while the public hearing was open. Once the public hearing closed, no additional information would be accepted. Comments made by the public that were not relevant to the exercise of the Board's statutory or regulatory authority would not be considered by the Board in reaching its decision. Once the application had been presented, it would most likely be voted on that night, so the applicant would have an understanding of where application stood. If the decision was tabled or deferred, then the meeting would be rescheduled, most likely in 30 days. Written notice would be sent from the Town regarding its decision.

Chairman LaRosa stated for the record that a variance could be granted where such grant would not affect the overall purpose of the zoning ordinance and where strict interpretation of the ordinance would result in a hardship. He explained that a hardship exists where a zoning ordinance uniquely affects a parcel of land differently from other properties and where use of the property or reasonable use of the land would be impossible without the variance. Self-imposed or financial hardships cannot by law be considered as a reason for granting a variance.

6. Reading of the Legal Notice:

Ms. Turner read the Legal Notice. The Enfield Zoning Board of Appeals would hold public hearings on Monday, April 25, 2016 at 7:00 p.m. in the Council chambers of Town Hall, 1<sup>st</sup> floor, 820 Enfield Street, Enfield, Connecticut concerning the following: ZBA 2016 -04-01 – James J. Alaimo, Jr. Trustee, Owner/Applicant: 460 Enfield Street, Map 033, Lot 0158, BL Zone. Appeal of ZEO Cease & Desist Order concerning an apartment in a detached garage, Zoning Regulation sections 2.20/2.30 and section 3.00/3.01. Information on file in the Planning office. Posted in the Journal Inquirer April 15, 2016 and April 21, 2016.

7. Public Hearing:

A. ZBA 2016-04-01 – James J. Alaimo, Jr. Trustee, Owner/Applicant; 460 Enfield Street, Map 033 / Lot 0158, BL Zone. Appeal of ZEO Cease & Desist Order concerning an apartment in a detached garage, Zoning Regulation sections 2.20/2.30 and section 3.00/3.01.

James J. Alaimo, Jr. of 9 Meacham Drive, Enfield, approached the Board.

Mr. Alaimo stated this was a piece of property that he purchased with his father on January 19, 1973. The property is a one story building that has a one bedroom apartment. When they purchased the property it was being used as an apartment and has been an apartment ever since that date. They purchased the property from the owner of the estate, John Labelle, who indicated to the applicant it had been an apartment since the 1930s. Since the applicant purchased the property it has never been

a garage. The property has been assessed on numerous occasions by an assessor who should have noted it is not a garage. Mr. Alaimo stated this is a nonconforming use and is entitled to be grandfathered into any new regulations. One of the citations states there was never any building permits issued on this piece of property; he did not think building permits were issued back in the 1930s.

Mr. Alaimo stated he was extremely familiar with the zoning regulations. He was an attorney in Enfield for forty-seven years and handled many zoning cases. He asked fellow attorneys and they agreed with his assessment and opinion that this is a nonconforming use and is grandfathered in. That side of Enfield Street in that area is zoned business. There are businesses with apartments above the businesses.

Mr. Alaimo said he took over the property when his father (who was the first chairman of Planning & Zoning) passed away. Currently the building has a resident who has not paid rent in four months; the applicant is in the process of evicting the resident. The applicant is not going to rent the apartment again. He is going to try to sell it.

Chairman LaRosa asked the Board Members if they had any questions.

Ms. Turner asked the applicant if he was talking about the house or the outbuilding. Mr. Alaimo replied he was talking about the outbuilding; a one bedroom outbuilding. Ms. Turner said it looks like a shed and does not have a bathroom in it. There is a Cease and Desist from the Health Department about how the waste is being handled, it goes into a tank. Mr. Alaimo said the tank has been drained. The applicant had until April 21. Ms. Turner asked if the applicant disconnected the pipe from the house. Mr. Alaimo stated no, he can not get in the building; the tenant will not answer the door. Mr. Alaimo said if he were to keep the property (which he says he is not going to do) he would have to connect to the sewer.

Ms. Turner asked if the house had apartments in it and Mr. Alaimo answered yes and the outbuilding is a separate apartment. The house is connected to the sewers. Ms. Turner continued that the applicant has owned the building for 40+ years, it does not have a septic system, and the applicant has rented it out and never fixed the problem. Mr. Alaimo stated the tank is emptied out regularly. Mr. Alaimo stated he just found out there is not a leach field there; he assumed there was a leach field. Ms. Turner read "The sewage is being discharged from a former garage to a manhole. All sewage must be disposed of by connection to public sewers, by sub-service disposal systems or methods approved by public health...The sewage discharge from the outbuilding, a former garage behind the house, shall cease thus requiring the building to be vacated." Mr. Alaimo said the tenant will not vacate the building, but the Board said the Health Department is saying the tenant has to go. Mr. Alaimo had the system was pumped out but it has not been abated like the Health Department requested by April 21.

Mr. O'Brien said the applicant has an order from the Health Department which will enforce the order. The question before the Board is whether this is a legal apartment.

Staff maintains it is not, it never had a building permit, and if it did have a building permit the Building Department would have asked questions about the sewer issue. The building does not have a CO. The building has been assessed as a garage. He asked if there is something Mr. Alaimo can present to the Board which can prove it is not a garage. If the Board upholds the Cease and Desist then it is not an apartment from a zoning standpoint and the Health Department has already said it is not an apartment from their standpoint.

Chairman LaRosa informed the applicant, since the Health Department has said to get the tenant out, he can call the police department and have him removed. From a zoning standpoint, Chairman LaRosa asked if the applicant has proof that this has been an apartment since then 1930s. The applicant has not been the property owner the entire time; the property was sold in 2006 and then seven years later the property was turned back over; therefore the applicant can not say whether this has been an apartment the whole time. Once the building stops being used as an apartment, the grandfather rule goes away. Mr. O'Brien added that in the absence of a building permit or a certificate of occupancy there is nothing (to prove this was an apartment).

Mr. Mastroberti asked if the applicant has signed leases to show the apartment was rented out. Mr. Alaimo stated he had a property manager who was taking care of it and could give a statement.

Mr. Urbanowicz asked if the applicant ever received an affidavit from the person he bought it from stating they had rented it. Mr. Alaimo answered it was just conversation.

Chairman LaRosa asked if any members of the audience wanted to speak for or against the application.

Bob LaFlamme, 337 Elm Street, approached the Board.

Mr. LaFlamme stated he used to live in the neighborhood. Aside from the health issues cited, he thinks there are issues not noted here but he understands that is not for this Board to address. He does remember the property changing hands but then he moved out of the neighborhood. He believes there was a garage door at one time.

Kathryn Lachausse, 335 Elm Street, approached the Board.

Ms. Lachausse lived in the neighborhood her whole life; her mother lives in the property abutting this one. She said on and off there was someone living in the garage. She never saw a septic truck pumping the sewer. The gray water goes into the adjacent yard.

With no further discussion, the hearing was closed.

Chairman LaRosa asked if there was any Board discussion.

Ms. Turner stated it is not an apartment. Mr. Mastroberti added that the applicant can not produce anything to show that it was constantly used as an apartment.

Ms. Turner added her concerns; it has not been reviewed by the building department, it does not have a building permit, it does not have an occupancy form. She stated it is not an apartment; it is a shed.

Ms. Turner made a motion, seconded by Ms. Scull, to uphold the ZEO's Cease & Desist Order concerning an apartment in a detached garage at 460 Enfield Street. The motion passed 5-0-0.

Ms. Turner asked Mr. O'Brien to follow-up with the Health Department regarding the property. She also asked if the Fire Marshall should be looking at the property because of issues with wiring. Chairman LaRosa added there was exposed wiring on the outside of the property and there are issues with the chimney sleeve.

8. Old Business - None.

9. New Business:

Ms. Turner stated there was a Land Use Board meeting last Wednesday that some members attended. The next meeting is scheduled for August. In the meeting with the Inlands & Wetlands, Planning & Zoning and ZBA Commissioners one of the issues addressed was to have more training, including having the Town Attorney talk about Land Use Boards, map reading, walking through the zoning regulations, application review, drainage, vernal pools, GIS training, open space, aquifer training and how to ask for experts.

Mr. O'Brien felt that the meeting was helpful for him to try to build the land use constituency in Enfield. Regarding asking for a town attorney opinion, if a Board feels it needs additional legal guidance it can table the matter and ask Mr. O'Brien to get the opinion. He will go through the town manager and get an opinion for the next meeting. Regarding outside consultants, the town regulations allow that a Board can ask for outside consultants through the town manager's office.

Mr. O'Brien also stated that they were looking at revamping the applications and had a timeline; he would be looking for the Board's suggestions.

There was discussion about members notifying either the Chairman or Mr. O'Brien's office if they can not attend a meeting. Ms. Turner stated for the Health Department meetings they use an application which is sent out and she has to say if she is attending or not attending. After discussion this seemed to be a preferred way to inform both the Chairman and Staff.

10. Approval of Minutes: - March 28, 2016 - Regular meeting.

Ms. Turner made a motion, seconded by Mr. Urbanowicz, to approve the minutes of March 28, 2016.

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

11. Correspondence / Staff Report:

Regarding applications, Chairman LaRosa stated he would like to see two applications. He would like an application for an appeal separate from an application for a variance. Since the process starts with ZBA, Ms. Turner stated she would like the form to travel to Inlands & Wetlands and Planning & Zoning. Mr. O'Brien explained that if an application has been before ZBA, the conditions of approval are supposed to be in the Staff report for the next meeting it goes to.

Chairman LaRosa said the Board would like packets at least a week ahead of time. Mr. O'Brien said at the present time with the present staff that is not going to be possible. He said Staff will get the packets out as soon as possible. Staff sends out the application materials by e-mail so the Board has it. What is difficult to get is the Staff comments.

The Board discussed getting packets electronically. Ms. Scull stated she uses the I-Pad (provided by the Town) with the Building Committee. She said it is difficult to read plans on an I-Pad. However, she does like the convenience of being able to access materials on the I-Pad.

Mr. O'Brien said he agrees at a minimum the Board needs a full set of plans at the meeting and Staff will make an effort to get the Board plans ahead of time if there are plans. He said they will send out information electronically and then follow-up with the hard-copy packet. The Board asked Mr. O'Brien to find out if there any old I-Pads available. Mr. Urbanowicz added that he would prefer to have hard copies.

12. Other Business:

Regarding the Mobil station on Elm Street, there is contaminated soil and Chairman LaRosa asked what was being done. They came to ZBA for a remediation plan and were granted a variance. He said soil is being moved. Mr. O'Brien said the remediation plan is supervised by the DEEP and the Fire Marshall's office. Mr. O'Brien will check into the contaminated soil.

Ms. Turner asked about the signage on the Starbuck's. Mr. O'Brien stated they took down the window signs.

Mr. LaRosa said they went to New Britain and sat down with a judge regarding the CREC building. There is nothing to report yet.

13. Adjournment:

Ms. Turner made a motion, seconded by Ms. Scull, to adjourn at 8:10 pm.

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

Minutes prepared by Lynn Ballard

Respectfully submitted,

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Mary Ann Turner, Secretary