

ENFIELD ZONING BOARD OF APPEALS
SPECIAL MEETING
MINUTES FOR COMMISSION CONSIDERATION
MONDAY, MAY 4, 2020 7:00 PM
Virtual Meeting

Call to Order

Chairman Maurice LaRosa called the meeting to order at 7:07 PM

Roll Call

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

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 the Review of Bylaws to Other Business.

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

Votes: 5-0-0

Legal Notice

New Business

- a. **ZBA# 2020-03-03** – 51 Enfield Street – Variance application to allow motor vehicle sales in a Business Local Zone which Table 5.20 does not currently allow; Diane and Trisha Pagano, and John Kucavich Jr., owners; Abedal Hafid Zoghhol, applicant; Map 35/Lot 206; Business Local Zone. (DoR: 3/23/2020; MOPH: 5/27/2020).

Commissioner Turner read the legal notice.

Chairman LaRosa read the definition of a variance.

Abedal Hafid Zoghhol thanked the Commission for their time. He provided a brief overview of the proposed application. Mr. Zoghhol stated that the two-bay garage is no longer a viable business model, and adding car sales to the current model will prevent another empty building on the street. He stated that four bays are needed in order to have a viable business model, but the property does not allow for this.

Commissioner Turner asked if they are talking about Russo's to which Ms. Pacacha replied that they are. Commissioner Turner stated that Russo's is not currently doing repair work.

Mr. Zoghhol stated that he would like to add car sales to the current repair license.

Commissioner Turner asked if the applicant will be doing mechanic work. Mr. Zoghol stated that they will as they plan to fix the cars in order to sell them.

Commissioner Turner asked if people can have their cars repaired without buying a car, to which Mr. Zoghol replied that they can.

Chairman LaRosa stated that a repair license is automatically given once a car sales license is provided.

Ms. Pacacha stated that the northern portion of Enfield Street should be strip commercial. She went over some portions of the Plan of Conservation and Development (POCD) pertaining to strip commercial areas.

Commissioner Turner asked for an explanation of strip commercial, which Ms. Pacacha provided. Commissioner Turner stated that major changes would need to be made in order for this building to be strip commercial.

Commissioner Turner asked how many people will be employed, to which Mr. Zoghol replied that there will be three.

Commissioner Turner asked how many cars he intends to sell. Mr. Zoghol stated that he would adhere to zoning regulations, which he believes allow for 20-25 cars.

Ms. Pacacha stated that the minimum amount of cars parked is based upon the square footage of the building, and that there is not currently a maximum in the regulations.

Chairman LaRosa asked if the owner will be required to pave the back. Ms. Pacacha stated that they will not as based on the photos it does not appear they can expand much more.

Commissioner Turner pointed out that there does not appear to be a place for a dumpster.

Chairman LaRosa stated that there should be buffers if a garage is put in there, to which Ms. Pacacha replied that the applicant would have to go before the Planning & Zoning Commission (PZC).

Chairman LaRosa asked if that would come back before the ZBA for a variance on a buffer, to which Ms. Pacacha replied that it exists now without a buffer so is grandfathered and he does not need to come back for that. Commissioner Turner stated that she does not believe the property is grandfathered; Ms. Pacacha stated that she can obtain legal opinion on this matter.

Commissioner Turner stated that she is concerned where cars in various states of disrepair are going to be parked. Mr. Zoghol stated that they are willing to do whatever is supposed to be done according to the regulations.

Commissioner Turner asked if there is any work planned for the building itself or grounds. Mr. Zoghol stated that he has no plans to change the structure of the building, other than possibly a new roof. He stated that it will not be like a large dealer with a show room.

Chairman LaRosa stated that there are several two-bay garages in town that do very good work and he is concerned that the POCD is opposed to this type of business in this area.

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

Commissioner Mastroberti stated that even if the variance is granted, the applicant would still have to go back before PZC in order for this to get approved. Chairman LaRosa stated that this is correct, but the PZC would have no reason not to approve it and can only put conditions on it.

Commissioner Urbanowicz stated that the applicant is saying it would be more profitable with the variance, but it is profitable as-is. Commissioner Turner stated that there is nothing about the property that is causing a hardship.

Commissioner Kwasnicki stated that the ZBA does not have the authority to alter zoning laws, but can grant exceptions on the property if the unusual nature of the property causes a hardship. Chairman LaRosa confirmed this and stated that the applicant needs a variance first.

Commissioner Mastroberti asked if the applicant can apply for a brand new business. Commissioner Urbanowicz stated that the applicant will have to do that in a car sales area as the POCD did not plan for that use in this area, which is why the variance is needed.

Commissioner Turner stated that she does not see where this is a hardship for a variance since the property itself is not causing any trouble.

Chairman LaRosa stated that the Commission is not bound by past practice of the town.

Ms. Pacacha stated that the property currently has a K7 for a repair garage, and they can come back for an auto location approval for that business and do not have to go before PZC. She stated that they are only before the Commission for a variance due to the addition of used car sales.

Commissioner Mastroberti stated that this is a case of a true variance and there is almost no reason to give the variance.

Chairman LaRosa stated that there are no legal parameters for a variance right now.

Motion: Commissioner Urbanowicz made motion, seconded by Commissioner Turner, to approve ZBA# 2020-03-03.

The motion failed with a 0-5-0 roll call vote, with all five Commissioners voting against.

Chairman LaRosa explained that the Commission did not find a reason for the variance.

Votes: 0-5-0

Commissioner Turner stated that the reasons for the vote are because this was a financial hardship and did not fall within the POCD.

- b. **ZBA# 2020-03-13** - 14 Cranbrook Boulevard - Automotive Location Approval application for an auto repair garage at a location where an auto repair garage already exists; Sybil Williams, owner; Sam & Zak, LLC., owner; Map 56/Lot 33; Business Local Zone.

Commissioner Turner read the legal notice.

Attorney Carl Landolina addressed the Commission to provide an overview of the application. He provided a brief history of the project, stating that his client is the contract purchaser and does not plan to make any changes with the exception of handicap parking signage. Mr. Landolina stated that they have an existing K7 and are just looking to transfer ownership.

Commissioner Turner asked if the three unregistered cars in the parking lot belong to the current owner. Mr. Landolina stated that they do as his client has not taken title yet but will be taking over the business.

Commissioner Turner stated that she did not see any staff parking and only saw three empty parking spaces due to all of the cars currently parked in the lot. Mr. Landolina stated that there are 21 parking spaces on the property according to the site plan, and the rest of the cars currently on the lot will be removed.

Commissioner Turner asked what kind of business this will be, to which Mr. Landolina replied that it will be a car repair business just like it is now.

Commissioner Turner stated that the Zoning Enforcement Officer (ZEO) needs to go out to the property and take a look. Ms. Pacacha stated that the pictures in the Staff Report are from the ZEO and he is very good about reaching out to people.

Chairman LaRosa stated that there is plenty of room for parking as long as the new owner follows the regulations. The Commission discussed the current poor state of the property.

Commissioner Turner asked when the new owners will be taking over the business. Mr. Landolina went over the next steps, stating that it will probably be 45-60 days before the new owners take title.

Mr. Landolina stated that they must close within ten days of receiving approval from the DMV and in the meantime the current owner must continue to operate per their contract.

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

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

Votes: 5-0-0

Commissioner Mastroberti stated that there can only be an improvement, which Chairman LaRosa agreed with. Commissioner Turner reiterated that the property needs a visit from the ZEO and should be cleaned up.

Motion: Commissioner Mastroberti made a motion, seconded by Commissioner Urbanowicz, to approve ZBA# 2020-03-13.

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

REFERENCE PLANS

1/1 – Department of Motor Vehicle Permit Plan – Prepared by J.R. Russo & Associates, LLC., 1 Shoham Road, East Windsor, CT 06088; Prepared for Sam & Zak LLC., 14 Cranbrook Boulevard, Enfield, CT 06082; Sheet 1 of 1; Scale: 1”=20’; Prepared on March 9, 2020.

Votes: 5-0-0

The Commission discussed their reasons for approval.

Approval of Minutes – January 27, 2020

Motion: Commissioner Mastroberti made a motion, seconded by Commissioner Urbanowicz, to approve the minutes from January 27, 2020.

Commissioner Turner pointed out two outstanding items in the minutes that they were waiting to discuss with a full Commission. Ms. Pacacha stated that these items would be included on the next agenda as they need to be discussed during a Regular Meeting.

Discussion took place as to what can be discussed at tonight’s meeting since it is a Special Meeting.

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

Votes: 5-0-0

Other Business

Chairman LaRosa stated that he wanted the entire Board together for the Review of Bylaws in order to decide whether they should keep the detail amendments in the back or get rid of them. Ms. Pacacha stated that it is up to the Board.

Commissioner Turner stated that Commissioner Urbanowicz seemed to be in favor of leaving them in place, according to the minutes. Commissioner Urbanowicz stated that he is still in favor of leaving them in place as it could be helpful and does not hurt anything; Chairman LaRosa and Commissioner Turner agreed.

Commissioner Turner pointed out a few typos in the bylaws, which Ms. Pacacha stated she would correct.

Ms. Pacacha stated that the Town Attorney does not think they should be listing the types of applications on the order of business and asked if the Commission would like those to be removed. Chairman LaRosa stated that they can be removed as the Commission was never asked if they could be added in the first place.

Correspondence / Staff Reports

- a. Town Attorney Report- 76 Hazard Avenue

Commissioner Turner stated that the Town Attorney's legal opinions are difficult. The Commission reviewed the history of this site coming before the Commission as the owners had agreed to come back and keep the town updated. Commissioner Urbanowicz stated that they are not trying to monitor the site environmentally but rather are requesting updates to the town.

Ms. Pacacha stated that she can pull the files and speak to the ZEO about reaching out to the owners of the property. Commissioner Turner stated that these people were doing the right thing, the Commission just wanted them to keep the town in the loop.

Commissioner Turner reiterated that she does not care for the Town Attorney reports. Ms. Pacacha stated that she will check the file for updates and if there are none she will talk to the ZEO.

Other Business

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

Ms. Pacacha stated that Staff needs to work with the Town Council and Director of Development Services Laurie Whitten on updating the fee schedule for all Commissions.

Commissioner Turner stated that the land use boards used to have chairman meetings to review various issues, and she thinks all land use boards should be included. Ms. Pacacha stated that this is the intent and she will pass the request along to Ms. Whitten.

The Commission discussed the date for the next meeting, ultimately deciding to cancel the meeting since any Public Hearings would have to have been posted by yesterday and none had been.

Commissioner Turner asked for an update on the Cease & Desist the Commission had voted upon on Enfield Street as they still appear to be working. Ms. Pacacha stated that the property is in foreclosure and the bank will be taking it over. Commissioner Turner pointed out that they should not be working once the Cease & Desist has been issued.

Adjournment

Motion: Commissioner Urbanowicz made a motion to adjourn for the night.

The meeting was adjourned.

Prepared by: Elizabeth Bouley, Recording Secretary

Respectfully Submitted,

Mary Ann Turner, Secretary