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18 AUG 16 ADAMS ZONING BOARD OF APPEALS
MEETING MINUTES

TOWN CLERK
ADAMS MASS.

TUESDAY, JULY 10, 2018

MEMBERS PRESENT: ^{CLERK} Vice-Chairman Brian Tenczar and Members Francie Riley, Glen Diehl, Jacob Levesque and Anthony Donovan

MEMBER ABSENT: Chairman Peter West

OTHERS PRESENT: Joseph Nowak, Adams Selectboard; Dan Lovett, Hill Engineers; Dianne Cwalinski; Stanley Cwalinski; Larry Mach; John Duquette; and Recording Secretary, Pam Gerry

CALL TO ORDER: Vice-Chairman Tenczar called the meeting to order at 6: 04 P.M.

Application of Stanley F. Cwalinski for property located at 6 Newark Street, requesting a Special Permit under Adams Intensity of Use Schedule, Zoning Bylaw §125 Attachment 2, note "j" under the Adams Zoning Bylaw to add a two car garage in an R-4 Zoning District.

Vice-Chairman Tenczar invited the applicant to address the board members. Mr. Cwalinski approached the board with his application request. He stated to the members that he wanted to build a two car garage, 22' to 24' on one side by 28' on the other side of his property. Mr. Diehl stated that according to his proposed plans, he was requesting to put the garage 10' from his property line. Mr. Cwalinski stated to the board that he would like to request having 5' from his property line to build the garage which would not conform to the lot line requirements. Vice-Chairman Tenczar asked the applicant if he chose to construct the garage toward the back of his property, would he be encroaching on the abutters' property. He answered him by stating that he had at least 50' from his garage to the property line in the back of his property. Mr. Cwalinski wanted the board members to know that his abutting neighbors' two car garage was within six inches of the property line. He told the members that he thought his proposed project would be referenced under a "grandfather clause" which would allow him to build within close proximity to his property line as his neighbor had done. Member Riley addressed Mr. Cwalinski to ask him if he moved the garage further back on his property, what was keeping him from building 10' from the property line? Mr. Cwalinski stated that when he observed the neighbors' garage in close proximity to the property line, he thought he would be allowed to have the same right to when building his garage. Member Riley wanted Mr. Cwalinski to understand that not "everyone gets to do the same thing," and as a new builder, he would have to conform to the town's current bylaws. Member Riley emphasized to the applicant that if he moved his garage to the back of his property, he would be in compliance with the 10' property line requirement.

Ms. Cwalinski, owner of 6 Newark Street, seated in the audience asked the board members why they were required to put their garage 10' from the property line rather than 5,' adding that their neighbor had no concerns with this approach. Ms. Cwalinski stated to the board members that she understood the bylaw requirements but wanted the members to be aware that if they were to move the garage to the location suggested by the board members that it would be "in the middle of the back yard." Member Riley emphasized to her that if they were to follow the zoning bylaws for the lot line requirement of 10,' they would not have to submit their request for a Special Permit. Member Diehl

addressed Ms. Cwalinski stating that the town's zoning bylaws "declares in your district that you need 10' between a building and a side property line."

Mr. Cwalinski stated to Member Riley that "he could be wasting land" by moving his garage to the back of his property. He wanted the board members to know that if they propose to relocate the garage 30' toward the back of their property, it would be "a long way to move the garage." Vice-Chairman Tenczar emphasized to Mr. Cwalinski that if he wanted to conform to the 10' property lot line requirement, he would only have to file for a building permit and the Special Permit request would not be necessary. He explained to the applicant that the board members would accept his amended plans. In closing, Vice-Chairman Tenczar stated to him that he could take the opportunity to adjust the garage's location so it would meet the zoning guidelines. He addressed Mr. Cwalinski to let him know that a Variance would not be required at that point. He told him "the reason why we are here this evening is because you are trying to put your garage 5' off the line and 10' is required," adding that a building permit would be the only requirement. Vice-Chairman Tenczar wanted him to understand that the board members could deny his request for a Variance. Member Levesque stated to Mr. Cwalinski that he would be required to sign and date his amended plans showing that he would build his two car garage within 10' of the property line and submit it to the Zoning Board. Member Levesque stated to him that his signed plan would be Exhibit 1 for the public record.

Vice-Chairman Tenczar asked the Board members if they were satisfied with the answers to the applicant's request for a Special Permit. The Board determined that the applicant satisfactorily answered all questions pertaining to the Special Permit request.

Vice-Chairman Tenczar opened the meeting for public comment. There was none.

Vice-Chairman Tenczar asked if there was any mail correspondence presented for this request. There was none.

A motion made by Member Levesque, seconded by Member Donovan to grant a Special Permit to Stanley Cwalinski for property located at 6 Newark Street, under Adams Intensity of Use Schedule, Zoning Bylaw §125 Attachment 2, note "j" under the Adams Zoning Bylaw to add a two car garage in an R-4 Zoning District.

Vice-Chairman Tenczar asked if there was further discussion.

Member Diehl suggested that the board members should "specify 5' from the property line" in their vote. Member Riley responded by mentioning to them that the plans stated that the garage would be within 5' to 10' of the property line. Member Donovan stated that they could accept the amended plan.

Member Diehl stated that it would be "consistent with the other homes in the neighborhood."

Member Levesque stated to the board members that Mr. Cwalinski had come before them with his application request, which he continued to note that the neighbors showed no concern for his proposed project.

Vice-Chairman Tenczar stated there appeared to be existing screening on the property, adding that Mr. Cwalinski would be required to maintain them.

A motion made by Member Levesque, seconded by Member Donovan to amend the motion to read; to add a two car garage within the minimum of 5' to the property line, passed unanimously.

Vice-Chairman Tenczar explained that the Town will prepare within fourteen (14) days, the Decision Notice to the Town Clerk's Office and following this, there is a twenty (20) day appeal period before the applicant may obtain the final Decision Notice.

Application of Lawrence and Loretta Mach for property located at 54 Notch Road, requesting a Special Permit under §125 Attachment 1:2 under the Adams Zoning Bylaw to allow the raising of livestock (chickens) in an R-4 Zoning District.

Mr. Mach addressed the board members stating that he would like to continue to maintain chickens on his property. He explained to them that he was not aware that a Special Permit was required prior to receiving a letter from Building Commissioner Torrico. He explained to the members that a complaint was submitted to the Zoning Board office regarding his chickens. Mr. Mach stated to the members that he would contain his chickens to ensure them that they would be "suitable for the property." Vice-Chairman Tenczar asked Mr. Mach how many chickens he would like to maintain on his property. He responded to him by stating that he would like to have three chickens and no more than six. Mr. Mach reviewed photos of the property where his chickens were housed with the board members. Vice-Chairman Tenczar addressed the applicant to ask him how he planned to manage the chicken manure. He answered him by stating that he was using the manure for his garden. Mr. Mach wanted the members to know that he had a chicken tractor that allowed him to move the chickens from one area to another within his yard. Vice-Chairman Tenczar wanted to know if the applicant had roosters on his property. He stated to him that he had only hens at this time. Mr. Mach told the members that in the past, he had allowed his chickens to roam freely around the yard but added that with predators in the neighborhood, he now keeps them confined to his property. He stated to them that he was aware that his chickens had entered the neighbors' property and assured the board members that he had taken proper measures to contain them. In closing, Mr. Mach mentioned to them that he would like to build a larger chicken coop to offer more room for the chickens in the near future.

Vice-Chairman Tenczar opened the meeting to the public audience.

Bruce Clerc, a resident of 45 Notch Road, seated in the audience addressed the board members to let them know that the applicants have been good neighbors and he welcomed the chickens into the neighborhood.

Vice-Chairman Tenczar asked if there were any further questions regarding the applicants' request. There were none.

A motion made by Member Levesque, seconded by Member Riley to grant a Special Permit to Lawrence and Loretta Mach for property at 54 Notch Road under §125 Attachment 1:2 under the Adams Zoning Bylaw to allow the raising of livestock (chickens) in an R-4 Zoning District, as proposed in the plans, passed unanimously, subject to the following conditions:

- **The owners are allowed up to six (6) livestock (hens).**
- **No roosters are allowed on the property.**

Application of Sun Raise Development LLC for property located at 101 Grove Street, requesting a Variance to install Commercial Scale Solar Energy System under Adams Zoning Bylaw §125-3 B. (2) Use Variance in an R-2 Zoning District.

Mr. Lovett of Hill Engineers addressed the board members to state to them that he was representing Sun Raise Development LLC for the installation of a solar array on property operated by "Duke's Sand N' Gravel," owned by John Duquette. He let the board members know that the use of the gravel pit had been in existence for a length of time through the years. He noted that the owner would be interested in selling the property, noting that it would be difficult for him given the properties "challenging topography." Mr. Lovett emphasized to them that the entire property was "down in a hole." He told them that he would not anticipate many interested buyers. Mr. Lovett continued to convey to the members that the proposed solar array would be allowed in the B-2 Zoning District by Special Permit and further stated that the applicant would like to expand the solar field to the R-2 Zoning District, adding that this request required a Variance. Mr. Lovett emphasized to the board members that the solar panels would not be visible in the neighborhood, adding that "it was a perfect spot for a solar array." He told them that 80% of the property would contain the solar panels.

Member Diehl addressed Mr. Lovett to inquire about the location of the existing gravel pit. He wanted to know if the remaining 20% of the property to the north would be the area where Mr. Duquette's business would remain. Mr. Lovett stated that this would be correct. Mr. Diehl was curious to know if the dust that was created by the existing gravel pit in the past would be reduced by the solar installation. He said it would "absolutely do a lot to minimize the dust." Mr. Diehl addressed Mr. Lovett asking him why the owner was not interested in utilizing his entire property for the purpose of installing the solar panels. Mr. Lovett told him that the landowner's operation would be "much more minimized." John Duquette, owner of the property at 101 Grove Street seated in the audience addressed the board members concerns about the use of the remaining land by stating to them that "25 acres of his property would not be used anymore."

Mr. Lovett wanted the board members to know that this project would take approximately four months to be completed. He stated to them that "it was a quiet construction." Mr. Lovett wanted the members to know that once the project was completed, the neighbors could expect an inspection performed by a limited visit of inspectors who would be required to check the solar panel invertors and perform minimal inspections.

Vice-Chairman Tenczar asked Mr. Lovett if there would be any vegetation removed during the construction phase. He answered him by stating that after the panels were installed, the area would have necessary vegetation under the panels. He told the board members that it's "a super fit" for the location. He emphasized to Mr. Lovett that solar projects often target residential areas but he assured the members that this area was a much better location for this type of project. Mr. Duquette addressed the members to let them know that his proposed project would "minimize his construction at a smaller scale." Member Diehl told the members that this project was in an "excellent location."

Vice-Chairman Tenczar opened the meeting to the public audience.

Harry Horn, a resident of 439 West Road, seated in the audience stated to the board members that he would like to view the map displayed by Mr. Lovett of the proposed location of the project. He explained to board members that he was an abutter to the west and south sides of the proposed project.

He was curious to know what the frontage would be for the Grove Street property and how close the proximity of the solar panels would be to his property on the west side. He reviewed the map with Mr. Lovett, as well as addressing some boundary issues with Mr. Duquette. Mr. Horn emphasized to the applicant that he would not want the solar panels abutting his property. Mr. Duquette assured Mr. Horn that his gravel pit would be a distance from his property.

Vice-Chairman Tenczar asked if there were any further questions from the public audience or any mail correspondence. There was none.

A motion made by Member Levesque, seconded by Member Riley to grant a Variance to Sun Raise Development LLC for property located at 101 Grove Street, under Adams Zoning Bylaw §125-3 B. (2) Use Variance to install Commercial Scale Solar Energy System in an R-2 Zoning District, as proposed in the plans, passed unanimously.

Vice-Chairman Tenczar stated to the board members and to the applicant that he anticipated that the solar project would be “a responsible use for this site and a better fit for the area.”

Vice-Chairman Tenczar explained that the Town will prepare within fourteen (14) days, the Decision Notice to the Town Clerk’s Office and following this, there is a twenty (20) day appeal period before the applicant may obtain the final Decision Notice.

Vice-Chairman Tenczar closed the hearing for public comment.

OLD BUSINESS: Vice-Chairman Tenczar addressed Ms. Gerry to ask her if she could update them on the status of the court case involving the Zoning Board of Appeals members and “Quick and Easy Roll Off.” She responded to him by stating that she did not have any current updates for them but they could follow up with Building Commissioner Torrico for further information.

NEW BUSINESS: The Board of Selectmen’s Office has appointed Alternate member Jacob Levesque to a Permanent member of the Zoning Board of Appeals. Alternate member Rob Krzanik was not re-appointed to serve on the board.

Vice-Chairman Tenczar addressed Joe Nowak, Adams Selectperson seated in the audience to inquire about new appointments to the Zoning Board of Appeals. He stated to him that he would address their concerns at the next Board of Selectmen’s meeting.

APPROVAL OF MINUTES:

A motion made by Member Levesque, seconded by Member Riley to approve the minutes of May 22, 2018, as presented. Vice-Chairman Tenczar and Members Riley, Levesque and Diehl voted four (4) in favor. Member Donovan abstained from voting.

A motion made by Member Levesque, seconded by Member Riley to table the minutes of June 7, 2018 to August 14, 2018. Vice-Chairman Tenczar and Members Riley, Levesque and Diehl voted four (4) in favor. Member Donovan abstained from voting.

A motion made by Member Levesque, seconded by Member Riley to approve the minutes of June 12, 2018, with an amendment to "sheat runoff" to read; "sheet runoff." Vice-Chairman Tenczar and Members Riley, Levesque and Diehl voted four (4) in favor. Member Donovan abstained from voting.

REVIEW MAIL: There was no mail for the board members' review.

ADJOURN: A motion made by Member Levesque, seconded by Member Diehl to adjourn the meeting at 7:30 P.M., passed unanimously.

Respectfully Submitted,


Pamela Gerry, Recording Secretary

8-16-18
Date