

BRIDGEWATER ZONING BOARD OF APPEALS

PUBLIC HEARING - REGULAR MEETING

FEB. 28, 2017 7:00PM BRIDGEWATER TOWN HALL

PUBIC HEARING MINUTES

Meeting called to order at 7:01PM by Chairman, Roberta Allen

Members Present: Roberta Allen, Stephan Gerhard, Marc Isolda

Alternates Present: Ed Bennett

Ed Bennett was seated as a Regular member.

Others Present: Douglas DiVesta, Alessandro Alferi, Rebecca Bedini, Meg Khare

Business: Application No 17-01-1 by Alessandro Alferi for property located at 2 Barn Road. Applicant is requesting a variance to Section 4.04.03 to extend the minimum square within the building line due to the lot being a through lot with two front yards opposite each other. A variance is required to choose a building line behind which to set the building.

- Chair Allen read the legal notice of this public hearing for the record and submitted a copy of notice of this public hearing to abutters for the record.
- Stephan Gerhard, secretary, submitted confirmation of certified mailings.

Applicant Presentation

Douglas DiVesta, DiVesta Civil Engineering Associates, came forward to represent Mr. Alferi and Ms. Bedini. He defined the minimum square from Bridgewater Zoning Regulations, property located in R3 zone, parcel is 9+ acres, bounded on Southside by Route 67 and Northside by Barn Rd. This is a through lot abutting 2 parallel streets.

Hardships- No front yard defined. Proposed lots meet minimum requirements and want a subdivision. Minimum square fits within boundary lot lines. Inland/Wetland has approved. Health Dept. has approved septic for two lots. Zoning commission was confused about building front yard lines and sent us to ZBA.

Ed Bennett asked what is total amount of footage you are looking for in variance.

Mr. DiVesta responded it depends on lot itself. He presented proposed site plan map with 50' scale and showed 192 sq. ft. minimum square on map. He stated he had researched the property in Town Clerk office. It was originally a 16+ acre parcel subdivided in 1988 into a 7+acre parcel now owned by Level 3 Communications and the 9+ acre parcel which created a zoning violation or not meeting regulations at that point. They are looking for a 60' or 40' variance depending on where front yard is determined.

Ed Bennett stated you are accessing the East lot from Barn Rd. That is your front yard.

Mr. DiVesta responded that is correct. Access to West lot will be off Route 67 as shown on proposed site plan. A 40' variance of 192 sq. needed.

Marc Isolda asked what is your hardship. Did they do their due diligence before buying the land or buy the land to divide. Marc reads from **Connecticut Land Use Law for Municipal Land Use Agencies, Boards and Commissions**, Self - created hardship is not sufficient grounds for granting a variance. As the court in Belknap v. ZBA, 155 Conn. 380, 384 (1967) pointed out, "(w)here the condition which results in the hardship is due to one's own voluntary act, the zoning board is without the power to grant a variance." ZBA's rarely grant a hardship. A very good case be presented as we are breaking the law or stretching the law in granting.

Stephan Gerhard asked when the property was purchased and stated it has been divided like this since 1988, several years.

Mr. DiVesta responded that it is an irregular lot and we have a through lot. We meet the requirements of the law with acreage and square footage.

Chair Allen stated that it is a non-conforming lot. Without a subdivision, you can still have 2 buildings on the lot and not have to meet the minimum square.

Marc Isolda asked why the Zoning commission sent you to us.

Mr. DiVesta responded because of 2 front yards. They wanted a ruling from ZBA as to what is the front yard. Again, we meet all the requirements. This is a unique situation. Wetland issues on lot as shown on map. We want to renovate the existing barn as well for living space. Septic was installed in 1992 for the barn. Again, looking at a lot that was created in 1988 which wouldn't meet zoning requirements. Part of the hardship is the unique lot. No other through lots in town so not setting a precedence.

Stephan Gerhard stated because you are here you don't meet all the requirements. This is a totally buildable lot in several places. It is a big plot but does not automatically make it sub-dividable.

Marc Isolda stated that in the past precedence has been given to state road as the front yard.

Chair Allen asked when they did the feasibility for septic and planning of driveway, it indicated front yard would be off Route 67.

Mr. DiVesta responded that is what we were always thinking. Michael Alex, Land Surveyor, thought the same when he laid it all out on his plan. That would be the front line. You make a good point about the driveway.

Comments from the Public

Mr. Alferi stated he brought the property 3 years ago. We always wanted to subdivide.

Stephan Gerhard asks what is your hardship is the question.

Mr. Alferi responded the hardship is being told we could subdivide which is why we brought it.

Stephan Gerhard asks who told you that.

Mr. Alferi responded Look on real estate. You'll see it. Why did no one look at maps when I was doing this. I am now here after 2 years. Should not have brought it because not what we wanted to do.

Marc Isolda stated that is why you do your due diligence. Have a lawyer look into it before buying.

Roberta Allen stated that the barn that is existing on the property is non-conforming but can build on the footprint and have another house on the property. So, I don't see the hardship.

Ms. Bedini asked if her parents could build a house on the property after we renovate the barn.

Ed Bennett responded the main house has to be a certain size larger than the guest house.

Ms. Bedini stated that she and her husband are going to build. Two years ago we came here with these questions and we were sent to all these commissions. We have spent thousands of dollars to hear we can't do this.

Marc Isolda stated you can still build a house for yourself and have a guest house.

Chair Allen stated that it is a process when you want to build and the towns require it with their zoning regulations. We are the ZBA. Our job is to grant the variance or not. The law is specific about the hardship. You can still have the barn and another building.

Meg Khare, 25 Barn Rd stated she was not speaking against. She understands their frustration. Our 44 acre property cost us thousands of dollars as well. I agree with what all the board members are saying. I hope you can build. Looks great with what you have done so far but don't see the need for a subdivision either.

Chair Allen asks if there are any other questions.

Mr. DiVesta asks what our procedure is now.

Chair Allen states we will close the public hearing and move to our regular meeting.

Mr. DiVesta requests an opportunity to speak with his clients before closing the meeting.

Chair Allen grants.

Mr. DiVesta states his clients are withdrawing their application and he will email a formal letter.

Chair Allen confirms intent to withdraw the application. Public hearing is closed at 7:33PM.

Regular Meeting Minutes

Roberta Allen, Chairman called meeting to order 7:37pm

Same members remained seated from the Public Hearing.

Minutes from Jan 24th meeting reviewed. Stephan Gerhard made a motion to accept January minutes. Marc Isolda seconded. Ed Bennett abstained as was not present at January meeting. All in favor.

Old Business: None

New Business

- An application from Dennis MacDonald, 20 Mine Hill Rd East was accepted.
- Public Hearing and Regular Meeting scheduled for March 28th.

Other Business: None

Ed Bennett made a motion to adjourn at 7:48pm. Marc Isolda seconded. All in favor.

Respectfully submitted,

Roberta Allen

Roberta Allen, Chairman