

Town of Enfield

Zoning Board of Adjustment Meeting Minutes



~~June 12, 2018~~
July 10
DRAFT

1
2 Present: Mike Diehn - Chairman, Kurt Gotthardt; Ed McLaughlin, Tom Blodgett, Tim Lenihan,
3 Susan Brown (alt)

4
5 Guests: Scott Osgood-Town Planner/Zoning Administrator, Denise Shibles (Recording Secretary), Jim
6 Bonner (videographer), David Kelly, Tim Sidore, Bruce Hettleman, Paul Currier, David Fracht, Matthew and
7 Lisa Isham, Maureen Foley, Meaghan Foley, Lois Groth, Rod & Sarah Finley, Ken Howard, Peg Howard, Jeff
8 Wilkinson, Fritz Bed??, Nate Stearns, David Grayck, David & Susan Hazelton, Barry Schuster, John Currier,
9 Gabriel Currier

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12 I. NON-PUBLIC HEARING IN ACCORDANCE WITH RSA 91:A-3(1)
13 7:28pm exited non-public session

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15 II. PUBLIC HEARINGS

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17 Ryan Aylesworth asked if the time limit for an appeal had been reached. Mike explained that there is a
18 30 day period after the PB decision to appeal or apply to Superior Court.

19 1. Continuation of request for an appeal of a Planning Board approval of a Site Plan

20 Submitted by Ledgeworks Inc regarding additional residential units at 60 Main St.

21 Mike explained that the ZBA has to decide if the PB has made a mistake and if the ZBA has
22 jurisdiction to hear this appeal.

23 Ed motioned that the ZBA does not have jurisdiction to hear this appeal based upon the reading of the
24 regulations. Tom seconded.

25 Kurt read from the Zoning Ordinance (Section 414 pg 58) stating that in the Site Plan review
26 regulations it is required to get a driveway permit. The PB waived that requirement even though it was
27 not asked to be waived.

28 Mike asked Dan Kiley, PB Chair, and David Fracht, PB Vice Chair, if they recall receiving a waiver
29 request. The both stated that the Board voted not to take up the issue due to a curb cut already being
30 present.

31 Mike called for a vote. The vote was 2 in favor of the motion and 3 deny the motion. The motion failed.

32 Kurt motioned, with Tim seconding, to hear the appeal of Dr. Hettleman regarding the Planning Board
33 approval of a Site Plan submitted by Ledgeworks Inc regarding additional residential units at 60 Main
34 St. dated May 9, 2019 The vote was unanimous in favor of the motion 5-0.

1 There was much discussion as to whether or not the ZBA can remand this back to the PB. It was
2 decided that the appeal may only be approved or denied.

3 Kurt motioned, with Tim seconding, to grant the appeal, overturning the Planning Board's decision
4 based on the finding that the Planning Board failed to properly interpret the Enfield Zoning Ordinance
5 and the Site Plan regulations as they pertain to a driveway permit. The vote was 4 yes to approve the
6 motion and 1 opposed. The appeal is granted.

7 The Board took a break from 8:24 to 8:32.

- 8 2. Continuation of 1 request for a Variance from Article IV, Section 401.2 L, setback requirements, to
9 allow construction of a single family residence on Parcel 44-036 on 12 Rollins Point Road in the
10 R3 District in accordance with Article V, Section 505 of the Enfield Zoning Ordinance.

11 Barry Schuster, attorney for Maureen Foley, addressed a motion asking for Mike Diehn to recuse
12 himself. After some discussion, Mike chose to stay seated on the Board.

13 David Grayck, attorney for the Hazelton's, requested the application and decision of the Aug. 2,
14 2016 meeting be included in tonight's decision as it relates to the material change. He also feels the
15 Superior and Supreme courts' decisions would be relevant as well.

16 Tim moves that the Board hold that the Fisher Doctrine does not apply and that we will hear the
17 Foley application because the change in size between the previous and current applications
18 constitutes a material difference in that it's a large reduction in the impervious surface being
19 requested and that the neighborhood has changed significantly as illustrated by the picture of the
20 two story house across from the Foley's property. Ed seconded the motion. The vote was in favor
21 of the motion, 4-1.

22 Susan Brown left the meeting.

23 The Hazelton's feel that granting this variance is unfair to them since it's come before this Board
24 before and was denied. They don't feel there is any material change. They are also concerned with
25 the long term view of Rollins Point.

26 Many guests spoke on both sides of this request.

27 Tim reviewed the 5 criteria and addressed the Spirit of the Ordinance. Ed joined him in explaining
28 how the Board has to hear all sides of an issue and each request on its own merit.

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30 **FINDINGS OF FACT**

- 31 1. 20 x 20 new footprint is less non-conforming than the existing house.
32 2. 144 sq ft in the setback (assuming 20ft setback)
33 3. Surveyor can't be certain about the location of the road because it's not clearly
34 checked.
35 4. Overtime, variances on the point will crowd the point.
36 5. Footprint of neighboring house did not change.

1 6. Granting this variance will make it more difficult to deny future requests for variances.

2 7. Expanding any properties would require a variance.

3 The Board reviewed each of the 5 criteria.

4 Tim moved to approve the request for a variance as applied with Ed seconding.

5 Discussion regarding the 20' vs. 30' setback.

6 Mike moved to amend the motion as follows:

7 Mike moved to amend the motion, with Tim seconding, to approve the variance request subject to
8 DES approval and any other required permits. The vote was unanimous in favor of the amendment
9 to the motion.

10 The final vote reads as: It was moved and seconded to grant the variance request subject to DES
11 approval and any other required permits. The vote was 4-1 in favor of the motion.

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13 It was decided to move approval of the minutes to the next meeting.

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16 III. NEXT MEETING

17 The next meeting is scheduled for August 14, 2018

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19 IV. ADJOURNMENT

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21 Mike adjourned the meeting at 10:45pm.

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23 Respectfully submitted,

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25 Denise D. Shibles
26 Recording Secretary