



Town of Enfield

Zoning Board of Adjustment Meeting Minutes

April 10, 2018

APPROVED MAY 8, 2018

Present: Mike Diehn - Chairman, Kurt Gotthardt; Ed McLaughlin, Tom Blodgett, Tim Lenihan, and Scott Osgood-Town Planner/Zoning Administrator, Denise Shibles- Recording Secretary

Regrets:

Guests: Melissa Gunn, David Tupper, Earl and Barbara Brady, Mark, Jane, Dana Fellows, Paul Currier, Keith Ploof, David & Sharon Beaufait, Terry Terry, Scott Sanborn (Cardigan Mt. Land Surveys), Ryan and Laura Aylesworth, Kristina Aldrich, Mary Tyler,

- I. CALL TO ORDER - 7:00 pm.
- II. Mike welcomed back Tim Lenihan to the Board and welcomed Denise Shibles as the new Recording Secretary. He also expressed the Board's thanks to Celie Aufiero for her many years of service. Thanks also to Scott Osgood for a well put together packet of information.

Election of Officers: The following were nominated and voted on unanimously (5-0)

Chair- Mike Diehn Motioned by Tim, 2nd by Kurt

Vice Chair-Ed McLaughlin – Motion by Tom, 2nd by Tim

Clerk- Kurt Gotthardt Motion by Tom, 2nd by Ed

III. CITIZENS FORUM – None requested

IV. PUBLIC HEARINGS

1. Ryan Aylesworth will request a Special Exception to allow Farm Animals in the R1 District on Parcels 11-02-012 & 013 on 53 Mountain View Drive in accordance with Article V Section 504 and Section 403 G of the Enfield Zoning Ordinance.

Scott noted a correction regarding the hearing was made and notification, via telephone, went out to the abutters.

Mike asked for a motion to proceed with the corrected notice. Ed made the motion and Tim seconded. The vote was unanimous, 5-0.

Ryan presented his request stating he proposes converting some of this property, which he would like to purchase, to pasture and house his family's horses. He would like to have up to 2 adult horses and 2 miniature horses with fencing and housing for these animals.

During the following discussion Ryan clarified there is no commercial interest involved regarding the horses or use of the land. He answered questions regarding fencing and housing for the horses being a small barn.

Mike read the Special Conditions requirements

Mary Tyler stated there are protected covenants to the surrounding properties and she does not want farm animals and all that entails in the neighborhood. Ryan stated they would be following

best practices. Mike explained to her that these covenants are not enforced by the Town and are not involved with the business of the Zoning Board. The Board cannot be involved with the details of the covenants.

A motion was made and amended to be the following:

Mike moved that the board, having found the applicants have met the criteria set forth for the Special Exception they request, grant Aylesworth a Special Exception to the ELO per 403.1.G to keep and raise two full size and two miniature horses in the manner described in their cover letter and on the land shown in the plans in the application packet for this hearing.

Tim seconded the motion as written. The vote was passed, 5-0.

The Board took a break from 7:50-7:55.

2. Scott Sanborn of Cardigan Mountain Land Surveys LLC, agent for Debora Nyland, will request an Equitable Waiver of Dimensional Requirements for a Boundary Line Adjustment on Parcel 38-050 at 18 May St in accordance Article V Section 508 of the Enfield Zoning Ordinance.

A discussion took place to decide if this application met the Equitable Waiver criteria or should it be for a variance. This will be decided after the presentation.

Scott Sanborn made his presentation.

Mike moved that the Board hear this request as a Variance vs. and Equitable Waiver. Ed seconded.

The vote was unanimous in favor- 5-0. Mr. Sanborn was given the option to continue or return at a later date with changes. He chose to continue.

Mike read the 5 conditions of a variance.

1. The variance will not be contrary to the public interest.
2. The spirit of the ordinance is observed
3. Substantial justice is done
4. The values of surrounding properties are not diminished
5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

Tim read a letter from Gerry Stark.

There was much discussion, with the public, regarding clarification of terms, lot/tract sizes, current use of the property and concerns if this variance is granted.

Mike read a list of facts regarding this application:

1. 38-050 is recorded in the town tax records as 1.15 acres as two tracts: one of 1 acre and second tract of .15 acres.
2. Preliminary survey shows Tract 1 is .65 acres and Tract 2 is .12 acres
3. Mark Nylund says the house is a duplex
4. Proposal is for two lots of approx 0.38 acres each
5. Neighbors believe area is already too crowded and granting this variance request would overcrowd the area and reduce the property value
6. The duplex is currently occupied by three people
7. Tract 2 as it exists is likely non buildable as it is

Mike moved that the Board grant a variance from EZO R1 ½ acre minimum lot size required to Debora Nyland to allow the Planning Board to adjust her lot lines per the plans included in the application packet for this hearing.

.Ed seconded the motion to open for discussion. Motion was denied. The vote was unanimous against: 5-0

Mike opened the discussion to address each condition:

1. Ed believes this is contrary to the characteristic of the neighborhood. Tim agrees with Ed and also with the neighbors' concerns.
2. Tom, Ed and Tim believe the spirit of the ordinance is not being observed due to the size. Mike agrees that due to overcrowding is not in the spirit of the ordinance.
3. Ed, Tim and Mike believe it would give substantial justice due to the fact the tax map has misreported the acreage.
4. Tim states there is no evidence to support this condition.
5. Mike and Tim do not believe there is any unnecessary hardship.

Mike reread the motion:

Mike moved that the Board grant a variance from EZO R1 ½ acre minimum lot size required to Debora Nyland to allow the Planning Board to adjust her lot lines per the plans included in the application packet for this hearing. The vote was unanimous against the motion: 0-5.

Mike moved that the Board deny the variance request because the application failed to meet all the criteria for a variance. Ed seconded. The vote was unanimous in favor of the motion: 5-0

- V. Approval of Minutes- tabled to May
- VI. Mike motioned to remove John Pellerin as an alternate. Tom seconded. The vote was unanimous in favor: 5-0.

Susan Brown has applied as a potential new ZBA member.

Curt motioned to accept Susan Brown's application as an alternate. Mike seconded. Tom asked if she could come to a meeting. The motion was tabled and she will be invited to the May meeting.

Please read over the zoning ordinance changes included in your packet that were voted on at Town Meeting.

- VII. Scott will be sending proposals regarding changes to the by-laws out to Board members.

Curt motioned that the Town use the official ZBA Handbook forms. Tim seconded and the vote was unanimous in favor: 5-0.

Ed asked for clarification regarding accessory dwellings.

Curt stated there are two NH Supreme Court cases involving variance requirements. He will email these to Board members.

- VIII. Mike motioned to adjourn and Tim seconded. The meeting adjourned at 9:55pm.

Respectfully submitted,

Denise D. Shibles
Recording Secretary