



TOWN OF NEWTOWN

Zoning Board of Appeals Public Meeting Minutes

December 2, 2015 @ 7:30 PM

Meeting Room #3, Municipal Center, 3 Primrose Street, Newtown CT

These Minutes are subject to Approval by the Zoning Board of Appeals

Members Present: Charles E. Annett III (Chair), Ross Carley, Barbara O'Connor, Timothy Cronin and Alan Clavette (7:38)
Alternates: Stephen Singlak

The meeting of the Zoning Board of Appeals was called to order by Chairman Annett at 7:35. Mrs. O'Connor called the roll and then read Docket # 15-7 & #15-5

Minutes from the November 4, 2015 meeting approved as written. Mr. Ross made motion to accept with Mr. Cronin seconded. All approved

Mrs. O'Connor read: Docket # 15-7 Application of Jason Breza for a variance of Section 7.02.100 of the Zoning Regulations to permit a garage too close to the property line. The garage will be approximately 20' +/- from the property line. The property is located at 6 Prospect Drive, in the Town of Newtown in an R-1 Zone.

Mr. Breza has owned the property for the last 10 years. It currently has no garage. The property is only .23 Acres. His wife is 7 Months pregnant and would like to have a safe place for his wife and child to come into out of the elements as needed. He is on a corner lot so he has 2 front yards basically. Septic is off the back of the house in the center by the block patio. The garage would be non-conforming wherever the placement would be. Other homes around him on Prospect drive have garages.

No one in favor and or opposed spoke up.

Hearing closed at 7:48PM

Mr. Ross then made a motion to grant variance due to the lot size and being on a corner lot. There is no other place to put the garage and it would be in conformity with all other lots. Mr. Cronin seconded the motion and all approved

Mrs. O'Connor read: Docket #15-5 Application of Camp Seawatch , LLC for variances of Section 9.03.210 & 9.03.310 of the Zoning Regulations to permit the continued use of the property as was in existence at the time the Certificate of Zoning Compliance dated March 24, 2014 was issued by the Town. The property is located at 227 Hattertown Road, in the Town of Newtown in an R-2 Zone. Continuation of discussion from meeting on November 4, 2015.

Mr. Annett explained what the application was being sought for. He explained that with the explanatory statement we should have received maps and the applicant did not submit any maps (A2 Survey). So it is tough to understand some of locations that were being discussed. We didn't have any plans regarding the construction that went on and some of the uses of that. Photographs were presented that were from the internet that were in the original packet. The explanatory statement clearly states: It should include specific statements on the following three requirements as specified in Chapter 124, Section 8-6 of the General Statutes, 1958 Revision, as amended:

- A. That "literal enforcement of such regulations would result in exceptional difficulty or unusual hardship"
- B. That this is due "to conditions especially affecting such parcel but not affecting generally the district in which it is situated"
and
- C. That the variance sought is "in harmony with the general purpose and intent" of the Zoning Regulations of the Town of Newtown.

Zoning Regulations were introduced in 1958 and 1985 Assessor's field card states kennel was in 1960 and 28 square foot kennel. Field card also shows many changes since 1966 were made as follows. And these changes were submitted with applicant's application as follows:

- 1966-February 14: Permit to build sewage disposal system for "dog bath"

- 1978-August 4: Certificate of Zoning Compliance from Town, R-2 zone, use is kennel, prohibited use in such zone (considered non-conforming)
- 1987-November 3: Application for Building Permit (#5960) for garage and barn (storage only) distance from lot line 100+ and application for Zoning permit
- 1998-July 22: Map by B & K Septic- tank system installed conforms to proposal approved by Newtown Health District
- 2000-January 11: Town Department of health- internal letter- “owner wants to add 16-run kennel to existing barn/garage. A new pump system was installed in “98”
- 2000-January 14: Notice of Exception (CT Dept of Health)- “sewage disposal system serving existing residence and conversion of barn for 16 run kennel” “installation of new 2,000 gallon tank with outlet filter (for dog hair)
- 2001-August 8: Application for Residential Building Permit- move existing barn stairs/roof over kennel runs
- 2005-May 11: Permit to Construct/Repair a Sewage Disposal System, Town Health District. “structure consists of a 20 dog runs requiring 1250 gallon septic tank”
- 2014-March 24: Zoning Compliance letter from Town: business is considered legally non-conforming as the use of the property was a kennel and appears to predate zoning regulations.
- 2014-June 3: State of CT/Town of Newtown Dog License
- 2014-January 1: State of CT Commercial Kennel License
- 2015-January 5: MLS listing- “The kennel boards up to 25 dogs with 23 runs and 3 large play areas. Property includes a 24’ x 48’ barn
- 2015- August 4: Notice of Violation from Town

Mr. Clavette stated as you can see above a record of changes to the property after the Zoning rules came into effect.

Mr. Annett stated that Zoning Regulation 9.03.210 states Any non-conforming use shall not be expanded above the level at which such activity existed on the date on which it became non-conforming by virtue of these regulations. And that Zoning Regulation 9.03.310 states Any building in which a non-conforming use is conducted may not be enlarged either in area or in cubic content for purposes of expanding such non-conforming use. Such a building may be otherwise altered, improved or rebuilt.

Document submitted by applicant stated barn had not been expanded and it clearly has been. The Regulations were put in to benefit populous of Town and lists all issues of activities that can occur. The issues of number of kennels and runs and where they were and we received no documents. Permit for 1987 for barn Town gave approval for storage only and states 100’ from property line and no map was submitted to validate it. No solid evidential piece to prove issue. No document stating how many people in and out with dogs. Mr. Clavette stated that in January 2000 Health had letter 16 kennels to be added to barn. That is clearly an expansion of use. There were photos of interior with 6 x 4 kennels show on website a lot of upgrades, etc have been done. All new concrete runs and that is substantial construction. New 2nd floor level for training services also over and above a normal kennel. Substantial amount of pea stone put down on property also.

Mrs. O’Connor stated whole application shows Town has given these permits. They may have thought permits might not be needed but they should have done their research. It Mrs. O’Connor had received the Zoning Enforcement Officer’s letter she may have thought she was ok too.

Mr. Carley stated his concerns to but stated the Commission is bound by their Charter that they will work off of the Zoning Regulations.

After all questions and comments the discussion was closed. Chairman Annett called for a motion

Mr. Clavette made a motion to deny the variance due to the fact that there has been a long history of expansion of non-conforming use and continues to expand and the evidence shows that. The letter from the Zoning Enforcement Officer dated March 24, 2014 did not address the level of use, not the expansion of the non-conforming use since pre-zoning regulations were issued. Hardship was not shown as required under CT statutes. Mr. Cronin seconded the motion with all in favor except for Mrs. O’Connor.

With no other business the meeting was adjourned at 8:21 PM

Respectfully submitted by Lynn Kovack (recording clerk)