



Town of Enfield

Zoning Board of Adjustment Meeting Minutes

December 12, 2017

APPROVED February 13, 2018

Present: Mike Diehn - Chairman, Kurt Gotthardt; Ed McLaughlin, Tom Blodgett, Celie Aufiero, Scott Osgood-Town Planner/Zoning Administrator and temporary minute taker

Regrets:

Guests: Allison Flint, Annabelle Nicholson, Brian & Tina Stearns

I. CALL TO ORDER - 7:05 pm.

Chairman Mike Diehn read the agenda. Zoning Administrator Scott Osgood read the Public Notice. Noted the Notice was posted on the Town Website, Town Hall, the two Town Post Offices and the Dec 1, 2017 issue of the Valley News

II. CITIZENS FORUM – None requested

III. PUBLIC HEARINGS

I. Brian and Tina Stearns request a Variance from Section 408.2A to allow a 100 sf sign attached to a building on Parcel 03-008 at 64 Grantham Lane in the C/I district in accordance with Section 505 of the Enfield Zoning Ordinance.

Tina Stearns addressed the Board and explained the request. Stearns Septic has built a new building on the site at 67 Grantham Way. This is the second building on the site. A site plan review was approved by the Planning Board last fall. The signs were not part of the application. She noted the building is about 800 ft from the nearest road, which is the northbound lanes of Rte I-89. She noted that 67 Grantham Way is the driveway to their property. The reason for the request is that the cars go by at high speed, making a smaller sign difficult to read.

Chairman Diehn read the criteria the request would have to meet to have the Variance request granted. He noted the findings of facts that he has identified:

- Section 408 of the Zoning regulations limits building mounted signs to be 40 sf max.
- The property borders the conservation district but the business is all in the C/I Commercial Industrial District.
- There are very few abutters, with NH Fish and Game being the primary abutter, along with J Harding of Croydon and NH DOT.
- Celie noted that the business office is not in the building.
- Indicated the distance from the highway is a factor in this issue.
- Noted the 100 sf sign would be allowed if it is free standing sign

Brian Stearns described the site and buildings. Noted the trees play a role on where the sign can best be located.

Scott noted Brian originally requested the 100 sf sign on the building, noting that it would be allowed if it is a free standing sign. Scott noted this size sign is specifically not allowed to be on the building.

Brian said the free standing sign is not as esthetically pleasing as it would be on the building, and would prefer to not take this route.

Chairman Diehn wrote a motion to deny the application on the basis that there are long site distances from the highway to the signs preferred location is not a feature that would meet the criteria for a variance. A second for discussion was not forthcoming.

Celie raised the question on how to define a hardship for his case.

Brian noted that his land has no road frontage. The road to the site, Grantham Lane, is the driveway, which has a direct connection to the ramps to I -89.

Ed noted the need for businesses to be able to identify themselves to the travelling public.

Ed moved to second the motion. Board voted 5-0 to not accept the motion.

Mike then moved a motion to approve the request based on the hardship of no road frontage is available to place a sign along.

Ed seconded the motion. Mike noted this would be a good compromise. Celie noted the sign is not bad. The dimensions are 3 ft by 33 ft and fit the building very well. Kurt noted that in the C/I district business are allowed one 100 sf sign. Ed noted that this is only if they are free standing.

Brian described the details of the installation. The sign will be 14 ft high, noting that the zoning allows one sign to be 25 ft high. The zoning allows signs can be installed up to 12 feet from the lot line. This sign will be a much greater distance than 12 feet.

Kurt noted a portion of the 408.2 section that allows larger, taller signs within individual lots. It is seen to be contradictory to have the single lot requirements less stringent than the larger facilities.

Chairman Diehn further noted that the lot is in a very isolated area. There are neither residences nor buildings beyond the Stearns parcel in the area. It is surrounded by the highway and mountains.

The board went through the finding of facts. These included:

- Section 408.2 A permits 40 sf signs, and 408.2 F permits a sign of 100 sf free standing sign,
- Map 3 Lot 8 is in the C/I district
- Lot contains all the land along Grantham Lane down to I -89, Exit 14.
- Long Site Lines are common in this town, especially on the larger properties.
- There are two commercial buildings and a house on the property;
- The property is surrounded by conservation land and R5/CI across from I -89
- There is no road frontage on the land
- The public access is from southbound I-89.
- This property is in an isolated section of C/I and far from other business or residences.

A recommendation was made to not allow any additional large signs if this one is approved. The Stearns agreed to this condition.

The committee went through the 5 criteria:

- It is not contrary to the public interest because it would not add additional signs to the lot.
- The spirit of the ordinance would be observed as it already allows signs of the size.
- Substantial justice would be done.
- Values of the surrounding properties would not be diminished.
- Literal Enforcement would result in an unnecessary hardship.
 - The lot is in a unique situation where it is in an isolated area, with no road frontage and visible only to interstate traffic.
 - It would be a hardship if the sign would not perform the intended use if denied, or would be less effective if held to the standard.

A motion to approve was presented by Chairman Diehn;

Move we approve the Stearns request for a variance - due to the unique conditions, including; no frontage, no other businesses nearby, and no roads except for the interstate, it would be a hardship to deny this request to place a 100 sf sign, 14 feet off the ground on the face of this building.

2nd by Ed McLaughlin.

Motion to approve the variance request Passed 5-0.

A condition for this approval is that the business/lot owners will not install any additional signs on the property.

II. Allison Flint requests a Variance from Section 401.1 U to have an unattached housing unit above an existing garage on Parcel 23-08 at 526 Shaker Blvd in the R1 district in accordance with Section 505 of the Enfield Zoning Ordinance

Chairman Diehn read the Public Notice requesting the Variance and the variance criteria. Mike noted a plan to reduce errors in recording the meeting. He noted the board must consider each case on its own merits. He thought it best to discourage setting precedence. The ZBA is meant to consider if the Zoning Ordinance should be violated.

Ed noted that if this case can't do much, then the owner will be forced to sell the property. He noted that ADUs are allowed and that cases like this are in the Law. He said in the spirit of the ordinance, the owner should be able to keep their lands. He noted this is a unique piece of land.

Mike stated it is not unique for this piece of property. He added that the property tax and escalating value of the lakefront properties are forcing people out of their homes. With that they move off the land, and it is populated by part time residents.

Annabelle noted this property has been in their family for 5 generations. She stated she works at King Arthur, her mother works in social services, and that these types of middle class jobs cannot support the escalating costs of keeping their homes.

She went on to note that the garage they are renovating to be converted into a residence is already on the lot. Allison noted that the work to be done to make it qualify as a residence is a new septic field and to run a water line to the building. The interior would only need minor modifications. The house itself is rented during the summer and occasionally during the fall and winter. It is not a full time residence. Allison noted that their living there does not conflict with their renters. Her Dad lives next door, and they have access to the lake from his lot. In addition, the new septic system that will be required is on land owned by their Dad, but will be passed on to her and her

brother. An agreement is already in place with their Dad and brother to be able to build the septic field.

The field has been leased to Blue Ox for the past few years.

Mike noted that one factor of the request is that the intensity of the use is increased if this gets approved.

Allison stated she has considered attaching the two buildings. To do so would interrupt an existing drainage swale, and result in cutting down a very large and healthy maple(?) tree, which is between the house and garage.

A question was raised as to whether they could hook up the new Rte 4a sewer system. No in depth study has been done. It would entail all the neighbors between her house and NH Rte 4a to agree and possibly require an expensive pump station.

Celie said this case is a land use priority issue. The monetary issues should not come into play and that the point of zoning is to protect land from these issues.

Kurt read Enfield's accessory use definition .

Kurt stated that this is not considered an accessory use. They are proposing two separate housing units on one lot.

Kurt went through some of the five criteria. It is contrary to the public interest. Further, he stated financial burden cannot be considered a hardship and that the decision has to be related to a land use.

Allison asked if their inability to keep their house is not taken into consideration.

Kurt mentioned the recent Hartung Request for a Variance. He said this application succeeded because there was no other way to access the land except by allowing a driveway to be built in the wetland.

Mike stressed that this is a residential use and there is no reason it should be allowed.

It was noted Allison could consider subdividing the land. Kurt noted this would very likely create a more non conforming lot.

Allison noted she will look for a way to make it work.

Ed noted that this request really would be not be changing the density; it is just moving the lot lines around.

Mike noted the possible affect on the area.

Mike recommended creating a motion to deny. It would state that the variance would violate the spirit of the ordinance and is contrary to the public interest.

Allison noted that none of the neighbors are opposed to the work. She provided letters to confirm this. She further noted the conditions are unique to this site.

Mike said it is hard to balance the needs of the owner vs those of the community and that good legal minds often need to be involved to resolve these issues.

It was suggested she use a lawyer to see where her request could be argued.

Kurt made a motion to deny the request. Mike wrote up the language. He said this is the sad part of this job.

The motion was read: We move to deny this variance application because there are no unique features of the property to establish hardship and it is directly contrary to the spirit of the ordinance and section 401.1 U of the Zoning Ordinance.

Kurt made the Motion to deny the variance, 2nd by Mike.

Denial of the request for a variance passed 4-1 (Ed)

IV. COMMUNICATION AND MISCELLANEOUS

1. Discuss options for recording meeting minutes

A recommendation as made to find recording equipment that can transcribe the minutes. Scott will look into it. With a transcriber, minutes would still be kept, but would be supplemented by the transcribing tools.

V. APPROVAL OF MINUTES

Review and approve minutes of October 10, 2017.

Minutes approved 5-0 as amended.

VI. NEXT MEETING

Regular Zoning Board of Adjustment Meeting – To be determined

VII. ADJOURNMENT