

# **Enfield Zoning Board – Meeting Minutes**

## **ZOOM ONLINE MEETING PLATFORM**

### **August 11th, 2020**

**BOARD MEMBERS PRESENT:** Timothy Lenihan (Chair), Mike Diehn (Vice Chair), Tom Blodgett (Alt.)

**BOARD MEMBERS ABSENT:** Ed McLaughlin, Susan Brown, Madeleine Johnson

**STAFF PRESENT:** Rob Taylor- Land Use and Community Development Administrator, Barbara Higgins-Recording Secretary

**GUESTS:** Theresa Pettola-Applicant, Dawn Harland, Ed Bingham, Ryan Ayelsworth-Town Manager

#### **I. CALL MEETING TO ORDER**

Chair Lenihan called the virtual ZOOM meeting to order at 7:09 p.m. He took a “roll call” of members present for attendance. Chair Lenihan appointed Tom Blodgett as a regular member for the meeting. He went over the members of the Board that were present and explained that they met the rule for a quorum. He advised the applicant, Theresa Pettola, that even though the Board would be able to vote that night on her application she had the right to be heard by a full Board if she so chose. Ms. Pettola said was fine with going forward with her presentation with only 3 members of the Board present.

#### **II. PUBLIC HEARING**

**Z20-08-01**, Theresa and Andrew Pettola request a variance to Enfield’s Zoning Ordinance (Article IV, Section 401.2, sub-section M) to construct a 12’ by 6’ deck on their residence within the prescribed 50’ setback to Crystal Lake. Subject property is located at 360 Crystal Lake Road (Tax Map 46, Lot 16) and is owned by Theresa and Andrew Pettola.

Chair Lenihan explained that the procedural posture of this application took place due to an enforcement action after the Building Inspector notified the Town of Enfield that construction had started on the deck.

Ms. Pettola made her presentation seeking a variance to build a deck on her property. She explained that her son started to have a seizure disorder on July 4<sup>th</sup>, 2019. At the time, the family was not sure how the emergency personnel were going to get their son down from the second level of the home. They do not have a fire exit on either their garage or their home.

She hired a contractor who was licensed and insured in Vermont to build a deck. She assumed he would pull a permit like they do in Connecticut where their other home is. The contractor left the job and then she received a letter from Mr. Taylor on the subject property. She called Mr. Taylor immediately and suggested that the Town send out the Building Inspector to come and check everything and make sure that everything was being done correctly and stopped construction immediately.

Chair Lenihan asked Ms. Pettola if she wanted to go over her application with the Board. Ms. Pettola said she did not need to and believed the application was very thorough.

Mr. Ed Bingham, abutter, spoke on the variance and explained he had a lot to say so he wrote it all down and would be referencing that as he spoke. He and his wife abut the property on the North side and oppose the approval of the variance. After reading the application Mr. Bingham and his wife disagree with 3 of the 5 criteria for the variance given in the application. Mr. Bingham went over their objections which will be attached to these minutes in full per a Motion made by Chair Lenihan.

Mr. Bingham also wanted to point out an issue with the timeline of the building of the deck. He explained that the applicant knew they needed a permit before building a deck and was informed in May when there was just a rough frame of the deck being put up. This information came to Mr. Bingham per an email from Phil Neily. Mr. Bingham also contacted the contractor, Dick LaBounte, to ask his side of things since he was supposed to be doing some work for his household in the fall. Mr. LaBounte sent Mr. Bingham copies of texts that took place between the applicant and himself and allegedly showed that the applicants were fully aware that they needed a permit and that they were responsible for getting one. According to Mr. Bingham, the messages also allegedly showed that the applicants deliberately delayed applying for a permit until the deck was completed. The messages allegedly indicated that the rationale was that if the deck were completed the Town of Enfield would surely not make them tear it down. The contractor then told Mr. Bingham that he left the job because he refused to work without a permit. For the record, the contractor is willing to testify to the Board on these things.

Mr. Bingham ended with saying that if the variance is granted and the deck is allowed to remain he and his wife are requesting that an exclusive use clause be invoked that the deck only be used as an emergency, not for leisure activities, social gatherings or as a normal entry egress point.

Chair Lenihan explained that while this is an administrative hearing and while the Board would prefer to have Mr. LaBounte attend the meeting to offer his testimony, hearsay is admissible but the Board gives it what weight it's worth, which certainly doesn't carry the same weight as someone giving in person (Zoom) testimony.

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**Vice Chair Diehn MOVED to adjourn the meeting until the next scheduled meeting to allow for Mr. LaBounte to give testimony and present text messages.  
Seconded by Mr. Blodgett.**

**Roll Call Vote:**

**Mike Diehn, Tom Blodgett, Timothy Lenihan all voting Yea.  
None voted Nay.**

***\* The Vote on the MOTION was approved (3-0).***

**Chair Lenihan MOVED that the statement read by Mr. Bingham, if provided to Mr. Taylor, be incorporated into the minutes as an attachment.  
Seconded by Mr. Blodgett.**

**Roll Call Vote:**

**Mike Diehn, Tom Blodgett, Timothy Lenihan all voting Yea.  
None voted Nay.**

***\* The Vote on the MOTION was approved (3-0).***

### **III. APPROVAL OF MINUTES: July 14, 2020**

The minutes from July 14<sup>th</sup>, 2020 will be carried over to the next Zoning Board of Adjustment meeting for approval.

**Vice Chair Diehn MOVED to postpone approval of the July 14<sup>th</sup>, 2020 minutes until the next scheduled meeting.  
Seconded by Chair Lenihan.**

**Roll Call Vote:**

**Mike Diehn, Tom Blodgett, Timothy Lenihan all voting Yea.  
None voted Nay.**

***\* The Vote on the MOTION was approved (3-0).***

### **IV. COMMUNICATION AND MISCELLANEOUS:**

Last meeting Mr. McLaughlin wanted to speak on the issue of Chair Lenihan deciding not to vote on Motions during the meeting unless it was necessary to do so. Vice Chair Diehn expressed that he thought Chair Lenihan should be voting. This discussion will be put on the agenda for the next meeting.

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Chair Lenihan asked Mr. Taylor where the Zoning Board was at as far as having a joint discussion between the Zoning Board and the Planning Board. Mr. Taylor said he believed there were no plans for that due to Covid-19.

**V. NEXT MEETING:** September 8, 2020

**VI. ADJOURNMENT:**

***A MOTION was made by Mr. Blodgett to adjourn the meeting at 7:56 PM.***

**Seconded by Vice Chair Diehn.**

**Roll Call Vote:**

**Mike Diehn, Tom Blodgett, Timothy Lenihan all voting Yea.**

**None voted Nay.**

***\* The Vote on the MOTION was approved (3-0).***

Respectfully submitted,

Barbara Higgins

Recording Secretary