

Enfield Zoning Board – Meeting Minutes

ZOOM ONLINE MEETING PLATFORM

November 10th, 2020

BOARD MEMBERS PRESENT: Timothy Lenihan (Chair), Mike Diehn (Vice Chair), Ed McLaughlin, Susan Brown, Madeleine Johnson, Tom Blodgett (Alt.)

BOARD MEMBERS ABSENT: None

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

GUESTS: Theresa and Andrew Pettola-Applicant, Barry Schuster, Esq., Thomas Dubuque-Applicant

I. CALL MEETING TO ORDER

Chair Lenihan called the virtual ZOOM meeting to order at 7:02 p.m. He took a “roll call” of members present for attendance.

II. PUBLIC HEARING

Land Use Case #Z20-11-01, Thomas Dubuque requested a variance to Enfield’s Zoning Ordinance (Article IV, Section 401.1, Sub-Section L) to construct a storage shed on his property within the prescribed 15 foot setback to a lot boundary in the R1 Residential District. Subject property is located at 8 Pine Drive (Map 32, Lot 12) and is owned by Mr. Thomas Dubuque II.

Mr. Dubuque explained that he wanted to put a pre-made, Amish built, storage shed on the property so that he could move his tenant’s belongings into that shed. Eventually, the plan is to raze the building across the street and build a new storage building over there. This is a 2-phase project. He believed it was all laid out in his application and welcomed questions from the Board.

Chair Lenihan asked if there were any questions from the public. There were none.

Ms. Brown asked if Mr. Dubuque would lose the big tree near where the sewer pump is located. Mr. Dubuque said the tree would be staying and is good protection and a buffer for noise and smell from the sewer pump station next door.

Chair Lenihan was concerned that it said in the application that there were two alternatives for the shed. One was that the applicant could build a smaller shed and the second was he could place the shed in a less ideal position. Mr. Dubuque explained that if he put the shed somewhere else it would block his tenant's view of the lake or take up what little recreational space there was on the property.

Mr. McLaughlin said he believed the lot next door was owned by the Town of Enfield. He wanted to know if the Town objected to the variance. Mr. Taylor said he spoke to the Town Manager and the Public Works Director and they did not have any objections.

Ms. Johnson wanted to know why Mr. Dubuque could not put the shed further back on the lot? Mr. Dubuque said there was a brook in the way and then a large hedge grove on both sides of the brook and a lilac bush there as well. There is also a hill that comes down to the driveway. Ms. Brown agreed with Mr. Dubuque that the property was very cramped by the bushes and had a steep grade up to the rail trail.

Mr. Dubuque said that the house did not have any outdoor storage. The shed would not be seen from the street, it would be tucked up on the property by the large tree.

Vice Chair Diehn wanted to know why the shed could not be pushed back up the driveway so it was even with the top of it? Mr. Dubuque said there was a fire pit there and moving the shed would take away what little lawn there was for the tenants to use. Vice Chair Diehn felt that it was not a hardship to move the shed, just an inconvenience.

Mr. McLaughlin felt that the Town having built a Sewer Pump Station next door to the property was a hardship. He thought that blocking the Pump Station would be helpful for the owner.

Ms. Johnson wanted to know why he could not put the shed where the old shed was? Mr. Dubuque said it was his shed that he needed for his things. He had been letting tenants use it temporarily for storage.

Ms. Brown agreed that the hardship for Mr. Dubuque was the Town's pump station. Mr. Dubuque said his hardship was when he shows the house to prospective tenants and the diesel pump kicks on and is loud or the wind shifts, and the smell comes toward the house. He has lost tenants due to those reasons.

Ms. Johnson asked what was at the back of the house on the property? Ms. Brown replied that there was a steep hill behind the house.

Mr. Tom Blodgett arrived at 7:31PM

Chair Lenihan closed public commenting.

Mr. McLaughlin thought the hardship requirement was met by the Pumping Station being next door. He felt that the abutter did not object, so he does not have a problem with this variance.

Vice Chair Diehn said that the applicant was not saying he wanted to mitigate damages, just that he wanted to put the shed in a setback for convenience. Chair Lenihan agreed that he could not see a hardship issue either. Ms. Johnson was also having a hard time finding the hardship for the variance.

Chair Lenihan went over the criteria for the variance. He asked if any Board members saw any issues with it being contrary to the public interest? Vice Chair Diehn said he was concerned with overcrowding near the lake. Chair Lenihan felt it was only overcrowding the Pump Station.

On the spirit of the ordinance being observed no one had any objections. No objections were made on the value of surrounding properties being diminished, as well.

On enforcement of the ordinance causing hardship to the owner Ms. Johnson, Vice Chair Diehn and Chair Lenihan said they felt there was no hardship caused and Mr. McLaughlin and Ms. Brown thought that a hardship did exist.

Ms. Brown MOVED to grant the variance.
Seconded by Mr. McLaughlin.

Roll Call Vote:
Ed McLaughlin and Susan Brown all voting Yea.
Madeleine Johnson, Mike Diehn, Timothy Lenihan voted Nay.

*** *The Vote on the MOTION did not pass. (2-3).***

Vice Chair Diehn MOVED to deny the request for variance because the applicant has failed to prove hardship.
Seconded by Chair Lenihan.

The following are the Findings of Fact:

- The Lots in the area are all oddly shaped.

Vice Chair Diehn asked if Mr. Dubuque could tell the Board how far into the setback the building was going to sit? Chair Lenihan said the application indicated the shed would go into the setback by 10 feet, leaving a 5-foot buffer. Mr. Dubuque said that was a mistake and that it would only go into the setback by 5 feet. Mr. McLaughlin wanted to ask the applicant to reapply with a new, more detailed application. Chair Lenihan said he could not do that. Mr. Dubuque

would have to apply with a substantially different application with different facts. Vice Chair Diehn said they could continue the meeting and let the applicant come back with more detailed drawings.

Vice Chair Diehn withdrew his Motion to deny the request for a variance.

Mr. McLaughlin MOVED to reopen the public hearing.
Seconded by Ms. Brown.

Roll Call Vote:
Ed McLaughlin, Susan Brown, Timothy Lenihan, Mike Diehn and Madeleine Johnson all voting Yea.
None voted Nay.

** The Vote on the MOTION was approved (5-0).*

Chair Lenihan asked Mr. Dubuque if he would like to gather a more detailed plan to bring before the Zoning Board for review? The hearing could be continued to the next Zoning Board meeting on December 8th, 2020. Mr. Dubuque said he would like to have that chance.

Vice Chair Diehn MOVED to continue the hearing until December 8th, 2020.
Seconded by Mr. McLaughlin.

Roll Call Vote:
Ed McLaughlin, Susan Brown, Timothy Lenihan, Mike Diehn and Madeleine Johnson all voting Yea.
None voted Nay.

** The Vote on the MOTION was approved (5-0).*

III. COMMUNICATIONS AND MISCELLANEOUS: Pettola Variance Z20-08-01, request for rehearing (see letter from Attorney Barry Schuster)

Mr. McLaughlin requested to recuse himself from this case. Chair Lenihan said that would be fine. Chair Lenihan asked Mr. Blodgett to step forward on the action coming before the Board. Mr. Taylor explained the procedure for a re-hearing to the Board members. Chair Lenihan said he was OK with what he heard during the hearings. Ms. Brown agreed with that as well.

Ms. Brown MOVED to deny the Pettolas' request for re-hearing.
Seconded by Vice Chair Diehn.

Vice Chair Diehn felt that the Findings of Fact in the case were all right to have. Mr. Blodgett felt comfortable with the original decision. He was a little concerned with the disabilities act and

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the ramifications of that. Chair Lenihan replied that the statute said that the Board could give the waiver of hardship, not that the Board had to.

Roll Call Vote:

Tom Blodgett, Susan Brown, Timothy Lenihan, Mike Diehn and Madeleine Johnson all voting Yea.

None voted Nay.

**** The Vote on the MOTION was approved (5-0).***

Mr. Taylor will send a letter to Attorney Schuster. Vice Chair Diehn will sign the letter for the Board Thursday morning.

IV. APPROVAL OF MINUTES: October 13th, 2020

***Ms. Susan Brown MOVED to approve the October 13th, 2020, Minutes as amended below and presented in the November 10th, 2020 agenda packet.
Seconded by Mr. Lenihan.***

Amendments:

Page 2, Line 47, Change “only have” to “have only”

Page 3, Line 110, Change “was” to “were”

Page 4, Line 141, Change “foes” to “goes”

Page 4, Line 148, Change “in” to “is”

Page 5, Line 176, Change “thought” to “though”

Page 7, Line 287, Remove the apostrophe after Pettolas

Page 7, Line 293, Remove the apostrophe after Pettolas

All were in favor of the Motion.

V. OTHER BUSINESS:

Discussion was had among the Board members about increasing the zoning ordinance variance application fee. The Board asked Mr. Taylor to put on the meeting agenda, for the next Zoning Board meeting, a proposal for a graduated fee increase for Zoning Board applications.

VI. NEXT MEETING: December 8th, 2020

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VII. ADJOURNMENT:

***A MOTION was made by Ms. Brown to adjourn the meeting at 8:33 PM.
Seconded by Ms. Johnson.***

All were in favor of the Motion.

Respectfully submitted,
Barbara Higgins
Recording Secretary