

Enfield Zoning Board Minutes, Tuesday, June 8th, 2021

Enfield Zoning Board – Meeting Minutes

ZOOM ONLINE MEETING PLATFORM

June 8th, 2021

BOARD MEMBERS PRESENT: Ed McLaughlin, Susan Brown, Madeleine Johnson, Celie Aufiero, Brian Degnan, Mike Diehn

BOARD MEMBERS ABSENT: None

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

GUESTS: Robert and Dawn Cummings, Lindsey Smith, Roberta Newberry, Chris Bocash, Shirley Green, David Bocash, Dr. Jerold Theis, Sue and Tracy Young, John Batten, David Fracht

I. CALL MEETING TO ORDER

Mr. Taylor called the virtual ZOOM meeting to order at 7:01 p.m. He took a “roll call” of members present for attendance.

II. APPROVAL OF MINUTES: April 13th, 2021

Mr. Degnan MOVED to approve the April 13th, 2021, Minutes as amended below and presented in the June 8th, 2021, agenda packet.
Seconded by Ms. Johnson.

Amendments:

Page 3, Line 92, Change “lightening” to “lightning”
Page 3, Lines 109-111, Delete all 3 lines due to Zoom Bombing
Page 3, Line 124, Change “Morehouse” to “Morhouse”
Page 4, Line 151, Change “accept” to “except”
Page 5, Line 172, Change “was” to “were”
Page 5, Line 176, Remove the word “do” after would
Page 6, Line 215, Change “respectively” to “respectfully”
Page 6, Roll Call Vote, Add Susan Brown

Roll Call Vote:

Ed McLaughlin, Susan Brown, Madeleine Johnson, and Brian Degnan all voting Yea.
Celie Aufiero abstained.

None voted Nay

*** The Vote on the MOTION passed. (4-1-0).**

III. PUBLIC HEARING:

Enfield Land Use Case #Z21-06-01, Chris Bocash is requesting a variance to Enfield's Zoning Ordinance (Article IV, Section 401.1) to operate an automobile repair business in the "R1" Residential District (zone) at 89 Shaker Hill Road (Tax Map 34, Lot 99). The subject property is owned by David, Deborah, and Christopher Bocash.

Mr. Chris Bocash explained that he had been staying with his parents for a while, taking care of them since they had become ill, and he was added to the deed and took over their mortgage. He decided to put up a new shop on the property so he could continue to work and still be able to be at the home to take care of and provide for the family. It will be a 2-bay automotive shop.

Mr. Bocash said that as far as public interest went, he has cleaned up the yard, put up a new building on the back of the property and placed all the work inside of the building. He explained that any noise would be contained inside the building, and he only planned to have the shop open Monday through Friday, 8:00 AM to 5:00PM with no weekend hours at all. *Edit added 07/16/2021 – Clarification asked for in regards to what happened vs. what was said by member Brown.

Mr. Bocash went on to say that a great deal of thought went into the building's appearance. He said that in absence of the variance being granted a hardship would occur due to his family's circumstances. He said the variance would not go against public interest because it would not change the character of the neighboring area nor have an adverse impact on health, safety, or welfare because it would facilitate the use of an existing building to conduct business indoors, the business would have a regular work schedule and would be conscious of noise and appearance. It would only improve the property as a whole and would likely benefit surrounding areas. The facility would be owner operated and have no other employees. All recycled parts and fluid would be kept indoors, out of public view and stored properly. All products for recycling would be labeled and sealed per OSHA requirements. The spirit of the ordinance would be observed because the proposed variance to facilitate a small business promotes the purpose of "R1" district zoning under home occupation and existing accessory buildings by facilitating orderly residential development while minimalizing environmental and property value impacts.

The proposed variance ensures that substantial justice be done for reasons stated above and ensures the property may be utilized in a fair and reasonable manner that avoids impacts to neighboring properties. In contrast, absence of variance there would be a tangible loss to his property and interest with no appreciable gain to the public. He also said the proposed variance would not diminish surrounding property values because the variance would not materially change the character of the property or surrounding properties. He added the granting of the variance would most likely have a positive impact on surrounding properties by enabling an aesthetically pleasing small business which should improve the value of the property. He said enforcement of the variance would create an unnecessary hardship. He said the proposed use was reasonable and he was aware of the OSHA requirement for fluids and tires.

Mr. Taylor read a letter from the Conservation Commission, signed by Dr. Jerold Theis who is the Chair of the Conservation Commission. In the letter the Conservation Commission cited fear of environmental impact in that area, specifically, possible harmful chemical runoff that could make its way into the land and public water and private wells. The Conservation Commission requested that the variance not be granted.

Mr. Robert Cummings said he and his wife did not want impediments to the applicant in the care of his parents. However, they were concerned that a business in the residential area would ruin their quiet enjoyment of their property. Mr. Cummings asked multiple questions of the applicant such as what the likely impact would be to his property value, if there had been a study of the business's impact would be on the environment, and if the business was open already?

Mr. Bocash responded to Mr. Cumming's questions. He also explained what he would do with the used oil that he collected.

Other questions were asked such as if there would be parking on the road or if there would be many deliveries to the business by 18-wheelers? Mr. Bocash said no to both of those questions.

Mr. Diehn pointed out that assurances by the applicant on how the business would be run did not matter. The variance, if granted, would go with the property and therefore, if sold, would go to the next owner with no assurances from that person.

Ms. Lindsay Smith spoke and said she thought the potential business had already impacted travel on Shaker Hill Road. She felt that this business in the "R1" zone was not a good fit for the community.

There was discussion among the Board members on the granting, or not, of the variance. The Findings of Fact are as follows:

- 1) The R1 Zone was established to limit dwellings and the uses to those normally associated with residential neighborhoods.
- 2) The proposed automotive repair shop was not an acceptable accessory use due to the potentially significant impacts of the operation with noise, increased traffic, and deliveries of materials and other items.
- 3) The proposed use was not subordinate to the primary use.
- 4) This district is designed to protect and preserve quiet, low-density residential areas. The regulations for this district are designed to stabilize and protect the essential characteristics of the district.
- 5) The proximity to seasonal wetlands and the potential leakage of oil and other petrochemical waste.

Enfield Zoning Board Minutes, Tuesday, June 8th, 2021

6) The accessory use is not consistent with the expectations of surrounding landowners and would most likely decrease the value of the surrounding properties.

The deliberative session was closed.

Mr. Degnan MOVED that the Zoning Board of Adjustment grant the variance to Enfield's Zoning Ordinance (Article IV, Section 401.1) to operate an automobile repair business in the "R1" Residential District at 89 Shaker Hill Road (Tax Map 34, Lot 99).

There was no second to the Motion.

Ms. Aufiero MOVED that the Zoning Board of Adjustment deny the variance as being applied for in Enfield Land Use Case #Z21-06-01, Chris Bocash requesting a variance to Enfield's Zoning Ordinance, Article IV, Section 401.1, to operate an automobile repair business in the "R1" Residential District at 89 Shaker Hill Road, Tax Map 34, Lot 99. Seconded by Ms. Brown.

Roll Call Vote:

**Ed McLaughlin, Susan Brown, Madeleine Johnson, and Celie Aufiero all voting Yea.
Brian Degnan voted Nay**

**** The Vote on the MOTION passed. (4-1).***

IV. NEW BUSINESS:

Chair McLaughlin spoke about the upcoming joint meeting with the Planning Board on Wednesday, June 9th, 2021. He explained that Chair Fracht would be chairing the meeting. Mr. Taylor said the Board members should all be ready to introduce themselves at the meeting.

V. OLD BUSINESS:

Mr. Taylor gave an update on the Pettola case. He said it had gone to court on May 20th, 2021, and was taken under advisement at its conclusion. The Town's Attorney said to expect a ruling in two to four weeks.

VII. COMMUNICATIONS AND MISCELLANEOUS:

Chair McLaughlin said he would be sending procedure manuals from other Towns to see how they handled their Zoning Board hearings to Mr. Taylor so he could distribute it to the rest of Zoning Board members to look at.

Enfield Zoning Board Minutes, Tuesday, June 8th, 2021

Ms. Brown asked if the procedure manual from the Zoning Board of Adjustment Conference would be sent out to all the members of the Zoning Board? Mr. Taylor said he would be sending out the link to that manual.

IV. ADJOURNMENT:

The meeting adjourned at 9:00 PM.

Respectfully submitted,
Barbara Higgins
Recording Secretary