

ENFIELD ZONING BOARD OF APPEALS  
REGULAR MEETING  
**MINUTES**  
MONDAY April 24, 2023, 7:00 PM  
ENFIELD TOWN HALL – COUNCIL CHAMBERS  
820 ENFIELD STREET – ENFIELD, CT

RECEIVED  
ENFIELD TOWN CLERK

2023 MAY -1 AM 11:51

Shula M Bailey

**1. Call to Order**

Chairman Urbanowicz called the meeting to order at 7:00 PM

**3.. Roll Call**

Members Present: Chairman Urbanowicz, Commissioners, Mary Ann Turner, Timothy Neville, Richard Stroiney, Kelly Davis, Robert Kwasnicki, and Charles Mastroberti

Also present: Property Inspector Rick Rachele

**5. Town Attorney Report**

**6. Old Business-**

**a. ZBA# 2023-03-03 - 500-524 Enfield St** -Appeal of the Cease-and-Desist Order for Section 5.20 Business Districts Use Table; Kenneth Bedard, Fred Joseph's LLC, Applicant; James Blais, Owner; Map 33/Lot 65; Map 33/Lot 66; BL Zone

Attorney Landolina representing the owner of Pizza Palace/Jimmy's Pub, Kenneth Bedard. Attorney Landolina handed out packets with photographs and a second set of paperwork. Both submitted for the record. Attorney Landolina spoke on the history of zoning in the town of Enfield pertaining to liquor permits going back as far back as 1941. According to the regulations there is no difference between an alcohol license and an alcohol license with entertainment. From the packet that Attorney Landolina passed out, he goes over the 1966, 1975 and 1986 regulations which he states are similar. In 2001 there were changes in which the use of tables was established. The current regulations which are copied in his handout are the same as the 2001 version. However, at the bottom of the page it states liquor permits with any entertainment. In this version it's the first-time entertainment is mentioned as part of the liquor permit in zoning regulations. Attorney Landolina's contention is the regulation of having entertainment of any kind with a liquor license started in 2001. His client purchased the property in 2016 and had to apply for a new liquor permit. His application was signed off by an Enforcement Officer. The client checked off the box of entertainment under Karaoke as it was completed by previous owners.

The Cease-and-Desist Order states that the applicant cannot have any other entertainment other than Karaoke. Attorney Landolina states that since the applicant got approved for the liquor license entertainment is part of Karaoke.

Rick Rachele stated that they started getting complaints back in September of 2022 regarding parking and this led to the finding that the only permit issued was the liquor permit back in 2015, but only the box labeled Karaoke was checked. There were other boxes of live entertainment such as disc jockey and live bands. The applicant would have to go back to P and Z to make the change for live entertainment.

Commissioner Turner stated that there is some confusion. The applicant applied for the liquor along with entertainment, but only checked the Karaoke box and could have checked boxes but didn't. Attorney Landolina said yes, at the state level.

Commissioner Strojney stated that this should just be your client submitting a new liquor license with the appropriate boxes checked off for entertainment and this would be resolved without an issue.

Attorney Landolina is saying it's a continuous operation and as such they should not have to go to P and Z.

Commissioner Neville stated that the ZEO in 2015 signed off on the license. Also any annual renewal of the license the applicant could have requested a change of entertainment.

Attorney Landolina stated that we do not have to do that as the only license they give is with or without entertainment and the applicant has a license to serve alcohol with entertainment. He says if his client goes back and checks off the boxes for live entertainment that the ZEO is going to deny it. The word Karaoke is not in the regulations but entertainment is.

Mr. Rachele stated the approval does not come from him, but that they would have to go to the Planning and Zoning Commission for approval.

**Public participation:**

Robert Burkowski 21 Francis Ave. He stated that he is opposed to DJ entertainment, Karaoke, and live bands at Jimmy's Pub at this time. All these things pose a problem for the residents of Francis Ave. in terms of parking.

Chairman Urbanowicz stated that they are not here to discuss parking issues and they do not have the power to control parking. He asked that the comments be focused on the appeal.

Mr. Burkowski states he is against DJ entertainment as it will affect parking. His presentation outlines zoning regulations. He also submitted a police activity report that outlines issues such as disorderly conduct. He submitted the police activity report, and pictures of the parking on the street to staff to be added to the record.

Commissioner Turner stated there are 17 documents with photos and 3 manila folders breaking down more photos and there is a police report dated April 3, 2023, submitted for the record.

**Commissioner Turner made a motion to close the public hearing.**

**A vote by show of hands passed unanimously.**

**7-0-0 vote**

Commissioner Turner made a motion to uphold **ZBA# 2023-03-03 - 500-524 Enfield St** -Appeal of the Cease-and-Desist Order all activities and uses which are contrary to the regulations contained in the zoning ordinance of the town for Section 5.20 and Business Districts Use Table; and take corrective action required to bring the property into compliance with applicable regulations cease-and-desist from all entertainment other than Karaoke from which you have been provided for by license section 522 5.20 business use table restaurant footnote number two liquor permit seconded by Commissioner Neville.

**Motion passed unanimously by 5-0-0 vote.**

**7. Legal Ad**

Commissioner Turner read the legal notice for public hearing on ZBA 2023-03-20- 65 Park Ave

**8. New Business**

a. ZBA 2023-03-20- 65 Park Ave-Appeal of Notice of Violation for Sections 3.30.7 SS iv Accessory Building & Section 4.10.3 Spec. Requirements for Non-Conforming Lots; Adam Hull, Applicant/Owner; Map 39/Lot 27; R33 Zone

Adam Hall of 65 Park Ave. stated to the Commission that he was not aware that his property was a through lot until notified by the ZEO. He asked if he needed a permit and was told that not if it was under 200 square feet. Mr. Hall requests to keep his greenhouse where it is as it receives the most sun in this location and is elevated enough to stay dry. He asked for a variance for the through lot zoning code so he can keep the greenhouse where it is. The pictures that are included in the master packet of his property show that the area that is approved to build the greenhouse is not ideal as there are trees there that would have to be removed and it's an area that floods often. He handed into the record a copy of the petition from neighbors to keep the greenhouse. As well as a letter from a resident. He said it was not his intention to build anything in violation of town codes.

Chairman Urbanowicz asked staff if Mr. Hall has had a conversation with them about a variance?

Mr. Rachele stated that when he came in there was a conversation as to what avenue he would need to take but he chose to go with the appeal of notice of violation. Mr. Hall stated he was not exactly sure which way to go.

Commissioner Turner clarified for Mr. Hall that they can only act on what is front of them, which is the violation, if he wants to go further, he will need to go back to the Plan and Zoning and apply for a variance.

**Public Participation:**

Courtney Malloy 10 Harris Ave. She stated that the greenhouse is a great addition to the neighborhood and great for the children.

**Commissioner Turner made a motion to close the public hearing.**

**A vote by show of hands passed unanimously.**

**7-0-0 vote**

Commissioner Turner made a motion to uphold the appeal of notice of violation for ZBA 2023-03-20- 65 Park Ave-for Sections 3.30.7 SS iv Accessory Building & Section 4.10.3 Spec. Requirements for Non-Conforming Lots; Adam Hull, Applicant/Owner; Map 39/Lot 27; R33 Zone seconded by Commissioner Neville.

**Motion passed unanimously by 5-0-0 vote.**

For the record Commissioner Turner was handed a petition and a letter.

Commissioner Turner read the legal notice for ZBA 2023-04-10 - 110 Raffia Rd

Chairman Urbanowicz recused himself on this matter as he has provided legal counsel to the appellant. In his absence Rich Stroiney will serve as a full voting member and Vicechair Neville will take the place as Chairman.

b. ZBA 2023-04-10 - 110 Raffia Rd -Appeal of Cease & Desist Order for Section 4.20 Residential Uses; Raffia Farms Inc, Applicant/Owner; Map 67 /Lot 432; R33 Zone

Attorney Landolina representing the property owner, Gary Raffia, made a presentation to the Commission.

Attorney Landolina stated that they have several documents and firsthand knowledge related to how long this building has been in its current position and how it has been used. The building has been used commercially since it was constructed. The only minutes on the zoning commission meeting go back from 1938 to 1942. There are no records in the zoning office when this building was constructed. The first record of anything to do with this building was 1967 for a permit to update the electrical. The community has known about this building going back to the 1930's. A copy of a letter is in the application from Margaret Boucher, her letter states, her grandparents the Schneiders owned the building and it was constructed sometime in the 1940's. Attorney Landolina passed out a picture that Gary provided and circled the building and the shopping center that was built in 1955 to show how far back this building has been in existence. Attorney Landolina goes over several letters from people in the community stating that the building has been used commercially for various businesses such as construction and farm equipment. Attorney Landolina states that it appears that this building was constructed sometime in the 1930's and has been used continuously since then.

Mr. Rachele stated that he could only find Guimond Construction as a company tied to this property. This is the reason he included this in his report. None of the other businesses such as Bull Construction or Bob Higley appear in their records.

Commissioner Turner stated that what she is getting is that this is a non-conforming use. Attorney Landolina stated, yes this is what they are saying. Commissioner Turner stated that the problem is the R33 vs business industrial. She stated from what she can see from all the paperwork, that the businesses that used this building never really acted like business by registering their business out of this address. Also shouldn't the business have applied for a zoning permit.

Mr. Rachele stated that if it was an industrial zone, they would have applied for at the least a zoning permit.

The businesses that rent from the property owner should apply for a zoning permit, to ensure that they are within regulations but also as a record of being registered as a business in the town. The planning and zoning would look at the application if the property was zoned industrial and determine what criteria is needed for approval. However, this property is zoned R-33 residential and the criteria is more restrictive.

Attorney Landolina stated that if you look at the law for non-conforming uses, specifically the language which was adopted about a decade ago, he will have to stand up and say, I'm abandoning this non-conforming use, unless he does that the non-conforming use continues, he is not required to get a special permit or any other permit. But if he went in front of planning and zoning, he would be denied because its an R-33 zone not industrial.

Commissioner Stroiney stated that they are here to talk about the use of the building, not the building itself.

Mr. Raffia asked why did the complaint no come 13 years ago when he purchased his house. Why did he complain after he started to clean up the place?

Chairman Neville asked Mr. Rachele if there is any documentation stating when this property became an R-33 zone?

Mr. Rachele believes it was the early 90's when they changed from R-17 to R-33, 44 and 88's. R-17 is still residential. The first subdivision happened in 88 and 89, the second subdivision happened in 1992. In the minutes of 1992 the building was never mentioned as use or industrial.

Chairman Neville stated that there were 39 documents that Attorney Landolina handed to the commission, which shall be recorded into the record.

Commissioner Turner made a motion to accept the documents into the record seconded by Commissioner Davis.

**Motion passed unanimously by 5-0-0 vote.**

### **Public Participation:**

Chris Ladd from Windsor Locks is a renter at this property. He knows the Guimonds personally and it was always construction as well as Enfield Welding was there as well. He stated his father and another business owner kept their heavy equipment there. He feels that it's foolish for someone to buy the house 17 years ago and just now starts complaining.

Bert Richardson from Somers, CT. He stated that he had known Bulls Construction for a long time and they were working out of this building. At the time this property was not pretty and he doesn't know how people in the town did not notice it.

Jeff Tingley Somers stated that he is there to attest the building was there and used commercially. He also stated that when making any type of change to your building inspections are made. A lot of the decisions made by the town are based on historical use. He just wanted to speak on behalf of Gary, he has known him all his life.

Commissioner Turner asked Mr. Tingley if he knew what zone he was in for his business, he stated he is in industrial 1.

Jim Stramfer, Broad Brook stated that they have his letter dating back to 1971. He said that he had seen that building and what it is used for. He gets his firewood from Gary and that Gary keeps people employed.

Robert Herdman 108 Raffia Road. Mr. Herdman stated that he purchased his home in 2006 and at the time there was no sign of commercial or construction activity. If there was, he would not have purchased the house. He said from the time of 2006 to 2013 there was no sign of construction. In 2013 when Gary Raffia purchased the property and rented it to Bob Higley. He said that this is an R-33 zone and all though it may have been a construction from the 1930's forward that it changed in 1988. He stated that he always got along with Bob Higley and this is probably why he didn't say anything back then. He said he got along great with Bob he just had an issue with the mess. He said that he talked to Gary Raffia about a year and half ago about the property and asked that he keep it clean. That did not happen and this is why they are here tonight. He submitted pictures of the property to Mr. Rachele that show asphalt and millings which make it look like a paved parking lot. He stated that he sees soils being brought in with who knows what is contained in this soil. Mr. Herdman went over a zoning map from October 14, 1988. This map shows the subdivision filed by Bull Construction. This map along with the map from 1992 shows the same 6 parcels of lots. On the 1992 map you see the outbuilding. He believes that Bull Construction had an intention of building a house where the building is.

Frank Rizzo 118 Raffia Road stated he agrees with Mr. Herdman that it was not as cluttered at the time but over time it got worse. As a landowner he opposes the use of commercial.



Tricia Wright 106 Raffia Road stated that had they know that there was a construction business there it would have changed their mind on buying their house. She said she is a gamer and uses her headset and she can hear noise over her headset. She worries on the value of her house in the future when she wants to sell her house.

Karen Warner 120 Raffia Road stated that her property abuts this construction property. She stated that she bought her property when Leonard Bull was building the house and that he said to her that he was deeding the house to the town for open space. She said the construction property was a mess for years and Gary has since then cleaned it up. She's home a lot and stated the volume has not been terrible and appreciates that Gary has cleaned it up. She hopes there is a way to find a happy medium but no have it expanded to a bigger business.

Daryl Crowley 207 Abby Road stated that he wanted to make a couple of points. With the facts that there are no records about this property and building and maps that show what was intended to be done but not done. However things are grandfather in until there is a change made. This building has not changed, the square footage has not changed and if it's been in existing use and you have no records of any changes then he believes it should remain as is, it should be grandfathered in. It happens all the time where regulations have been grandfathered in.

Attorney Landolina stated Mr. Herdman said the 1988 map showed the subdivision that maybe there was an intention to build a house there would have been a note stated the building was to be demolished, however after the subdivision was approved the building never came down.

Commissioner Turner said she would prefer that they not close the hearing and get the town attorneys opinion on R-33 lots vs. I-1 zones.

Commissioner Turner made a motion to table the appeal until May 22, 2023, for the commission to get the town attorneys opinion on R-33, seconded by Commissioner Stroiney.

**Motion passed unanimously by a show of hand, 6-0-0 vote.**

Chairman Urbanowicz returned to the meeting at 9:47 PM

## **9. Approval of Minutes**

### **a. March 27, 2023**

Commissioner Turner made a motion, seconded by Commissioner Neville to approve the minutes for March 27, 2023.

**Motion passed unanimously by a show of hand, 7-0-0 vote.**

**10. Correspondence / Staff Reports-** Mr. Rachele brought up the issue of fees for appeals. Several years ago this was changed and if there was a fee they could not reimburse. He asked the commission to discuss this as there is a lot of time spent researching and submitting documents.

Commissioner Stroiney asked if there is a reason why there is no fee for an appeal?

Chairman stated that it was thought that since the town brought a violation on the property rather than them seeking something in the affirmative and wanted to make sure they had access to that remedy.

Mr. Rachele stated that when they come into the office, they are given the option and the options are explained. They can choose to file a variance and they must show a hardship and it can't be monetary or self-imposed. The fee is still on the application. \$120 for residential and \$185 for non-residential. Also each time an application comes in, \$60 is supposed to go to the state whether it be any land use application.

Commissioner Turner stated that she would like the office to come back with a proposal on fees. Mr. Rachele said he will look at area towns to see what they are doing.

Mr. Stroiney asked if it was possible to hold a check. Mr. Rachele stated once it comes in as an application it must be cashed.

**11. Other Business-** Commissioner Turner asked what happened to the owner at Manning Road? Rachele stated it would be handled in a couple of days. If he doesn't come through with a special permit application, he will be issued a citation.

Commissioner Turner asked on the status of the Enfield Car sales place. The owner paid a \$900 fine and everything has been filed in accordance with the approvals and a K7 has been filed.

Commissioner Turner stated she has 2 new ones, the property on Enfield Street and Weymouth, the Mobile Station, she wants it on the record and will follow up with photos. Someone is dumping pallets on the property; they come and disappear. She believes it is being used as a depot. Also she noticed tracker trailers are parking all over Enfield. She said she noticed there was a tractor trailer parked in the Yankee Bait and Tackle building. Mr. Rachele stated the truck belongs to the owner and he has had a discussion with him. Also on Alden Street there is a blue trailer parked there.

Commissioner Neville asked on the status of 128 Moody Road. Mr. Rachele stated the town attorney has submitted a reply to the Court on behalf of the town.

**12. Adjournment-**

Commissioner Kwasnicki made a motion, seconded by Commissioner Neville, to adjourn. The meeting was adjourned at 9:59 PM.

**Motion passed unanimously by a show of hand, 7-0-0 vote.**

Next meeting, May 22, 2023.

Prepared by:

Sandie Barone, Recording Secretary

Respectfully Submitted,

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Mary Ann Turner, Secretary