

ENFIELD ZONING BOARD OF APPEALS
REGULAR MEETING
MINUTES
MONDAY, April 25, 2022 7:00 PM
ENFIELD TOWN HALL – COUNCIL CHAMBERS
820 ENFIELD STREET – ENFIELD, CT

RECEIVED
ENFIELD TOWN CLERK

2022 APR 27 PM 3:56

Sheila M Bailey

Call to Order

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

Roll Call

Commissioner Turner took the roll and present were Commissioners MaryAnn Turner, Andrew Urbanowicz, Kelly Davis, Timothy Neville, Charles Mastroberti, and Alternate Commissioners Richard Stroiney, Robert Kwasnicki and Catherine Plopper.

Also present were Laurie Whitten, Director of Development Services, and Georgienna Driver, Assistant Town Planner.

Town Attorney Report

Chairman Urbanowicz stated that they have an update in their packets.

Commissioner Stroiney stated that the Connecticut Federation of Planning & Zoning Agencies had presented a Length of Service award to Chairman Urbanowicz on March 24, 2022. He thanked Chairman Urbanowicz for his service.

New Business

- a. **ZBA# 2022-03-15 - 114 North Street-** Application of Section 6.10 for a 8' variance from the 40' front yard setback; Jeffrey Peterson, Applicant; Neal Peterson + Susan L + Jeffrey P + Brian M, Owners; Map 100/ Lot 4; I-1 zone.

Commissioner Turner read the legal notice.

Jeffrey Peterson, 114 North Street, addressed the Commission. He stated that they are trying to convert the residential house into a garage/shop for the storage of landscape equipment. Mr. Peterson stated that they do not have the ability to build further back away from the roadway, so they are requesting a variance to build closer to the roadway approximately 8 feet from where the house is now.

Commissioner Neville asked for clarification regarding discrepancies he saw between the distances contained within the application and those in the staff report. Mr. Peterson stated that he is not sure how far the setback is from the edge of the pavement to where the property line actually is, as he did the measurements about 30 feet from the edge of the roadway. He stated that this probably accounts for the discrepancy between the 30 feet and the 27 feet.

Mr. Peterson stated that the intention is to only move the side that faces North Street 8 feet closer to the roadway, and he is not sure how far that puts it into the setback as he is not sure how far that setback is off the roadway. Ms. Driver stated that this puts him at 19.5 feet for the setback.

Commissioner Neville asked how far the property line is from the edge of the road, to which Ms. Driver replied that it is approximately 10 feet. Commissioner Turner asked if the distance from the property sticks she saw on the site to the edge of the road is still 19.5 feet or if it is back up 10 feet. Ms. Driver stated that the structure is 27.5 feet from the road edge; Ms. Whitten stated that this is where setbacks are from. Ms. Whitten stated that the property line is approximately 10 feet from the road edge, but the setback is from the property line and not the road. Commissioner Turner stated that the property line was not marked, and she thinks it is closer. Ms. Whitten stated that the request is to go about 8 feet closer to the road and the property line than it is currently, to which Commissioner Turner replied that this is not 19.5 feet.

Ms. Whitten stated that according to the map the proposal is 20 feet from the proposed setback, and it also shows that it is 27.5 feet from the property line existing. Commissioner Turner stated that it says 27.5 feet from the front yard setback, to which Ms. Driver replied that this is the property line. Ms. Whitten stated that the existing setback from the property line is 27.5 feet, and they are proposing 20 feet. Chairman Urbanowicz pointed out that the applicant is actually requesting 19.5 feet.

Commissioner Turner asked if the property is 15 acres, to which Mr. Peterson replied that it is. Commissioner Turner stated that there is a big green lawn going toward the driving range and asked why they do not just move the building over. Mr. Peterson stated that this is going into the wetlands setback.

Commissioner Turner stated that the parcel is considered to be a farm according to the 2007 site plan, to which Mr. Peterson replied that it is farmed.

Chairman Urbanowicz read the definition of a variance at the request of Commissioner Turner.

Commissioner Turner stated that the applicant can build right where it is and make the building longer, just not wider. She stated that she does not see where the hardship is with the land, and that the applicant can go his length, just not the width he is requesting.

Mr. Peterson stated that they are asking for something longer toward the road to accommodate the length of a truck to put inside. Commissioner Turner stated that the applicant has options to move the building to the other side, to which Mr. Peterson replied that this puts it in the wetland buffer. Commissioner Turner stated that he has options with the inlands and wetlands, since he is a farm. Mr. Peterson stated that the property drops off on that side and is constantly wet, so is not ideal for building.

Ms. Driver stated that the 100 foot setback is for farm buildings, not the building he is proposing. She stated that the only way he can get around the wetlands regulations is if it is specifically used for farming and to benefit the farm. Commissioner Turner stated that the applicant is already in the 100 foot wetland setback, to which Ms. Driver replied that the wetlands Commission has approved applications in the past and it depends on the application.

Commissioner Turner stated that there is nothing wrong with the land that is causing this problem. She stated that variances are very clear and the property is flat, to which Mr. Peterson replied that it is not flat.

Ms. Whitten asked if the applicant had applied for a wetlands permit, to which Mr. Peterson replied that he did not. Ms. Whitten stated that he is claiming the hardship is the wetlands, but he has not been denied. Mr. Peterson reiterated that this is the first thing he was told he had to do.

Commissioner Neville asked where the equipment is currently, to which Mr. Peterson replied that it is all outside.

Commissioner Stroiney asked if there is a way to go back instead of forward. Mr. Peterson stated that he cannot as the garage on the back portion of that structure is fixed, so he would not be able to move the building as the garage is attached to it.

Commissioner Stroiney asked how many trucks would be used for this building and how much of the building is needed for that longer larger truck. Mr. Peterson stated that they are all roughly the same length, and they would put as much stuff inside as they can. Commissioner Stroiney asked if there is a way to build back somehow, to which Mr. Peterson replied that there is not. Commissioner Stroiney stated that building it forward creates the condition that the building can always be pushed that far forward on the property regardless of who owns the property. Mr. Peterson stated that there is no line of sight issue.

Chairman Urbanowicz asked if the applicant is planning on tearing down just the house portion and leaving the garage, to which Mr. Peterson replied that he is.

Commissioner Turner stated that the applicant can solve his problem by taking that building down too and building what he wants within his footprint. Mr. Peterson stated that it does not make any sense at all to knock down a perfectly good structure just to reinvent the wheel. Commissioner Turner stated that he might want to consider it as he has a 30-foot building that is going to encroach on the road when he has to have 40 feet and has already been granted 27.5. Mr. Peterson stated that the house was built a long time before he purchased the property, and he does not know when that was approved.

Commissioner Turner stated that the applicant does not need to be in front of the Commission for a variance, to which Mr. Peterson replied that he was told he needs a variance in order to do what he is asking. Commissioner Turner stated that this problem is solvable by the applicant removing the building in the back, and he can flip the footprint. Mr. Peterson stated that there are trucks parked behind that garage and he is certain that he cannot take those and put them along the road.

Commissioner Turner asked how long he has been in this business, to which Mr. Peterson replied since 2001. Commissioner Turner asked what he has been doing with his equipment since then, to which Mr. Peterson replied that he has been storing it outside.

Ms. Whitten asked if there is a need to have the two different buildings connected. Mr. Peterson stated that this makes the most sense. Ms. Whitten asked if there is going to be a door from the existing garage to the proposed new garage, to which Mr. Peterson replied that there will be connection between the two buildings. Ms. Whitten pointed out that a lot of people have multiple garages on their property that are not connected. Mr. Peterson stated that he would not be opposed, but the property does not allow for it as it drops down significantly to the west and is all wet with a well located there.

Commissioner Turner asked if this is the well that should be abandoned. Mr. Peterson explained that there is a well right behind the house portion and it is not operational. He stated that there is a new well on the side of the arborvitaes that was drilled when the house was built. Mr. Peterson stated that the septic is to the east of the house.

Chairman Urbanowicz asked if anyone in the audience would like to speak in favor or against the application; no one came forward.

Motion: Commissioner Kwasnicki made a motion, seconded by Commissioner Turner, to close the public comment portion of the meeting.

The motion passed with a 5-0-0 vote.

Votes: 5-0-0

Commissioner Turner stated that there is no reason for a variance as there are options for the applicant to build what he needs on his property, such as taking the building down or moving it back or to the left. She stated that the Planning & Zoning Commission (PZC) may look at another Special Use Permit, but she does not see a variance requirement.

Mr. Peterson asked what they are proposing he build, to which Commissioner Turner replied that the Public Hearing is closed.

Chairman Urbanowicz stated that he does not see a hardship with the land as there are other opportunities on the site. He stated that some other boards could be helpful.

Commissioner Neville agreed, stating that he does not see how they can do it within the confines of what a variance is.

Commissioner Kwasnicki asked if the Commission is bound by state law to adhere to the strict guidance of what a hardship is. Chairman Urbanowicz stated that this is correct and they cannot look at economic hardships.

Motion: Commissioner Turner made a motion, seconded by Commissioner Neville, to approve ZBA# 2022-03-15.

The motion failed with a 0-5-0 vote.

Votes: 0-5-0

Chairman Urbanowicz stated that the reason for denial is that they did not find a hardship on the property, and other reasonable options exist.

- b. **ZBA# 2022-03-25 - 29 Crescent Beach Drive-** Application of section 4.80 for a 3' variance from the 35' front yard setback; George and Lynn McAlees, Applicants/Owners; R-33 Zone; Lake Overlay District

Commissioner Turner read the legal notice; Ms. Driver stated that the applicant is present virtually as he is in Florida.

Chairman Urbanowicz read the definition of a variance.

George McAlees, 29 Crescent Beach Drive, addressed the Commission. He stated that he is requesting permission to build an 80 square foot (SF) addition to his existing home, of which 9 SF would encroach

on the setback requirement of 35 feet. Mr. McAlees stated that he found significant water and termite damage during remodeling as well as mold growth in the ceiling, most of which was in the southwest corner of the home. He stated that he had to take the deck off to expose the damage, and discovered a concrete pad with asphalt covering it. Mr. McAlees stated that at this point he decided to gut the whole house as it is over 100 years old and had several additions onto it which were done incorrectly with no permits.

Mr. McAlees requested that the Commissioners look at the aerial view of the property, and pointed out the setback that he is encroaching upon up to three feet. He stated that the entire house is surrounded by asphalt, and pointed out the erosion controls that he put up. Mr. McAlees pointed out the southwest corner on the original floor plan, where he was trying to increase the master bedroom. He stated that there is already non-penetrable concrete there, so he is not disturbing anything by putting block on it and adding a roof. Mr. McAlees stated that he just wants to box in that concrete area and increase the size of his house, and then work with the town.

Commissioner Turner stated that the property was not marked and this frustrates her. She stated that there was a rear porch with an overhang, and it does not appear that he changed the roof line. Mr. McAlees stated that this was not a rear porch, but was part of the house and there was a deck on the end of that. Commissioner Turner stated that it is marked as a rear porch on the diagram, to which Mr. McAlees replied that the town marked that, not him. Ms. Whitten stated that she did not mark it. Mr. McAlees explained that it probably was a porch at one time, but it got enclosed over the years and was part of the house.

Commissioner Turner stated that the roof line was over that space, and asked if the row of cement blocks was there already or if the applicant had put them in. Mr. McAlees stated that his contractor put those in.

Commissioner Turner stated that it does not appear the applicant wants to go out any further than the existing roof line already was, and he wants to cover up where the stairs already are. She stated that she is not sure why he needs a variance, unless it's because the encroachment was from previous and they just want to get him into compliance.

Ms. Driver stated that the applicant was told by Staff that he needs a variance because of the new construction for that little corner of the house, which is in the setback where there was just a deck before. Ms. Whitten stated that it was an accessory structure rather than a primary structure, so this is expansion as well as bringing it up to current code.

Commissioner Turner stated that he is not extending his house any further, but is just squaring it off. Ms. Whitten stated that this is correct, but it appears to be 9 by 9 rather than 3 by 3. Commissioner Turner stated that she measured the new building to be 41.4 feet long where the old building was 52.2 feet long. Mr. McAlees stated that somebody put 9 by 9 but he believes it is 8 by 10. He went on to state that the 3 by 3 is the only part that encroaches on the 45 foot setback.

Commissioner Turner asked why they are granting a variance to a building that was legally non-conforming in the first place. Chairman Urbanowicz stated that the corner is closer to the water and is extending into the setback. Ms. Driver explained that in the lake districts, the side of the houses that face the lake are the front yard and the applicant is encroaching into that front yard setback just by 3 feet.

Ms. Driver stated that the other properties are in the same boat, and the only difference is that the applicant is not extending the whole house.

Commissioner Mastroberti asked if the applicant is running into a problem due to the water line. Chairman Urbanowicz explained that the setback follows the curve of the property line, so it is a piece of water and not a square line, which is the issue.

Commissioner Kwasnicki asked if it is wrong to assume that every parcel has the exact same curvature in the property line on the water, to which Ms. Whitten replied that a water line is going to vary due to nature. Commissioner Kwasnicki stated that this property has its own unique water line. Commissioner Neville agreed, and stated that this is unique to this property.

Commissioner Turner stated that everyone needs to keep in mind what they are giving the variance for and they need to be specific. Ms. Driver stated that there is a unique hardship on this property due to the water line, and the applicant is not expanding the primary structure but just wants to block off that area and needs the 3 feet to be able to do so.

Commissioner Turner asked what happens when erosion happens, to which Ms. Driver replied that they will face that problem when they come to it. She stated that the same can be said for any property which borders a stream or brook.

Commissioner Turner stated that they have had to deny houses with weird property lines that do not have water because of their side yard setback. Ms. Whitten stated that when you have a water body it varies. Chairman Urbanowicz stated that it depends upon how it is decided.

Commissioner Stroiney asked if the non-penetrable concrete in the back is part of the foundation that was originally there. Mr. McAlees stated that there was a lot of asphalt and also a pad of concrete that the steps were on.

Commissioner Neville asked if the concrete pad is staying in place, to which Mr. McAlees replied that he was in the process of putting a proper foundation in when he got the stop work order. He stated that he will cover the whole concrete pad with the concrete blocks, and his intention is to get rid of a lot of that asphalt.

Commissioner Turner asked if the applicant knows where the property lines are, to which Mr. McAlees replied that they are pretty well sketched out on the packet he submitted. He stated that he never had it surveyed and just bought it two months ago.

Ms. Whitten stated that the only setback and lot line that is relevant to this application is the front yard to the lake.

Mr. McAlees stated that this may not be a clear cut hardship but this will benefit everyone, including the town and the residents of Crescent Beach.

Chairman Urbanowicz asked if anyone in the audience would like to speak in favor or against the application; no one came forward.

Motion: Commissioner Davis made a motion, seconded by Commissioner Neville, to close the public hearing.

The motion passed with a 5-0-0 vote.

Votes: 5-0-0

Commissioner Turner stated that he is squaring off his building and she does not see this as a major variance. Chairman Urbanowicz stated that the topography of the land creates the hardship as he has an irregular lot line caused by the waterfront.

Commissioner Neville agreed that the land is unique and the applicant has no control over it.

Motion: Commissioner Turner made a motion, seconded by Commissioner Neville, to approve ZBA# 2022-03-25.

The motion passed with a 5-0-0 vote.

Votes: 5-0-0

Commissioner Turner stated that the topography of the land/water causes the problem; Chairman Urbanowicz agreed.

- c. **ZBA# 2022-04-08 – 92-98 Prospect Street** – Variance application of outdoor storage requirements, and expansion of non-conforming use; Kelly Fradet Lumber, Applicant; Town of Enfield, Owner; Map 21/Lot 20; I-1 Zone.

Commissioner Turner read the legal notice; Chairman Urbanowicz read the definition of a variance.

David Weeks of Kelly Fradet addressed the Commission. He stated that they got approval in 2019 to have some sort of indoor storage facility in there. Mr. Weeks stated that they would like to just have outdoor storage and encapsulate most of the property.

Commissioner Turner stated that she looked at the property and she is on board.

Ms. Whitten stated that the whole site is non-conforming and all of the previous zoning variances cover all of that. She stated that the only thing changing is the plan that is referenced in the variance.

The Commission took a few minutes to examine the documents.

Commissioner Turner stated that she has no questions and this is a perfect use for this property. She stated that she understands that drilling into a contaminated field can cause more problems.

Chairman Urbanowicz stated that there is no one in the audience to speak.

Motion: Commissioner Stroiney made a motion, seconded by Commissioner Kwasnicki, to close the public hearing.

The motion passed with a 5-0-0 vote.

Votes: 5-0-0

Commissioner Turner stated that it makes perfect sense; Chairman Urbanowicz stated that the site has not changed in its contamination level.

Commissioner Neville stated that it is making good use of the property.

Motion: Commissioner Turner made a motion, seconded by Commissioner Neville, to approve ZBA# 2022-04-08.

The motion passed with a 5-0-0 vote.

Votes: 5-0-0

Chairman Urbanowicz stated that the reason for hardship is that the site has significant contamination by a prior owner.

Approval of Minutes

- a. January 24, 2022 – Regular Meeting

Motion: Commissioner Neville made a motion, seconded by Commissioner Turner, to approve the minutes of the January 24, 2022 Regular Meeting.

The motion passed with an 8-0-0 vote.

Votes: 8-0-0

- b. February 28, 2022- Regular Meeting

Motion: Commissioner Neville made a motion, seconded by Commissioner Turner, to approve the minutes of the February 28, 2022 Regular Meeting.

The motion passed with an 8-0-0 vote.

Votes: 8-0-0

Commissioner Davis stated that they keep skipping the December minutes and they have not been approved. Chairman Urbanowicz requested that they be put on the next agenda; Commissioner Turner stated that they were supposed to be updated. Commissioner Davis stated that they wanted an expansion in some of the discussion parts, to which Commissioner Stroiney replied that it was around the discussion with the K7s.

Correspondence / Staff Reports

Ms. Whitten stated that they hired a new Assistant Planner named Matt Davis, and he will meet the Commission at the next meeting. She described some of his past experience and qualifications.

Other Business

Commissioner Turner stated that she would like to know where they are with The Buy Center of Enfield, as they are supposed to be in Cease & Desist but they are operating. Ms. Whitten stated that they are on the PZC agenda for the next meeting, and they finally got their application in.

Commissioner Turner stated that they wrote the K7 request and got a bill to the table and into committee. She read a portion of the letter that she received back which stated that the proposal will not move forward this session as the leadership of the PD Committee did not believe there is enough time in the short session to tackle the issue. Commissioner Turner stated that she requested that they send it to Planning & Zoning for review, and she is going to keep pushing that envelope. She stated that they have a great ZEO but that job does not qualify to fix this problem.

Commissioner Turner asked what they are doing about the decks that are still sitting on the property at the Yarde House that are now surrounded by gigantic concrete pillars. She stated that they were denied and these need to come down as they are dangerous.

Commissioner Turner asked about the status of the property on Elm Street that received a Cease & Desist on their lawnmower business. Ms. Driver stated that they will be back before the Commission next month as their application was handed in too late to make the legal advertisement. Commissioner Turner asked if they withdrew and are starting over, to which Ms. Driver replied that they came in as an appeal of the ZEO's decision and the application was never submitted. Commissioner Turner stated that they withdrew it and sent a letter that they are going to come into compliance. Ms. Whitten stated that they made a new appeal of the ZEO's decision and the Commission will hear them next month. Commissioner Neville questioned whether they can appeal, to which Ms. Whitten replied that she has not reviewed it yet. Commissioner Stroiney stated that they were going to let the ZEO come onto the property, and then they did not allow him onto the property. Chairman Urbanowicz stated that they can take this up at the next meeting.

Commissioner Turner asked if The Buy Center of Enfield will be back before the Commission for K7, to which Ms. Whitten replied that they will not because the Commission gave it to them. She stated that they just have to sign it once the conditions are put on.

Commissioner Neville stated that he and Commissioner Stroiney went to the conference a month ago and received a lot of good information as well as their first credit for the new required credits. Commissioner Turner asked if they will be having any more classes, to which Ms. Whitten replied that they are trying to get an outside attorney to come in and do some training for the land use commissions. Ms. Whitten stated that the Capital Region Council of Governments (CRCOG) has been recommended to develop some classes which are available online.

Commissioner Turner asked if the town is going to mandate training for land use boards, to which Chairman Urbanowicz replied that it is state mandated and already passed. Ms. Whitten stated that they must have four credits every two years.

Commissioner Neville stated that they need to discuss and update the bylaws. Ms. Whitten stated that they would get this onto the agenda.

Adjournment

Motion: Commissioner Kwasnicki made a motion to adjourn; the meeting adjourned.

Prepared by:

Elizabeth Bouley, Recording Secretary

Respectfully Submitted,

Mary Ann Turner, Secretary