

ENFIELD ZONING BOARD OF APPEALS
REGULAR MEETING
MINUTES
MONDAY, May 23, 2022 7:00 PM
ENFIELD TOWN HALL – COUNCIL CHAMBERS
820 ENFIELD STREET – ENFIELD, CT

RECEIVED
ENFIELD TOWN CLERK
2022 JUN -1 PM 1:42
Sharon Bailey

Call to Order

Chairman Urbanowicz called the meeting to order at 7:01 PM

Chairman Urbanowicz appointed Commissioner Stroiney as Secretary for this meeting.

Roll Call

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

Also present were Ricardo Rachele, Zoning Enforcement Officer and Matthew Davis, Assistant Town Planner.

New Business

Commissioner Stroiney read the legal notices.

- a. **ZBA# 2022-04-14: 1375 Enfield St-** Appeal of the ZEO's Cease & Desist Order for Section 3.30.12; Devin Terhune, Applicant/Owner; Map 18/Lot 243; HR-33 Zone.

Chairman Urbanowicz recused himself and appointed Vice Chair Neville in his place. He seated Alternate Commissioner Plopper.

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

Attorney Carl Landolina addressed the Commission and submitted handouts. He introduced building occupant Dugan Terhune. Mr. Landolina stated that Mr. Terhune had received a Cease & Desist (C&D) order for operating a business out of the location, but it was actually a hobby where he repairs riding mowers and snowblowers. He stated that Commissioner Turner said in the past that this would not stop Mr. Terhune from his hobby; however, he was given a C&D for operating a junkyard. Mr. Landolina stated that they do not meet the definition of a junkyard according to the regulations, and therefore cannot be operating a junkyard if the items on the property are not junk.

Mr. Landolina read the definitions of junk and junkyard from the regulations and explained how the items Mr. Terhune has on his property do not meet those definitions.

Dugan Terhune, 1375 Enfield Street, addressed the Commission. He stated that he is the permanent resident of the property and his brother and father, who live out of state, are the homeowners. At the request of Mr. Landolina, he stated that his family has lived on the property for 50 years and explained

the details of his hobby. Mr. Landolina asked if he has to alter or change the machine parts to use them in another machine, to which Mr. Terhune replied that he does not. He stated that he immediately disposes of useless pieces of machinery offsite.

Mr. Landolina asked how many motor vehicles he has at his residence, to which Mr. Terhune replied that he has five registered and road-worthy vehicles, and one that is not registered.

Mr. Landolina showed a photograph of the property, which he stated is a nice and well-maintained home.

Mr. Landolina stated that the issue is the burden of proof, and whether it lies with the ZEO to establish that it is a junkyard or Mr. Terhune to establish that it is not. He stated that the burden lies with the city in this case, and the overhead photographs he received from the ZEO are years old and the property does not currently look like that.

Mr. Rachele stated that during the meeting in January, they offered him the chance to inspect the property. He stated that they did not end up allowing it, but one of the witnesses at the time did call the property "cluttered." Mr. Rachele stated that the aerial photographs are over a couple of years from 2017-2019, but the issue of junk is clear in the photographs in the report. He stated that junk is in the eye of the beholder, and the only way they can determine it is with an inspection, which they were not allowed to do.

Mr. Rachele concluded that without an inspection of the property, which was offered at one time and then decided against, there is no way to determine what is junk on the property unless it is inspected.

Mr. Landolina stated that this is a mini-trial and the Commission is acting in a judicial basis. He stated that he wants to note his objection on the record as he has the constitutional right to cross-examine the ZEO, but he will ask through the Chairman if needed. Mr. Landolina stated that the ZEO does not know if there is junk there because he has not had a chance to look. Mr. Rachele stated that he drove by a couple of days ago and what he has seen in the driveway and through the fence would be considered junk. He submitted photographs which Mr. Landolina objected to as he said the ZEO was duty-bound to provide him a copy of anything under FOI. Mr. Rachele stated that the photographs were taken after the FOI, to which Mr. Landolina replied that he is duty-bound to provide him with any submitted material. He asked why it would be problematic anyway, as Mr. Terhune testified what he does with his hobby.

Commissioner Kwasnicki asked if the items from the Google Earth photos had been removed. Mr. Terhune stated that the photographs are three years old and his backyard does not look like this currently.

Mr. Landolina asked if Mr. Terhune has any more than his six vehicles on the property, to which Mr. Terhune replied that he does not.

Commissioner Kwasnicki asked what the ZEO would find in the back of the property if he inspected, to which Mr. Landolina replied that he would find snowblowers and lawnmowers, and he does not know how many.

Commissioner Kwasnicki asked what Mr. Landolina considers the definition of the verb "salvage," to which Mr. Landolina replied that he cannot answer that if the word is not defined in the regulations.

Commissioner Kwasnicki asked Mr. Rachele what his definition of the verb “salvage” is, to which Mr. Rachele replied that it would be any items that were being used to salvage pieces off and use for something else. Mr. Landolina stated that salvage is not defined in the regulations, but the ZEO’s definition does not fit with the second sentence in the regulations concerning what should be considered junk.

Commissioner Kwasnicki asked why the ZEO was not allowed to inspect the property as agreed upon. Mr. Landolina stated that they withdrew case so there was nothing left to that application. He stated that the law is clear that the ZEO cannot just knock on the door and ask to look around, and the ZEO has had 6 months to get a civil warrant. He stated that not letting someone on the property to look around does not allow them to infer anything. Mr. Landolina stated that what someone else may call junk, his client would call useful items.

Commissioner Kwasnicki asked if Mr. Landolina’s client is willing to have the ZEO onto the property, to which Mr. Landolina replied that they are not willing to allow the ZEO onto the property without a court order.

Commissioner Stroiney stated that the words are open to interpretation, and he struggles with the definitions based on the way Mr. Landolina is interpreting them. He stated that a lot of the equipment is reconditioning for resale in support of Mr. Terhune’s hobby, and he may take an engine off of one to put it on another to make it work effectively. Mr. Landolina agreed that this is the case.

Commissioner Stroiney stated that 100 square feet (SF) is a small area, and it is tough to support the claim against the ZEO without having an understanding of how much space it takes up. Mr. Landolina stated that there is more than 100 SF of property that is being taken up. He reiterated that the items on the property are not junk.

Mr. Stroiney stated that he respects the ability to repair machines and wishes he could do it.

Commissioner Neville stated that they had previously questioned the process, as there are rules about repairing engines and mechanical equipment. He stated that the idea of how many partial lawnmowers and snowblowers are on the site and how long they have been there is an important question.

Commissioner Neville stated that the application is signed and says that permission is granted to allow the ZEO onsite. He stated that in order to assess what they are being asked to do, the Commission needs to see the property.

Mr. Landolina requested a 30-day continuance to keep this open to discuss the details and implications of allowing the ZEO onto the property with his client.

Commissioner Stroiney asked what the rules are for a continuance on a C&D. Mr. Rachele stated that it allows the Commission to continue the matter to the next meeting, and he would caution the Commission to put a limit on the time wait. Mr. Landolina stated that the next meeting is about 30 days from now, and if they decide to allow the ZEO onto the property it will be at least a week before. Mr. Rachele stated that they should have a date, to which Mr. Landolina stated that on or before June 17th they will have either allowed Mr. Rachele onto the property or notified him that they are not going to allow him on. He stated that no matter what happens, they will plan to come to the next meeting.

Commissioner Kwasnicki asked if part of the C&D is a concern with hazardous waste and materials. Mr. Rachele stated that this is a different matter and is not included in the C&D. He stated that hazardous waste contamination would be under their purview if there were wetlands onsite, but depending on the amount would probably fall under DEEP.

Commissioner Kwasnicki asked if there is any storage of hazardous waste on the site, to which Mr. Landolina replied that he prefers not to ask his client this since he does not know the answer.

Commissioner Stroiney stated that he would like to make the visit date June 10th rather than the 17th. Mr. Landolina stated that they have no objection to this. Commissioner Neville stated that they also need to prepare everything for their packets.

Commissioner Kwasnicki asked if the C&D can be rescinded in the event that the property ends up being compliant on June 10th. Mr. Rachele stated that the reason for the enforcement is to rectify violations, which is ultimately what they are here for. Mr. Landolina stated that if he withdraws the C&D, their appeal is moot and this matter is overwith.

Motion: Commissioner Stroiney made a motion, seconded by Commissioner Plopper, to continue ZBA# 2022-04-14 until the next meeting provided that the ZEO is able to inspect the property by June 10, 2022.

Commissioner Neville asked if they should offer the public to speak, to which Mr. Davis replied that they should as a courtesy.

Commissioner Stroiney withdrew his motion; Commissioner Plopper withdrew her second.

Commissioner Neville asked three times if anyone in the public would like to speak; no one came forward.

Motion: Commissioner Stroiney made a motion, seconded by Commissioner Plopper, to continue ZBA# 2022-04-14 until the next meeting provided that the ZEO is able to inspect the property by June 10, 2022.

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

Votes: 5-0-0

- b. **ZBA# 2022-04-28: 425 Hazard Ave** -Auto Location Approval for Transfer of Used Car Dealers License; Zach Dupuis (dba Runway Motors LLC) Applicant; Hazardville Trade Village LLC, owner; Map 92/Lot 67; HVBG Zone.

Zachary Dupuis, 19 Ridge Road, addressed the Commission. He stated that he would like to relocate his Windsor Locks business to Enfield. Mr. Dupuis went over the hours of operation for the business, stating that he is the only employee.

Mr. Dupuis stated that this was approved in 2019 and he is agreeable to the four conditions set out by the Planning & Zoning Commission (PZC).

Commissioner Stroiney asked where he gets the cars that he sells, to which Mr. Dupuis replied that the vehicles are operational and he gets them from the auto auctions in East Windsor and Framingham Massachusetts. He stated that he inspects the cars when he gets them in, which is required by law.

Commissioner Stroiney asked what he does if he finds something wrong with a vehicle, to which Mr. Dupuis replied that he fixes it himself as he is a certified mechanic.

Commissioner Neville asked where the applicant performs repairs. Mr. Dupuis pointed out on the map where the garage door is.

Commissioner Neville asked how long ago the parking was striped, as there appears to be a lot of sand and gravel. Mr. Dupuis stated that he will sweep it off to make it more visible. Commissioner Neville stated that there are a lot of vehicles and asked how he plans to get the vehicles onto the property. He stated that behind the 12 spaces is a whole row of vehicles, and asked how the applicant would get the cars in and out of that back space. Mr. Dupuis stated that there is technically enough room but he does not plan to have that many cars. He stated that he currently has 6 cars on his lot and they have been affected by supply chain issues like everyone else.

Chairman Urbanowicz asked three times if anyone in the public would like to speak; no one came forward.

Motion: Commissioner Stroiney 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 Stroiney asked what constitutes repair and whether what the applicant is proposing would be considered repair. Chairman Urbanowicz stated that he transferred a general repair license so he can do what he needs to under that license.

Motion: Commissioner Mastroberti made a motion, seconded by Commissioner Davis, to approve ZBA# 2022-04-28.

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

Votes: 5-0-0

- c. **ZBA# 2022-05-06-: 25 Hazard Ave** – Request for General Repairers Location Approval; AAA Club Alliance Inc., Applicant; Paramount Realty Services Inc., Owner; Map 45/Lot 8, BR Zone.

Dave Ziaks of F.A. Hesketh & Associates addressed the Commission as a representative for AAA Club Alliance. He stated that they are here to get all of the paperwork straightened out. Mr. Ziaks explained that the new prototype has less bays than the previous plan, and they are looking to do general repairs so they will need a general repairs operation license and then will have to go back to the DMV to get that straightened out.

Commissioner Neville asked for clarification on the number of bays, to which Mr. Ziaks replied that the building they built has three bays as opposed to the eight on the original plan. He stated that there are drive through bays in the back.

Mr. Ziaks explained that the office part of the building is open but the repair part is not at this time.

Commissioner Stroiney asked if Mr. Rachele has any concerns, to which Mr. Rachele replied that he does not. He stated that it was approved as limited but they need the general repair, which is a technicality that has to be approved by ZBA.

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

Motion: Commissioner Neville made a motion, seconded by Commissioner Davis, to close the Public Hearing.

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

Votes: 5-0-0

Motion: Commissioner Stroiney made a motion, seconded by Commissioner Neville, to approve ZBA# 2022-05-06.

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

Votes: 5-0-0

- d. **ZBA# 2022-05-10: 160 Spring St** – Request for variances to section 6.10.1 (reduce side yard setback on south side to 10 feet from the required 25 feet); section 6.10.1 (reduce front yard setback to Spring Street to 12 feet from the required 40 feet); section 6.10.2A (reduce the required 50 foot front buffer to zero); section 10.10.2 (eliminate required additional parking stalls); section 10.10.8 (eliminate required additional loading areas); section 10.10.6 (parking area landscape standards); section 10.10.7 (parking area design requirements); and section 10.20 (general landscaping requirements); Andrew J. Crane, Applicant, Spring Street Holdings LLC, Owner, Map 21/Lot 2; I-1 Zone.

Chairman Urbanowicz provided the definition of a variance.

Andrew J. Crane of A. Crane Construction Company in Chicopee, Massachusetts addressed the Commission as a representative for Kelly Fradet Lumber. Mr. Crane provided a slideshow presentation to describe the proposed project including existing conditions. He pointed out the two buildings that are proposed to come down, and stated that the gate is locked at all times and only used for emergency purposes.

Mr. Crane described the proposed building and layout, stating that it will be much cleaner and shielded from the Residential zone. He pointed out the loading zone, stating that the topography on the site does

not allow the loading docks to work elevation-wise. Mr. Crane stated that there is no change in grade or drainage.

Mr. Crane went over the details of the proposed front yard setback, side yard setback, and residential zone buffer. He described the parking, loading, and landscaping ordinances one by one, stating that the entire site is essentially a loading zone. Mr. Crane stated that there are no extra trucks or employees, so the requirement for design of parking lots can be eliminated. He stated that the bathroom requirement has been waived as no one will be working inside the building.

Mr. Crane stated that the entire site is impervious right now, and the area on the Spring Street side will be loamed and seeded. He stated that this will make the site a little less impervious and will be maintained by Kelly Fradet.

Mr. Crane concluded that the proposed plan is much better for the applicant and the neighborhood.

Commissioner Neville stated that the shrubbery in the back is really overgrown, and asked if the lumber will still be stored as it is in the photo. Mr. Crane stated that it will.

Commissioner Neville asked if the new sliding gate is going to be 38, to which Mr. Crane replied that it will be 28. Commissioner Neville asked what it means to protect the pole. Mr. Crane brought the site plan up to the Commission and pointed out the area on the plans where the pole is located.

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

Motion: Commissioner Neville made a motion, seconded by Commissioner Mastroberti, to close the Public Hearing.

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

Votes: 5-0-0

Commissioner Neville stated that it seems pretty straightforward. Chairman Urbanowicz stated that the hardship is the topography and the pre-existing non-conforming paving, and this will be less non-conforming with the variance.

Motion: Commissioner Stroiney made a motion, seconded by Commissioner Davis, to approve ZBA# 2022-05-10.

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

Votes: 5-0-0

Approval of Minutes - April 25, 2022

Motion: Commissioner Neville made a motion, seconded by Commissioner Stroiney, to approve the minutes from April 25, 2022 as amended.

Commissioner Neville stated that on page 9 it says Commissioner Turner asked about a property on Elm Street but that should actually be Enfield Street.

Commissioner Davis stated that they are still missing minutes from the December meeting and requested that those be submitted to the Commission as soon as possible.

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

Votes: 5-0-0

Adjournment

Motion: Commissioner Kwasnicki made a motion, seconded by Commissioner Neville, to adjourn.

Prepared by:

Elizabeth Bouley, Recording Secretary

Respectfully Submitted,

Mary Ann Turner, Secretary