

ENFIELD ZONING BOARD OF APPEALS
SPECIAL MEETING
NOTICE OF ACTION/MINUTES
MONDAY AUGUST 29, 2022 6:00 PM
ENFIELD TOWN HALL – SCITICO ROOM
820 ENFIELD ST., ENFIELD, CT

RECEIVED FOR RECORD
ATTEST

Kenny Lee

Deputy Town Clerk

8/30/2022
1:42 PM

1. **Call to Order & Pledge of Allegiance** – Acting Chairman Timothy Neville called the meeting to order at 6:02 P.M.
2. **Fire Evacuation Announcement**
3. **Roll Call** – Commissioner Mary Turner took the roll and present were Commissioners, Timothy Neville, Charles Mastroberti, Kelly Davis, Catherine Plopper and Richard Stroiney. Mary Turner joined via phone and arrived at 6:03 P.M. Robert Kwasnicki arrived at 6:07 P.M. Commissioner Andrew Urbanowicz was recused.

Also present were Laurie Whitten, Rick Rachele and Maria Elsen, Town Attorney.

4. **Motion** – Commissioner Richard Stroiney made a motion to move into Executive Session at 6:04 p.m., this was seconded by Commissioner Kelly Davis. This motion passed with a unanimous vote.
5. **Executive Session**

Pending Litigation

Jarmoc Farms, LLC v. Zoning Board of Appeals of the Town of Enfield, Docket No. LND- CV-21-6143004-S.

6. **Motion** – Commissioner Mary Turner made a motion to end Executive Session, this was seconded by Commissioner Richard Stroiney This motion was passed with a unanimous vote.
7. **Discussion on Pending Litigation** – Commissioner Robert Kwasnicki made a motion to approve a resolution/motion, this was seconded by Commissioner Kelly Davis.

RESOLUTION/MOTION

WHEREAS, at its April 26th 2021 meeting, the Zoning Board of Appeals of the Town of Enfield (ZBA) voted to uphold the Zoning Enforcement Officer's (ZEO) Notice of Violation for a barn located at 69 Broad Brook Road; and

WHEREAS, at its April 26th 2021 meeting, the ZBA further voted to deny the applicant's request for a variance of the property known as 69 Broad Brook Road; and

WHEREAS, the property owner filed an appeal of both of the ZBA's aforementioned actions, upholding the order and denying the variance, in the case captioned Jarmoc Farms, LLC v. Zoning Board of Appeals of the Town of Enfield, docket # LND-HHD-CV21-6143004-S; and

WHEREAS, the Plaintiff Jarmoc Farms, LLC (Jarmoc) has since agreed that the ZBA's finding of a 50' setback for the subject barn is legal and appropriate; and

WHEREAS, the Parties acknowledge that the process for obtaining a Certificate of Occupancy requires certain legal prerequisites, to wit:

1. An applicant must file a final as-built with the ZEO, subject to his review and approval;
2. An applicant must file a zoning compliance form with the ZEO, subject to his review and approval, after which additional review and approval is required by the Building Department;
3. When the afore-mentioned reviews and approvals are complete, a Certificate of Occupancy is issued.

NOW, THEREFORE, BE IT RESOLVED, that the Defendant ZBA hereby agrees to a 50' setback provided such barn comes into compliance with said setback no later than **December 31, 2022**. For the purposes of this agreement, "into compliance" shall be interpreted to mean that no physical portion of the barn's above ground structure is within the 50' setback.

BE IT FURTHER RESOLVED, that as soon as **relocation** is complete, the Plaintiff Jarmoc shall promptly submit all necessary attendant documentation, including an as-built, and a certificate of zoning compliance form, and the Town shall promptly act.

BE IT FURTHER RESOLVED, that the following are required as part and parcel of compliance. The Plaintiff Jarmoc shall:

1. provide sworn affidavits of a list of three contractors who have been contacted to bring the barn into compliance, which list is subject to verification by the Defendant by the date of the Conn. Gen. Stat. § 8-8(n) hearing with the Connecticut Superior Court;
2. modify original building permit and obtain all attendant approvals (Health Department, Zoning Compliance, etc.), prior to beginning barn relocation.
3. stake the site prior to the start of the barn's relocation/reconstruction;
4. disclose to the Town the name of the surveyor, on Record, and provide, by October 7, 2022, a site plan reflecting accurate staking;
5. coincident with site plan submission, post a cash bond in the amount of \$25,000, which bond is subject to review and approval by the Town's Finance Director and

which bond shall be released to the Plaintiff Jarmoc within two weeks of **AFTER** verification by Town staff **as-built verification, AS IDENTIFIED IN PARAGRAPH #6 HEREIN, that** the barn is in compliance with the 50' setback. If, on ~~December 31, 2022,~~ **the date of as-built verification** Town staff has verified that the barn is not in compliance with the 50' setback, the bond shall be immediately surrendered to the Town;

6. submit to the ZEO an as-built reflecting the 50' setback by as soon as commercially practical, preferably by January 15, 2023, which date may be extended by agreement for good cause;
7. pay a fine of \$1,000 (one thousand dollars) per day if the barn is not relocated to its 50' setback by **December 31, 2022, as visually verified and measured by Town staff**, and until such time as there is compliance. Further, the Plaintiff shall pay the accrued fine by cashier's check to the "Town of Enfield" (Finance Office) on the first date of each month. Failure to timely pay subjects the Plaintiff to 18% interest. **AS DETERMINED BY THE TOWN'S FINANCE DIRECTOR.**

The resolution/motion was passed with a unanimous vote.

8. **Adjournment** – Commissioner Richard Stroiney made a motion to adjourn at 7:49 p.m., this was seconded by Commissioner Robert Kwasnicki.

