

ZONING BOARD OF REVIEW MINUTES

Tuesday July 22, 2014 Meeting 7:00 pm

Town Council Chambers, Town Hall

Present: Richard Land, Chair; Renu Englehart, Vice-Chair; Ashley Cullion, Christopher Mulhearn, and Barry Golden (Alternate).

Absent: Jody Sceery.

Staff: Lea Anthony Hitchen, Assistant Town Planner; and Peter Clarkin, Town Solicitor.

Mr. Land, Chair of the Board, called the meeting to order at 7:00 PM and introduced the members and staff present. He then read the Board's procedures into the record. Each person addressing the Board will first state his or her name and address for the record. The applicant and his or her legal representative will present the case and witnesses may be called to testify. Such testimony must be relevant to the application. Expert witnesses will be sworn in and there will be no prejudgment as to the expertise of any witness. Pictures, diagrams and other documents given to the Board as evidence will be appropriately marked as exhibits and will be retained by the Board for the record. Upon completion of the applicant's presentation all other persons wishing to offer evidence in favor of the application may then do so one at a time. Following that all persons wishing to offer evidence against the application may then do so one at a time. It is asked that comments are confined to the zoning matter being heard and that repetitive remarks are avoided. Cross examination or rebuttal may be allowed if the Board feels it would be appropriate and useful. All questions from the floor will be directed through the Chair only. After all relevant facts have been heard the Chair will call for a motion; the Board will then discuss the motion and the Chair will call for a vote. During the discussion among voting Board members, the Board will not accept and new and further testimony unless it is specifically requested by a Board member. The Board will make every attempt this evening to render a decision. The written decision will be recorded in the Town Clerk's Office as soon as possible following the approval of the minutes of the meeting.

Zoning Board of Appeal Hearings – 7:00 PM

1. **Leslie Massaro** for property located at 277 Kenyon Avenue; Map 74 A.P. 9 Lot 286 (Zoned Residential, R-30). The Applicant requires a Dimensional Variance from the allowable maximum height for the construction of a detached garage. Chapter 260 of the Town Code, Zoning Ordinance, Table 2 – Table of Dimensional Regulations by Zone sets forth a maximum height of 15 feet for accessory structures. The Applicant is requesting to increase the garage height to 25 feet.

Ms. Leslie Massaro of 277 Kenyon Avenue, owner of the property, represented the application. She explained that she is seeking a height variance of 10 feet in order to construct a barn/garage outbuilding on her property which will be 25 feet in height.

When questioned the intent of the structure, Ms. Massaro stated the barn/garage would be used for a garage area with a workshop/workspace on the first floor; upstairs would include storage and possibly a finished space for a playroom and possibly a half bath because her children will need bathroom facilities with the playroom considering the structure will be a distance from the main house.

Ms. Englehart questioned if the plumbing will be installed immediately. Ms. Massaro verified that the second floor of the structure would remain unfinished to begin with.

Ms. Englehart asked if there is any intent for anyone to live in the second floor space. Ms. Massaro said no. Ms. Englehart questioned if the Applicant understood that the proposed structure is considered an accessory building which means no one can live in that space. Ms. Massaro asserted that was correct; she was aware that Mr. Wayne Pimental, the Building/Zoning Official had some concern to having a finished second floor area and whether it was going to morph into an in-law apartment in the future. Her opinion was that if she were to ever sell the property down the road with a finished second floor space, she asked who in their right mind would rent a place that has no kitchen facilities and no shower.

Ms. Englehart asked if Ms. Massaro saw the other staff recommendation which is the possibility that the proposed structure may be situated on wetlands or within a flood zone and a Class I survey must be performed. Ms. Massaro confirmed that arrangements have not yet been made to do the survey. She added that Mr. Pimental came out to the property and looked at the general area where the barn would be located. Ms. Massaro was not opposed to moving the structure; she was just trying to position it where the least amount of trees would need to be removed.

Ms. Englehart questioned if the structure is moved would it still be within the required setbacks. Ms. Hitchen explained the structure would be further away from the south property line and more in line with the main house.

Ms. Englehart found the proposed building to be rather large and asked the size of it. Off the top of her head, Ms. Massaro did not know the exact size but the structure would be the size of a two car garage with a loft space above.

Ms. Englehart asked if the garage will be used to work out of and the intent of the workshop. Ms. Massaro stated that her boyfriend likes to tinker with kinds of tractors and projects. She added that although her house is decently sized she does not have a bulkhead and her basement often floods and she does not have an attic for storage purposes. Ms. Massaro explained that she does have a two-car garage but half of it is currently used to store lawn equipment. Furthermore, her father recently sold his home and all his belongings are being stored in a storage facility; she would like to be able to get his stuff into her home at some point.

Ms. Englehart understood Ms. Massaro's dilemma but still thought the proposed garage/barn was too large in size. Considering the proposed structure is prefabricated, Ms. Englehart asked if there is a size smaller the Applicant would consider. Ms. Massaro stated she could possibly get a size smaller.

Mr. Land reminded the Board that the Applicant is requesting a 10' height variance. He suggested that if the Applicant were to go smaller or reduce the

height variance perhaps she would not need any kind of relief from the Board.

Ms. Massaro thought it would be impossible to get a 2-story building within 15' she explained that she hoped to have a 9' ceiling downstairs which would then be hard to come under the 15' height requirement. She said that she is negotiable but she has already talked to the garage company about this particular design.

Ms. Cullion asked the Applicant if she was open to getting a Class I survey in order to find where the wetlands on the property. Ms. Massaro stated that she did not want to do that due to the extra expense but if it is required she will do it. Ms. Cullion inquired about the existing driveway and whether the intent is to expand it towards the proposed garage. Ms. Massaro said no.

With no further questions from the Board, Mr. Land opened the hearing for public comments.

Ms. Ann Marie Thatcher who lives to the left of the Applicant, questioned the location of the proposed structure. Ms. Hitchen provided a site plan to Ms. Thatcher and explained where the structure would be located. Ms. Thatcher said she has an instantaneous objection to the application considering she has not had sufficient time to review the site plan and does not know exactly where the garage would be situated in reference to her property since it will be a fairly large structure. She noted that the Applicant's property and her property are very private areas and she did not want to give an objection right away without studying the plan and the land with what has been proposed.

Ms. Massaro further tried to explain to Ms. Thatcher where on her property the garage/barn will be located.

Mr. Land advised that the Board would accept Ms. Thatcher's limited objection due to her limited knowledge about the proposal; the Board intends to vote this evening if there is a motion subject to conditions that may be imposed.

Ms. Thatcher hoped that she could discuss the application with her husband.

Mr. Clarkin reiterated that the Applicant is not seeking any relief from the setback requirements. Mr. Land stated Ms. Massaro is allowed to build the garage/barn right up to the setback long as long as it does not encroach upon the setback.

Ms. Englehart tried to get a better understanding of the proposed structure's size and asked if it will be the same size as the Applicant's house. Ms. Massaro the structure will be 1 ½ stories; it will have a second floor knee wall.

Ms. Englehart was still of the impression the proposed structure was too big and the outbuilding was too large for this area of Town. She asked about the timeframe when the second floor would be finished and used. Ms. Massaro explained that there are issues she has to first address including connecting the main house to the town sewer system and then retrieving her father's belongings from the self-storage to her property.

Ms. Thatcher inquired about the mention of working on tractors and whether it will add more noise to the neighborhood. Mr. Land indicated that Ms. Massaro said it was a hobby and not a business; she was indicating what was going to go on in the barn. Mr. Land noted that if there was a business to be run from the barn, Ms. Massaro would have to seek other relief which she is not seeking.

With no public comments Mr. Land asked for a motion.

Motion by Ms. Englehart to approve the application with the following conditions:

- A Class I Survey must be submitted prior to applying for a building permit delineating the property lines, wetlands, and flood zones.
- The garage/barn is not to be used for any living space, including and "in-law" apartment without obtaining a Special Use Permit from the Zoning Board of Review.
- The second floor space of the detached barn/garage shall only serve as storage space, a playroom and/or workroom.

Seconded by Mr. Mulhearn.

Mr. Land clarified that if relief is granted that if at some later date the Applicant intends to use the second floor as an in-law apartment permission needs to be sought for other relief; and if it is used and/or built as an in-law it could be found in violation of the zoning requirements and subject to a cease and desist order.

Mr. Clarkin added that the term “in-law apartment” is generic in the sense that it essentially means apartment whether it is one’s children or any family member living there of any kind.

VOTE: 5 – 0.

Zoning Board of Review Business

1. Minutes: Review/action on the minutes of the June 24, 2014 meetings.

Motion by Mr. Mulhearn to approve the June 24, 2014 minutes. Second by Ms. Cullion. Motion supported 5 – 0.

In other business, Mr. Clarkin mentioned that at some point this fall the Board should have a work session to review the Zoning Ordinance, open meetings law, answer questions, what to know in order to serve on the Board, etc.

With conclusion of all business, there was a motion by Ms. Englehart, second by Ms. Cullion to adjourn at 7:30 PM. Motion supported 5-0.

Minutes respectfully submitted by:

Lea Anthony Hitchen,
Assistant Town Planner

For more information, please refer to the recording available in the Planning Department.