

Zoning Board of Appeals
July 15th, 2019
Casco Community Center

Members Present: Geof Hancock, Steve Linne, Terri Linnell,
Trevor Tidd & Pat Troy
Staff Present: Alex Sirois, CEO & Sandy Fredricks, ZBA
Administrative Assistant
Public Present: See Attached.

Trevor calls the meeting of the Zoning Board of Appeals to order
at 7:00 P.M.

Trevor reads the required information into the record and for
those present as follows:

1. Please recognize all statements through the Chair.
2. Please introduce yourself before speaking.
3. This meeting is conducted in two parts, the Evidentiary wherein the applicant is heard and answers questions from the Board and the public may speak. The second part of the meeting is Deliberations wherein the Board discusses their views and then takes the vote.
4. Applicant may stay for the Decision but cannot in any way participate in this part of the meeting unless directly asked a question by the Board.
5. Applicant will receive a written Decision within 7 days of this meeting and has 45 days to appeal to Superior Court.
6. If approved, the applicant will receive a Certificate of Zoning Variance Approval with the Notice of Decision and has 90 days to record it in the Registry of Deeds. If you do not record it within the 90-day limit, the Decision is automatically void and you cannot appeal for one (1) year.
7. A permit secured by vote of the Zoning Board of Appeals under the provisions of this Ordinance shall expire if the work or change involved is not commenced within one (1) year of the date on which the appeal is granted, and if the work or change is not substantially completed within eighteen (18) months of the date on which such appeal is granted.

Trevor states we have Minutes of May 20th, 2019 to be approved.

Pat states there is a typo on Page 4 regarding the vote of Geof's Motion that the granting of the variance will not change the market value or have any detrimental effect on the neighborhood. The vote states "4 yes (Geof/Steve/Trevor/Pat) 1 no and 0 abstain" and states it should be 0 no. The Minutes will be corrected to reflect the proper vote.

Geof moves to approve the Minutes with the one correction.
Pat seconds.

Any discussion? None.

All in favor? 5 yes (Geof/Steve/Terri/Trevor/Pat) - 0 no - 0
abstain.

Trevor states the first item on the Agenda is Stephen Colucci and Zachary Greenfield have filed an application for a Dimensional Variance to allow a 30' reduction to the front setback from 80' to 50' and a 10' reduction to the rear setback from 40' to 30' on property known as Map 26, Lot 7 located at 491 Roosevelt Trail. The variance is requested to permit construction of a building on an existing slab on the lot. This property was granted a variance on September 26th, 2005 which has expired. The seller of the property had applied for a variance on July 8th, 2016 which request was denied.

The Board discusses if they have jurisdiction in this matter.

Steve moves the Board has jurisdiction to consider the Dimensional Variance appeal.

Geof seconds.

Any discussion? None.

All in favor? 5 yes (Geof/Steve/Terri/Trevor/Pat) - 0 no - 0
abstain.

EVIDENTIARY

Zachary Greenfield introduces himself to the Board and states the Variance was granted in 2005, the foundation was put in on the property along with a well and septic, however, the project was not completed as required within 18 months. He continues, the owner then passed away and his brother, as Administrator of the Estate, applied for the variance in 2016 which was denied.

Zach states that he and Stephen would like to build on that foundation. He further states they would be putting up a fence to ensure no one backed out onto Route 302. He goes on to state that constructing a building would be an improvement to the property.

Trevor asks what the use would be; how many cars would be coming in and out. Zach states they don't know what the use would be as they are not going to be occupying the building. They will be the ones to build it. Geof asks what they see the use as. Zach states a professional office or perhaps a hair salon. He continues they do not have any interest in a marijuana use at all. Further, Zach states they have room for some parking but they have to be a few in the front of the building and the rest would have to be located on the left-hand side of the building which is why they do not feel retail would be a good use.

Steve states parking is the problem. Alex reads from the Code "An area of 200 square feet, exclusive of maneuvering space, shall be considered as one off-street parking space." The Board discusses the number of spaces which would be required. Alex again reads from the Code "Business and professional buildings, 1 for every 250 square feet of gross leasable floor area". Geof states a quick calculation would be requirement of six (6) parking spaces. Pat states they would need to include handicapped spaces in their parking. Alex states this project would require Site Plan approval at which time those matters would be addressed by the Planning Board.

Pat asks if the parking spaces can encroach on the buffer. Alex states he will look that up, however, he reiterates, that they will be required to apply for Site Plan approval from the Planning Board and the Planning Board has some leeway in their approvals.

Steve states his uneasiness is their not knowing what the use will be.

Trevor asks if they are going to be close on the amount of impervious coverage. Alex states that the Planning Board can allow up to 75% lot coverage in the Commercial zone. He further states that it is 40% coverage by ordinance, but allows the Planning Board to extend it.

Pat inquires if they are planning to utilize the existing slab, septic and well. Zach states they are.

Pat inquires that if the Board grants the variance and then the applicants don't go through with the purchase, does the variance stay with the property. Alex states it is recorded in the Registry so, yes, it runs with the property not the applicants.

Trevor asks if there are other properties on 302 that are as this close to the road. Alex states there are some this close and perhaps closer.

Geof states his concern is that the lot having a slab on it doesn't do much for the Town; however, a building would be more beneficial to the Town. Pat states that it is best for a piece of land like this to find a use for it and if the Board can help, it is good.

Steve asks what condition the slab is in. Zach states it is in excellent shape, there are no cracks.

Alex states this matter originally came for variance before removing the existing structure, which was probably a residential structure because it was built in the 1900s.

The Board discusses the applicants' standing to apply for a variance; do they have right, title and interest? It is

determined that by submitting the Contract of Sale, which is conditioned upon them getting the variance and Planning Board approval, they have shown right, title and interest in the property.

Trevor closes evidentiary and opens deliberations.

DELIBERATIONS

Trevor states he would like to know how everyone is feeling on this.

Pat states this application seems much more promising than the one two years ago and fits the Boards ability to allow variances. She further states it will suit the area.

Trevor states we want commercial or professional uses coming into Town.

Geof states this is unique circumstances. He continues that he doesn't feel it will adversely affect the character of the neighborhood; the practical difficulties were not caused by the applicant; they are looking to build upon something that had been granted. Geof goes on to state that there is no other practical alternative available to the applicants, he also states they will not adversely affect the natural environment nor is the property located in shoreland. Geof continues that he knows it is not ideal, but considering the lot and the groundwork done, it's just sitting as a concrete slab on 302; a commercial use would be beneficial to the Town.

Pat states that what they intend to put in won't put heavy traffic into the area.

Geof states that all along 302 is a grab bag of residential and commercial uses.

Geof moves to accept the application for the variance of the setbacks for this building site as submitted.

Terri seconds.

Any discussion? None.

All in favor? 4 yes (Geof/Terri/Trevor/Pat) - 0 no - 1 abstain (Steve)

Findings:

After reviewing the application and taking testimony from the applicants the Board finds this application has unique situation where the building footprint has been developed including a slab, septic and well pursuant to a 2005 variance granted which has since expired.

Geof moves to adjourn.

Steve seconds.

Any discussion? None.

All in favor? 5 yes (Geof/Steve/Terri/Trevor/Pat) - 0 no - 0
abstain

DRAFT