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TOWN OF NORTH BRANFORD

TOWN HALL, 909 FOXON ROAD, NORTH BRANFORD, CONNECTICUT 06471
Building Department (203) 484-6008 Engineering Department (203) 484-6009 Planning & Zoning (203) 484-6010
Department Fax (203) 484-6018

MINUTES NORTH BRANFORD ZONG BOARD OF APPEALS March 20, 2023

1. CALL TO ORDER

Chairman Kenning called the meeting to order at 7:18 p.m.

2. ROLL CALL

John Doody – Regular Member
Vince Vollero – Alternate Regular Member
Melinda Fonda – Regular Member
Tom Katon – Vice Chairman
Steve Kenning - Chairman

Vice Chairman Katon read the legal notice into the record.

Pledge of Allegiance

3. MINUTES - Meeting of February 27, 2023

Member Vollero moved, seconded by Member Doody to approve the minutes of February 23, 2023. The motion was carried unanimously.

Member Fonda moved, second by Member Doody to amend the agenda to hear 35 Mill Road first so that 1405 Middletown Avenue be moved to Other business. The motion was carried unanimously.

4. PUBLIC HEARING AND POSSIBLE ACTION ON PUBLIC HEARING ITEMS:

B. Appl. #2023-3, 35 Mill Road (Map 29, Lot4-1) R-40 zone, requesting a variance of Section 24, Schedule B, Line 7.2.1, to reduce the rear property line setback to 20 feet where 40 feet is required, and line 7.3, to reduce the side yard setback to 20 feet where 40 feet is required, to construct a detached barn. **Owner/Applicant: Joseph Melillo & Cathy Carusello Melillo.**

PUBLIC HEARING

Chairman Kenning stated that the applicant has complied with the notification requirements.

Chairman Kenning reviewed the application with the Board stating the hardship is that they were told 20' on all sides and now all electrical, irrigation and trees are planted and the driveway was cut in by the setbacks that were given.

Application Joe Melillo stated that we want to build a detached garage, where we had Tom help us lay it out. From where I thought I was supposed to build it and what Tom told us, is now different. If I go by the standards of what the town wants, I need to move the driveway.

Applicant Cathy Melillo stated that she also has a letter from one of the neighbors.

Chairman Kenning read into the record a letter from David and Norma Hart of 27 Mill Road who acknowledges their right to appeal and to show that they are in favor of the structure within the 100-foot standard of their mutual property line.

Chairman Kenning asked how far along is this structure?

Applicant Melillo stated that they have not started building yet.

Chairman Kenning closed the public hearing at 7:31 p.m.

POSSIBLE ACTION

Member Vollero stated that does not see a problem with this and is not encroaching upon anyone.

Chairman Kenning stated that I feel the same way. One side of them is a corn field, and one is a hayfield. No neighbors are in opposition.

Member Fonda moved, seconded by Vice Chairman Katon to approve application #2023-3, 35 Mill Road (Map 29, Lot4-1) R-40 zone, requesting a variance of Section 24, Schedule B, Line 7.2.1, to reduce the rear property line setback to 20 feet where 40 feet is required, and line 7.3, to reduce the side yard setback to 20 feet where 40 feet is required, to construct a detached barn. The motion was carried unanimously.

Chairman Kenning moved, seconded my Vice Chairman Katon to untable the application of 1405 Middletown Avenue. The motion was carried unanimously.

5. OTHER BUSINESS

- A. Appl. #2023-1, 1405 Middletown Avenue** (Map 62B, Lot 32) B-2 zone, requesting a variance of Section 54.4.1 to reduce the separation distance from 400 feet to 300 feet from churches, schools and parks, for the sale of alcoholic beverages in the grocery market. **Owner: 1405 Middletown Ave LLC/Applicant: Michael DiGioia** (Tabled 2-27-23)

Chairman Kenning read into the record a letter dated 3/13/23 from the Town Planner stating the Planning and Zoning Commission did not issue a report in regards to the variance request for Northford Store.

Michael DiGioia stated that we are here for a continuance of this application, in short, is the survivability of the landmark in the village of Northford to provide a

convenience to the residents of Northford. The previous owner had let that license lapse, in which we would argue that despite the license has lapsed, it should still be grandfathered in according to the statute.

Chairman Kenning stated that we didn't have the use variance from Planning and Zoning which is why this application was tabled. It was brought up the separation of churches which is 500 feet but with the state highway it is reduced to 400 feet. And the actual distance is less than 400 feet.

Town Planner Perkins stated that the building setback is met.

Chairman Kenning stated that so what we are talking about is the beer sales in the store, but before that happens, we have to agree to that use.

Town Planner Perkins reviewed public act 21-19 that states that you may not force people to give up nonconformities just by lack of use or for a certain amount of time. So regulation 54.1 is now illegal and we cannot disallow the beer sales just because the license expired more than one year ago. They do have evidence that they sold beer there previously. I think it is a pre-existing, non-conforming use. They just stopped doing it, they never notified us that they were abandoning the use.

Member Vollero stated the former owner is not there, they didn't specifically say that they were abandoning the use.

Member Fonda stated that because it didn't go on land records, it just lies dormant.

Town Planner Perkins stated that selling beer at a grocery store is not an anomaly.

Vice Chairman Katon stated selling beer near a church is an anomaly.

Member Fonda stated that we never took action to revoke the use.

Member Vollero stated assuming we were to act on this, it would then show that it is a non-conforming use.

Chairman Kenning asked what is the actually distance from corner to corner?

Applicant DiGioia stated that it is about 303 feet.

Chairman Kenning stated that, that is where I am confused, the application talks about distance, not the use.

POSSIBLE ACTION

Member Vollero stated that he doesn't see much of an issue with it. I think I remember buying beer there. I think it makes sense to have beer at your local grocery store. It would be good for the community. I do not feel being within 300 feet of a church is a concern.

Chairman Kenning stated that is all great points.

Member Fonda stated that I agree that it is a convenience for the shoppers. The

Town never took action to revoke or rescind the previous permit. All we are doing is reinstating something that is pre-existing. They will be taking it home so I do not see a problem.

Member Fonda moved, seconded by Vollero take approve **Appl. #2023-1, 1405 Middletown Avenue** (Map 62B, Lot 32) B-2 zone, requesting a variance of Section 54.4.1 to reduce the separation distance from 400 feet to 300 feet from churches, schools and parks, for the sale of alcoholic beverages in the grocery market. The motion was carried unanimously.

6. ADJOURNMENT

Member Vollero moved, seconded Member Doody to adjourn the meeting at 8:02 p.m. The motion was carried unanimously.

Respectfully Submitted;

Respectfully Submitted;

Denise Prather
Recording Secretary

Steve Kenning
Chairman