RECEIVED
TOWN CLERK
15 OCT 28 PM 3:08

DRAFT Minutes of October 21, 2015 ZBA Meeting

Attendees: Jim Ferguson, Carl Slusarczyk, Donald Schubert, Bruce Skivington, Marisa Roy and Jason Cormier

Also present: Andy Marchese, Zoning Enforcement Officer/Staff Liaison, and Debra Sterling, Recording Secretary

The meeting was called to order at 6:30 p.m. by Jim Ferguson, Chairman, and he read the opening statement. All Members introduced themselves.

Carl Slusarczyk, Board Secretary, read the agenda:

1. Application # ZBA-2015-005 - NAPA c/o STEPHEN SHEA, Applicant, seeking a Variance of the Vernon Zoning Regulations **Section 4.9.1.4 Minimum Rear Yard Setback: 50 feet**, to allow a Rear Yard Setback of 24 feet at the Southern Rear Boundary Line, for the installation of a 20' x 22' Storage Shed, on the property located at 59 Windsor Avenue, in the Commercial Zone.

2. Application # ZBA-2015-006 – MATT FISCHER A-1 DOG, Applicant, seeking a Variance of the Vernon Zoning Regulations **Section 4.9.4.13 Commercial kennel located no closer than 300 feet from a residence or residential district**, to allow a separating distance of 150 feet from the Industrial Building to the Eastern Rear Boundary Line, abutting a Residential Zoning District, for a Commercial Kennel and Dog Training business, on the property located at 77 Industrial Park Road, in the Industrial Zone.

Jim Ferguson asked the first Applicant to come forward. Applicant, Stephen Shea, was present and spoke on behalf of NAPA. Mr. Shea explained they would like to put a shed on the property for storage and needed a variance due to the layout of the lot.

Jim Ferguson asked Andy Marchese to explain the details of the application. Mr. Marchese described the layout of the lot and stated there were two storage containers and one utility truck body on site (all pre-existing) for storage; all Members referred to the Map submitted with the application. Mr. Marchese stated that NAPA's intentions are to remove two of the three existing containers and put the shed in place behind the building leaving only two storage facilities on site.

Marisa Roy questioned the 10' between the building and proposed shed location. Jim Ferguson and Carl Slusarczyk questioned the temporary storage containers on site and their locations. Mr. Shea stated the remaining container would be moved into proper alignment, within the property lines, after the others are removed.

Andy Marchese explained the term "temporary storage containers"; if the structure is under 600 square feet, it is not considered a permanent structure; if the structure is not permanently secured to the ground, no as-built or location survey is needed.

Jim Ferguson produced pictures he took of the site with his telephone, he asked the Applicant to come forward and show him which containers would be removed. Jim Ferguson questioned the location of the dumpsters. Applicant stated the dumpsters would be moved.

Carl Slusarczyk questioned the 40' storage container which appeared to be over the property line. The Board Members discussed with Andy Marchese property line issues which may or may not arise.

Andy Marchese explained that the existing containers were irrelevant; the containers have been on the lot for more than twenty years. Whether they had permission or permits to install them is not the issue as they are considered pre-existing. The reason for the Variance request is the new storage building. NAPA would like a more secure storage building and would like to straighten out the existing storage areas.

Carl Slusarczyk questioned if all storage containers were being used; the Applicant stated they were.

Jim Ferguson stated he would like a better print of the finished site. Andy Marchese responded that an as-built was not a requirement, and if anything was over the property line, it is a civil dispute between property owners.

Carl Slusarczyk stated that he didn't understand and had further questions about the existing 40' storage container as it appeared to be over the property line. Andy Marchese repeated that we were not there to discuss the existing 40' container, there should only be discussion of the Variance for the new storage shed.

Jim Ferguson agreed that all other containers are not a part of the application.

Jim Ferguson asked if there was anyone in the audience in favor of, or opposed to, the application. No one came forward.

Jim Ferguson closed the hearing and discussion was held between the Members.

Bruce Skivington made a Motion to approve the Variance of the Vernon Zoning Regulations Section 4.9.1.4 Minimum Rear Yard Setback: 50 feet, to allow a Rear Yard Setback of 24 feet at the Southern Rear Boundary Line, for the installation of a 20' x 22' Storage Shed, on the property located at 59 Windsor Avenue, in the Commercial Zone, with the hardship of having a non-conforming lot. Don Schubert seconded the Motion. All Members were in favor for a unanimous vote. Variance is granted.

Next item on the agenda, Application of Matt Fischer.

Jim Ferguson invited Mr. Fischer to come forward.

Jim Ferguson asked Andy Marchese to explain the details of the application. Mr. Marchese stated Matt Fischer was the owner of A-1 Dog, and he was looking to move into a currently leased area at 77 Industrial Park Road. The space currently has a non-profit dog rescue facility that has been operating

for approximately 1 year. The business (known as Little Feet, Big Heart Rescue) was previously approved by the Planning & Zoning Commission and the business was not required to have a separating distance due to having a participating vet in place and not being open to the public, therefore no Variance was required. There were conditions put into place by the Planning and Zoning Commission that there could be no boarding, training or grooming of dogs or cats for profit or outdoor runs of kennels under the special permit.

Mr. Marchese further stated that Mr. Fischer would have dogs at the facility for training and kenneling purposes with no vet care; Mr. Fischer would have to go through the Planning and Zoning Commission for these uses if the Variance should be granted.

Mr. Marchese indicated he has received telephone calls regarding the cleanliness of the site and complaints from neighbors.

Carl Slusarczyk questioned the reasons a Variance was needed. Andy Marchese explained the separation distance required from this property to a residential zoning district, and the fact that there would no longer be a participating vet on site.

Jim Ferguson asked if there was anyone in the audience in favor of, or opposed to, the application. There were several neighbors who wished to come forward and speak.

Susan Bonan and Robert Bonan came forward and introduced themselves. This property abuts theirs. All night long there is noise, there are deliveries being made causing the dogs to bark which spooks their horses. There are large vehicles in and out, there are friends visiting even though they are not supposed to be open to the public, and dogs get loose. They are concerned that the new business would cause the same problems.

Carmen Martocchio came forward and introduced himself. This property abuts his property as well. His dog runs through his yard as he has an electric fence in place. He had inquiries as to if there would be outside training, outside kennels? He felt it would interfere with the enjoyment of his property.

Andy Marchese responded stating this is the first step for Mr. Fischer; his business plans would have to be brought before the Planning and Zoning Commission which is where any conditions and restrictions would be noted. This request for a Variance was for distance only.

Further questions arose between the Board Members, the Applicant and the audience such as what kind of dogs will be trained on site, the hours of operation, days of the week, indoor/outdoor training provided?

Andy Marchese stated the type of dogs would be irrelevant, the next step for the neighbors/concerned residents, would be to appear at the Planning and Zoning Commission meeting, where all of their questions would be heard and addressed. Some of the neighbors stated they would have appeared at the meeting for the first business owner, Little Feet, Big Heart Rescue, but claim they did not receive notice of the meeting until the day of and therefore could not make it.

Carl Slusarczyk questioned the distance change originally shown as 50' now showing as 150'. Andy Marchese responded that there was an error in the distance written on the application and after obtaining

a Map through our GIS system, the measurement was just over 150' from 77 Industrial Park Road to the abutting residential property line.

Bruce Skivington questioned why the previous business did not get a Variance. Andy Marchese read aloud Zoning Regulation section 4.9.4.13; the existing tenant did not need one because vet care was provided on site; the animals needed vet care prior to adoption and the facility was used more as a holding facility.

Don Schubert and Jim Ferguson discussed vet requirements on site. Marisa Roy stated the biggest concern would be the feet/distance from the building to the residential zone.

Matt Fischer responded that he was not looking to cause any problems with the neighbors; he would only be there to provide dog training. He currently goes to people's homes and provides on-site training but it will be getting cold out soon and he would like to be in an indoor training facility. He would train all breeds and would not have dogs outside; only indoor training; possibly indoor kenneling; no outside kenneling. He is only looking for a 6 month lease.

Carl Slusarczyk questioned if he went beyond 6 months, would there be any outside training? Mr. Fischer indicated possible outdoor leash walking, that was it.

Carl Slusarczyk and Bruce Skivington directed questions to Andy Marchese concerning the Variance; if the Variance stays with the property, could it be for indoor use only? If the Variance is granted, can we apply a stipulation or condition? Andy Marchese responded that the Planning and Zoning Commission would handle that.

Board Members discussed separating distance, property lines, once business was established can it be sold, would it have the same conditions.

Matt Fischer questioned the Board about the 300' separating distance and where that came from. Andy Marchese explained the zoning requirements and stated that the Planning and Zoning Commission makes the regulations.

Jim Ferguson stated he was uncomfortable with the situation, too much unknown; would have liked to see drawings/prints and written documentation with more solid information to convince him that this would not create a neighborhood nuisance. Mr. Fischer said he was not aware he had to provide a drawing and described he would have 2000 square feet of open space for indoor training.

Board Members discussed the variables, the Variance staying with the property once recorded, what the next tenant would have to abide by, discussed possible public nuisance, unconvinced about separating distance, and no hardship presented.

Jim Ferguson closed the hearing and discussion was held between the Members.

Carl Slusarczyk made a Motion to deny the Variance of the Vernon Zoning Regulations Section 4.9.4.13 Commercial kennel located no closer than 300 feet from a residence or residential district, to allow a separating distance of 150 feet from the Industrial Building to the Eastern Rear Boundary Line, abutting a Residential Zoning District, for a Commercial Kennel and Dog Training business, on the property located at 77 Industrial Park Road, in the Industrial Zone, as no hardship was presented. Bruce Skivington seconded the Motion. All Members were in favor for a unanimous vote. Variance is denied.

Next item on the agenda, review Draft Minutes of the September 16, 2015 meeting. Bruce Skivington made a Motion to approve the September minutes. Marisa Roy seconded the Motion. All Members were in favor for a unanimous vote.

Next item on the agenda, other business. Jim Ferguson passed out a packet to all Board Members, Andy Marchese and Debra Sterling, containing information related to the Zoning Board of Appeals which he obtained from the Land Use Academy (UConn). He stated that he and other members of the Board received little formal training when they were new and received no documentation; he thought it was important to provide these handouts. Also attached were copies of Connecticut General Statutes Sec. 8-6 and 8-7, and a copy of the ZBA Meeting Schedule filed with the Town Clerk for the period January 1, 2015 through January 31, 2016.

Marisa Roy stated she had to do her own research as a new member; she went to the UConn website and found good information and stated she learned a lot from the other members.

Don Schubert advised new member, Jason Cormier, to go and see the properties referenced on the applications prior to each meeting; he stated they were not allowed to walk on the properties but it was ok to drive by.

Board Members discussed the current regulations and many members stated they had outdated Zoning Regulations. Andy Marchese stated he would make a copy for each member and we would contact them once they were ready to be picked up. All members agreed.

Carl Slusarczyk made a Motion to adjourn the meeting. Bruce Skivington seconded the Motion. All Members were in favor for a unanimous vote. The meeting was adjourned at 7:50 p.m.

Submitted by: Debra Sterling

Debra Sterling