



TOWN OF THOMPSON

Zoning Board of Appeals

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Minutes: Zoning Board of Appeals Monday, March 8, 2021 Zoom Meeting 7:00 PM

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Topic: Zoning Board of Appeals

Time: Mar 8, 2021 07:00 PM Eastern Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/89463812803?pwd=djllbCtQTTFMc0FwNzBvM3d1SHRiQT09>

Meeting ID: 894 6381 2803

Passcode: 438926

Topic: Zoning Board of Appeals

Start Time : Mar 8, 2021 06:36 PM

Meeting Recording:

https://us02web.zoom.us/rec/share/714CiJBHc7PTNa1580kDMR67AP2VQAv7zPm51SPanQusLWmLnXyQh8WZ6CLawmWU.FcSDvF_r5x87RB5w

Access Passcode: 4v9FH&0w

1. Call to order

Chairman Kevin Beno called the meeting to order at 7:00 PM via Zoom.

2. Roll call and seating of alternates

Chairman Kevin Beno, Jason St. Onge, Kirby Cunha, Ross Dimock, Leslie Lavallee, Ken Weiss recused himself from voting in this meeting.

Seating of Alternates: Leslie Lavallee and Ross Dimock

Absent: Geoff Bolte

Staff Present: Cynthia Dunne, Zoning Enforcement Officer; Amy St. Onge, First Selectman, Gloria Harvey, Recording Secretary

3. Public Hearing

ZBA 21-01 – Michael Barch, owner of 622 Fabyan Road, Map 17, Block 81, Lot 42 C, Zone RRAD, for a variance from the Amended Zoning Regulation, Article 42, Development Standards, Section 3, Footnote #2, Accessory Building Setback.

4. Discuss Public Hearing and Possible Action:

Applicant is requesting a 40' setback Variance for an accessory structure which will place the accessory structure in front of the primary residential structure which is a violation of the Amended Zoning Regulations, Article 4A, Section 3, General Development Standards, Footnote 2.

At the PZC meeting on February 22, 2021 the PZC agreed with the ZEO's interpretation of Article 4A, Section 3, General Development Standards, Footnote 2, therefore the ZEO suggested the applicant apply for a Variance on this issue with the ZBA. The applicant applied for a Variance at the February 8, 2021 ZBA meeting and the application #21-01 was accepted and a Public Hearing was scheduled for March 8, 2021.

The following information was written in the ZEO's Memo to the PZC for their February 22, 2021 meeting:

Article 4A, Section 3 General Development Standards

Use	Frontage	Front	Side	Rear
Residential	150'	40'	20'	20'
Accessory Structures to the Primary Building (greater than 200 sq. ft. floor area)	n/a	2	20'	20'

² Front setback for an accessory structure shall equal or exceed that of the primary structure.

The ZEO was asked to sign a Zoning Permit for a Residential dwelling with a detached garage on 622 Fabyan Road. Detached garage is placed 40' from the front setback and primary residential structure is beyond the 40-foot setback. The accessory dwelling is in front of the primary structure. The ZEO did not sign the Zoning permit due to her interpretation of the above General Development Standards, Footnote 2.

"Definition - Setback—An open space on the same lot with a building having those minimum distances prescribed by these regulations."

"minimum distances prescribed by these regulations" for the Accessory Building is prescribed by the 40-foot residential structure setback, but with the Accessory Structure regulated by footnote #2 which she interpreted as the Accessory Structure setback has to equal or exceed that of the Primary Structure, regardless of the designers' front setback placement for the Primary Structure.

Dennis Blanchette of J&D Civil Engineers, LLC, letter explains why he disagreed with the ZEO's decision, therefore due to this impasse the issue is brought to the PZC for discussion of the ZEO's interpretation and a decision for the applicant moving forward.

Minutes from the PZC meeting held on February 22, 2021 explain the issue and the ZEO's interpretation of the Amended Zoning Regulations along with Dennis Blanchette's comments who represented Mr. Barch.

"Article 4A, Section 3 General Development Standards

² Front setback for an accessory structure shall equal or exceed that of the primary structure.

ZEO was asked to sign a Zoning Permit for a Residential dwelling with a detached garage on 622 Fabyan Road. Detached garage is placed 40' from the front setback and primary residential structure is beyond the 40-foot setback. The accessory structure is in front of the primary structure.

ZEO did not sign the Zoning permit due her interpretation of the above General Development Standards, Footnote 2.

"Definition - Setback—An open space on the same lot with a building having those minimum distances prescribed by these regulations."

"minimum distances prescribed by these regulations" for the Accessory Building is prescribed by the 40-foot residential structure setback, but with the Accessory Structure regulated by footnote #2 which I interpret as the Accessory Structure setback has to equal or exceed that of the Primary Structure, regardless of the designers front setback placement for the Primary Structure.

Dennis Blanchette of J&D Civil Engineers, LLC, represented his clients Mike and Karen Barch and in his letter of February 3, 2021 explains why he disagrees with the decision of the ZEO. He commented that the regulations say that a detached garage cannot be constructed in the front of the house even though it is within the setback line. He believes this is incorrect for the following reasons:

- Setback is defined in the regulations as: "An open space on the same lot with a building having those minimum distances prescribed by these regulations." He stated the garage is clearly within the open space defined by the prescribed setback lines and therefore meets the regulations.
- He also contends that it is not consistent with typical usage because the regulations do not define "front yard setback."
- The ZEO's interpretation requires all accessory buildings be on the side or behind the main structure.
- He believes aesthetically unappealing structures should be kept away from street view, however it is having unintended consequences in this case.

Due to the impasse in interpretation of the Footnote 2, Article 4A, Section 3 of the regulations, this issue is brought to the Commission for discussion of interpretation and a decision for the applicant moving forward.

Randy Blackmer, Brian Santos and Joseph Parodi-Brown agreed with the ZEO's interpretation of the regulations and recommended **it was a good cause for a ZBA waiver. Alvan Hill also**

agreed with the ZEO's interpretation of Footnote 2 and believed by going to the ZBA there would be a legal hardship because the house cannot be moved forward."

Applicants Michael and Karen Basch, are asking for a 40' setback Variance to put an accessory structure in front of their primary structure. Jason St. Onge questioned what was the effective date of the new footnote referred to by the ZEO. The ZEO stated it is in the new regulations.

Kevin Beno commented there is a hardship in this request because the house cannot physically be moved and the accessory structure cannot be put behind the house. Ken Weiss stated he had no issue with placement of the garage in front of the house because the septic system and leach field are behind the house and the applicant would have to drive over the septic system and leach field to access the accessory structure, therefore he said he saw no issue with where the applicants want to put the accessory structure. Kirby Cunha stated he visited the property and there is no view of the property from street level, therefore he has no issue with this request for a Variance.

Kevin Beno opened up the discussion to anyone from the public who would like to speak for or against Application #21-01 requesting a 40' Variance. Tom Houle, an abutter, residing at 49 Parker Road, stated that he was in favor of the request for a Variance. The ZEO commented that she spoke with two abutters about Application #21-01 who also had no problem with this request for a Variance.

Leslie Lavallee moved and Ross Dimock seconded the motion to close the Public Hearing. The motion carried unanimously.

The ZBA Board members discussed Application #21-01. Kevin Beno stated that he felt the Zoning Regulations need to be clarified. He also stated that he has no problem with granting a Variance for Application #21-01. Ross Dimock commented that the way the Zoning Regulation reads now in reference to this placement request, it limits people on where to put something on their property. Kirby Cunha stated he has no issue with the Variance request for Application #21-01.

Kevin Beno moved and Jason St. Onge seconded the motion to grant a Variance on Application #21-01 based on the hardship the applicants cannot place the structure anywhere else on the property because of the septic, well and other restrictions. All members agreed with this motion. A "Yes" vote will approve the request for a Variance on Application #21-01. A "No" vote will not approve.

Jason St. Onge-Yes

Kirby Cunha-Yes

Leslie Lavallee-Yes

Ross Dimock-Yes

Kevin Beno-Yes

Variance is approved.

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5. Approval of Regular ZBA Meeting Minutes, February 8, 2021

Kirby Cunha moved and Ross Dimock seconded the motion to approve the Minutes of February 8, 2021. The motion carried unanimously.

6. Correspondence:

- a. PZC Minutes February 22, 2021
- b. Town of Thompson ZBA Budget Report February 2021-went through as presented.
- c. ZEO Memo
- d. Town of Webster Zoning Board of Appeals Decision
- e. Town of Douglas Zoning Board of Appeals Notice of Public Hearing
- f. Town of Douglas Zoning Board of Appeals Notice of Public Hearing
- g. Connecticut Federation of Planning & Zoning Annual Conference to be Cancelled/Aware Nomination Forms Enclosed

7. APPLICATIONS: APPEALS AND VARIANCES-NONE

8. APPLICATIONS RECEIVED AFTER AGENDA POSTED-NONE

9. Old Business:

- a. 64 Linehouse Road – Discussion of use on the property
Attorney Cotnoir meet with the PZC at their meeting on 2/22/2021 and the following are the meeting minutes of the discussion.

a. Bates Auto – Linehouse Road

The ZEO had a discussion on the use of the property with Attorney Cotnoir and discussed the following:

1. Attorney Cotnoir is now officially the administrator of the estate of Fred Bates.
2. He represents the estate only and has no financial commitment to the estate
3. He understands the Town is looking or the property to be cleaned up.
4. He has a few inquiries into what can be done on the property.
 - Clean up the current debris
 - Re-open the Business as a salvage operation.

Attorney Cotnoir understands that the estate has delinquent taxes to the Town of Thompson. Whoever takes on this project understands that all debts need to be cleared. Before investing in settling the financial and clean up issues the interested parties want to know if they can reopen the Business.

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Investigation that needs to be done follows:

1. According to the 2012 or Amended 2020 regulations can this business be allowed to be classified as a Non-Conforming Business and allowed to continue
2. Investigate any responsibilities the estate has to the State
3. Investigate if the related State Agencies will let this business continue
4. The Business will need a State Motor Vehicle Salvage License

Any input from the PZC members is welcomed. This issue was discussed briefly at the ZBA meeting on Feb.8, 2021

Joseph Paodi-Brown stated the Planning and Zoning Commission will need guidance from Attorney Roberts on the future of Bates Auto, therefore, the Commissioners are not going to be able to come to any solution tonight.

Attorney Cotnoir stated this has been an ongoing operation since 1930. The principal owner has passed away and ownership of the permit is Bates Auto LLC, which has continued ownership. There are some violations from the Department of Motor Vehicles, DEP and the Town of Thompson which need to be addressed as well as a financial tax obligation to the Town. The only asset is the permit and if the permit is gone there are no assets left to clean up the property. If the permit is viable then there are a couple of entities who are interested in purchasing it with the understanding that there is a significant tax liability as well as some items that would have to be cleared up. Therefore, the question is:

- Is a new permit required?
or
- Is the current permit viable because it is in the name of the same company, Bates Auto LLC?

Attorney Cotnoir said If the current permit is viable, there is a good chance of getting assets to get this site cleaned up. If the current permit is not viable, then there are no assets to clean up the property, satisfy the tax liability and address the violations.

Joseph Parodi-Brown commented that if a new permit is found to be required, the Planning and Zoning Commission will not be able to issue a new permit based on our regulations, or if the current permit is still viable then the Commission will not be able to answer that question tonight. He further stated that a legal opinion from Attorney Roberts is necessary. The ZEO and Attorney Cotnoir will work together and write up a request to send to Attorney Roberts to get his legal opinion on how to proceed. The Commissioners and Attorney Cotnoir agreed to this suggestion." A request for a legal opinion has not been forward to Attorney Roberts As soon as it is completed, the ZEO will email the document to the members.

ZEO attended the Connecticut Federation Land Use Seminar this past weekend because she wanted to learn and listen to what they had to say about non-conforming. She will now take a look at the Town of Thompson's non-conforming, the seminar's interpretation, as well as the State Statutes and compare all three and forward her notes to Attorney Roberts for his opinion on whether the parties interested in Bates Auto can apply to keep

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this business open. She will keep the ZBA updated. This seminar also gave the ZEO credit for her certification as a Zoning Enforcement Officer.

10. New Business:

- a. Earl Rosebrooks ZBA Board Resignation has been received. The Board of Selectmen accepted it with regrets. Once this resignation is received by the Town Clerk, she will send it to the ZEO who will forward it to the ZBA members.

11. Next Meeting

Monday, April 12, 2021 7:00PM via Zoom

12. Adjournment

Jason St. Onge moved and Kirby Cunha seconded the motion to adjourn. The motion carried unanimously.

Respectfully Submitted,

Gloria Harvey, Recording Secretary