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TOWN OF NEWTOWN

Zoning Board of Appeals

Minutes

December 7, 2011

7:30 P.M.

The meeting of the Zoning Board of Appeals was called to order by Chairman Charles E. Annett. Other members present were: Alan Clavette, Vice Chairman, Barbara O'Connor, Secretary, Timothy Cronin, and Ross Carley. Alternates present were: Herbert Rosenthal, Roy Meadows, and Edward Bryan.

Mr. Annett asked the secretary to call the roll. After the roll, he asked her to read the legal notice for the hearing, Docket 11-11, the application of Russo Farms LLC for a change in the stipulations granted in Docket 02-20 which was a variance of Section 8.05.500 of the Zoning Regulations for property located at 160 Sugar Street in the Town of Newtown in a R-2 Zone.

Mr. Annett then asked the representative of Russo Farms to come forward and state the name and address for the record.

Mr. Angelo Russo said he was presenting the application. He explained he needed all these new commercial vehicles for his business.

Mr. Annett said do you understand that this is a pre-existing non-conforming property in a residential zone. Mr. Russo said yes. Mr. Annett asked the secretary to read the prior Docket 02-20 into the record.

Mr. Russo then explained that his business had changed in his letter and he need 6 hay trailers, 2 corn/sawdust dumps, 2 flat beds, 3 trucks, and 1 hay lift.

Mr. Cronin then referred to the pictures from Docket 02-20 which was his original variance.

Mr. Annett saw a picture of a towing truck and asked Mr. Russo was he in that business as well. Mr. Russo said no that his neighbor across the street parked the truck there. He explained that he was only there about eight hours a week. Mr. Annett said you still own the property.

The Board then asked him about the store on the property. He said that Linda Manna runs the craft store. He was asked if the store was part of his business, and was she his employee. Mr. Russo said no. She was on commission. Mr. Meadows asked if he wanted to buy hay for his horse, would he go into the store. Mr. Russo said no. She would give him his cell number to call. Mr. Russo said then he would refer him to Agway or a store like that. Mr. Russo explained that he sells wholesale to that type of store. He said that his farms are in Falls Village, Connecticut and Binghamton, New York.

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He further explained that he lives in Southbury and he only goes there to pick up a truck once in a while.

Barbara O'Connor said you are using this for storage of trucks which are commercial vehicles.

Mr. Russo then was asked if he was in the wholesale business. He said yes.

Mr. Annett then said that there was a retail business and a wholesale business on this site.

Mr. Annett then asked if anyone was in favor of this application. No one spoke in favor. Mr. Annett asked if anyone was in opposition.

Mr. Douglas Collins who lives at 167 Sugar Street, said he was in opposition. He said that for years that this has operated as a non-conforming retail business and he says that it never had truck storage on it. He says that now each year it gets progressively worse. He says he goes by the property three or four times a day. Mr. Collins then said that Mr. Russo had bought a non-conforming business that has turned into a truck stop in addition to the retail store. He then showed the Board pictures and marked the dates as well as aerial views. He then explained that after they bought the business, it has more and more vehicles stored on it and it has never been in conformity to the variance of Docket 02-20. He further explained that he was almost hit by a truck leaving the site.

At the conclusion of Mr. Collins testimony, Mr. Annett closed the hearing.

At the conclusion of the public hearings that night, the Board discussed the applications that had been presented.

The first one to be discussed was Docket 11-11.

The Board then discussed the application. They felt that this was definitely an increase in the non-conformity. They said that not only was the retail store still in operation but now it appears that he changed his business to wholesale, only selling some corn from the store. He no longer sells small quantities of hay. He also has made the property a truck stop with the parking of all these commercial vehicles.

The Board then referred to Section 9.03.210 which states that any non-conforming use shall not be expanded above the level at which such activity existed on the date on which it became non-conforming by virtue of the regulations. The Board said that there was never any wholesale business on that site nor was there a truck stop type of activity such as the storage of so many commercial vehicles.

The Board then reviewed Docket 02-20 and the stipulations that Mr. Russo requested to change.

Mr. Alan Clavette then made a motion to deny the change to the stipulations as requested for the following reasons:

1. This is a non-conforming property in a residential zone. The applicant is requesting a substantial increase in the number of commercial vehicles parked on the site, and this is an expansion of the non-conformity which is a violation of Section 9.03.210 of the Zoning Regulations.
2. There was no hardship demonstrated.
3. The expansion would not be in harmony with the residential neighborhood nor with the residential zone where the property is located.

Mr. Cronin **seconded** the motion.

The Board voted as follows:

Charles E. Annett....."Yes"
 Barbara O'Connor....."Yes"
 Ross Carley....."Yes"
 Rimothy Cronin....."Yes"
 Alan Clavette....."Yes"

Mr. Annett said that the next application on the agenda was Docket 11-12.

Mr. Annett asked Ms. O'Connor to read the legal notice.

Mr. Annett then asked the applicant to come forward and give his name and address.

Mr. Randall Grabowski presented his application. He stated that he needed this structure for storage of cars and tools. He then said that he placed it at the most logical place. He explained that one side there was a slope and on the other the septic area.

Mr. Annett asked if anyone wished to speak in favor or in opposition.

No one spoke in favor or in opposition.

After the hearing, the Board discussed the application. Mr. Annett and Mr. Cronin didn't think that hardship was demonstrated.. Mr. Clavette said he thought there was → made a motion to approve the variance as requested as hardship had been demonstrated due to the topography. Ms. O'Connor seconded the motion. The Board voted as follows:

To Approve:

Alan Clavette.....Yes"	Mr. Annett....."No"
Barbara O'Connor....."Yes"	Mr. Cronin....."No."
Ross Carley....."Yes"	

Since four yes votes are necessary for a variance to be approved, the variance is denied.

The next item on the agenda Mr. Annett said was Docket 11-10, the application of David and Wendy Clarke that was held in October.

Mr. Annett said that he felt that there was a safety concern. He said that he had talked to the Town Engineer, and that the circular driveway had been approved by them. Mr. Annett said that he felt that this would cause problem backing out on the road.

Ms. O'Connor said that she didn't feel it was necessary to have another parking area and felt that hardship was not demonstrated. She then made a motion to deny the application as requested as there was a safety concern and that hardship had not been demonstrated. Mr. Cronin seconded the motion. The Board voted as follows:

Charles Annett....."Yes"	Timothy Cronin....."Yes"
Barbara O'Connor....."Yes"	Roy Meadows,,,,,,,,,,,,,"Yes"
Ross Carley....."Yes"	

Meeting was adjourned at 9:35.