



TOWN OF NEWTOWN
ZONING BOARD OF APPEALS

MINUTES

March 4, 2020 at 7:30 p.m.
Meeting Room 3, Municipal Center
3 Primrose Street, Newtown, CT 06470

Present: Alan Clavette, Barbara O'Connor, Ross Carley, Jane Sharpe, Christina Paradis, and Joseph Bojnowski

Absent: Prerna Rao, Rachel Rowan

Also Present: Christine O'Neill, Clerk

Mr. Clavette called the meeting to order at 7:30 p.m.

Discussion and Action Items

Application 20-01 by Jason Pershinsky, for a property located at 13 Parmalee Hill Road, Newtown, CT, for a Variance of Chart VII-I of the Zoning Regulations of the Town of Newtown, so as to permit a setback Variance for a shed and proposed car port, as shown on a set of plans entitled "Zoning Location Survey, Prepared for Jason C. Pershinsky & Virginia Powell, 13 Parmalee Hill Road, Newtown, Connecticut" dated 1/12/20 and supporting documents submitted to the Land Use Agency 2/7/20.

Mr. Carley announced that he lives within 500 feet from the property, and therefore received an abutter notice. Although he does not know the property or the applicants, he has decided to partake in the discussion but recuse himself from the vote.

Jason Pershinsky and Virginia Pershinsky introduced themselves as the applicants who live at 13 Parmalee Hill Road. Mr. Pershinsky explained that they placed a shed on the northern edge of their property to house their garbage cans before they were aware of setbacks. They have a path to the current location of the shed and also use it to contain their snow-blower. Mrs. Pershinsky added that they have a cottage on the property as well which is a legal dwelling that they lease to renters.

Mr. Clavette asked why the Pershinskys needed a setback Variance. Mrs. Pershinsky pointed out the location of the septic field and commented that the location of the shed is the only flat area. Mr. Clavette and Mr. Carley both replied that they saw what seems to be a lot of open space on the other side of the dwelling during their site visits. Mrs. Pershinsky indicated another area on the survey that is marshland, and therefore too wet to place the shed.

Mr. Clavette wondered if the shed could be moved to be 15 feet away from the property boundary as opposed to the proposed 10, to have the same "new setback" that the pre-existing cottage has created. Mr. Pershinsky agreed it was possible.

Mr. Clavette asked how long the RV shown on the site plan has been parked there. Mrs. Pershinsky replied that it has been there since June – thought it has been used since then - and that the hope is to park it in the proposed pole barn/car port.

Mrs. Pershinsky displayed a few photos on her cell phone to establish where there are slopes on the property, since the survey does not show grading. The photos also show the location of a rock wall which would be near the pole barn, leaving enough room for an excavator to access the septic fields if they need to be redone. Mr. Sibley commented that the photos must be submitted as hard copies for the public record.

Mr. Clavette summarized that the Board's concern was if there is anywhere else on the property that is feasible to locate the shed, the Board would be unable to establish a hardship. He also noted that a Variance of 20 feet was "a lot" for the pole barn and he wondered if it were possible to reduce it. The applicants spent some time with Mr. Clavette examining the survey and trying to determine if the location of the pole barn could be adjusted.

Ms. O'Connor asked about the statement made earlier that the Pershinskys did not know about the setbacks when they placed the shed. They replied that when they called the Town, they were told that they did not require a permit for structures under 200 square feet; nothing was mentioned to them about setbacks.

Ms. Sharpe read into the record an email dated 2/24/20 from the applicants' neighbors, Carlyn Winston Knatz and Michael Knatz, in opposition of the requested Variance. They could not attend the meeting due to health reasons.

Ms. Sharpe wondered if the Knatz's primary concern was the size of the shed. Mrs. Pershinsky replied that the neighbors were never told the size of the shed, and she denied the claims that any reflectors were broken or that the neighbors had ever actually asked them to move the shed. Mr. Pershinsky added that the neighbors had threatened to inform the Town of the "illegal" cottage, which is in fact legal. Mr. Clavette corroborated that there is a field card in the file showing the cottage had been existence since 1948, and therefore predates zoning.

Mr. Clavette invited Rob Sibley, Deputy Director of Land Use, to give his report.

Mr. Sibley explained that there is no written record of a complaint regarding the property, although it may have been verbal. There is a record of a Notice of Violation issued by Zoning Enforcement Officer Steve Maguire in December 2019 asking the applicants to rectify the shed. Another shed to the south of the property appears to have been placed between 2002 and 2007, and therefore it cannot be required to be moved by the Town. Mr. Sibley explained that if the Pershinskys move the shed for which they are requesting the Variance to the setback established by the grandfathered cottage - 15 feet from the property line - they would not need a Variance. If that were the case, they would only need a small shed permit from the Land Use Agency and a Variance for the pole barn. As for the pole barn, Mr. Sibley said he had nothing to add to the Board's discussion except that citing "steep slopes" as a hardship generally refers to slopes with a grade of at least to 25%.

Mr. Clavette stated that the only hardships the Board can consider are those pertaining to the land. Mr. Pershinsky asked if the aesthetics of the property came into play, since the shed wouldn't look good if it were moved closer to the house than it currently is, but Mr. Clavette responded that aesthetics were not within the purview of the Board.

The Board also spent some time working with the applicants to see if the pole barn could be moved, as there did not appear to be a hardship. The stone wall poses a challenge as to where it could be positioned, but it could still be shifted farther from the property line. There was some discussion about

whether or not equipment could access the septic field from other directions, since that was a major concern for the homeowners who knew their septic would need to be repaired soon.

Mr. Clavette asked if the Pershinskys would be willing to move the shed back to the 15 foot setback. This would place the shed up against the rock wall. Mrs. Pershinsky said she found the image of that placement to be “quite hideous,” but Mr. Clavette pointed out that the neighbor might find it hideous to have a shed so close to their property.

Mr. Sibley explained that the Board would give the applicants a chance to modify their application to bring the shed to the 15 foot setback established by the cottage, and to demonstrate a hardship for the placement of the pole barn. He stressed that the only two options for the applicants would be (1) to close the hearing tonight and have the Board vote on what is in front of them, or (2) have the application tabled to think about how/if they’d like to revise their application.

Ms. O’Connor voted to table the application. Ms. Sharpe seconded. All were in favor and the application was tabled.

Minutes

Ms. O’Connor moved to approve the minutes from the meeting of January 8, 2020. Mr. Clavette seconded. All were in favor and the minutes from the last meeting were approved.

Adjournment

Mr. Carley moved to adjourn the meeting. Ms. O’Connor seconded. All were in favor and the meeting was adjourned at 8:06 p.m.

*Respectfully submitted,
Christine O’Neill, Clerk*