

3 PRIMROSE STREET  
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**TOWN OF NEWTOWN  
ZONING BOARD OF APPEALS**

**Meeting Minutes  
REGULAR MEETING**

Wednesday, April 5, 2023 – 7:30 PM  
Newtown Municipal Center, The Meeting Room  
3 Primrose Street, Newtown CT 06470

**Present:** Jane Sharpe, Ross Carley, Rachel Rowan, Prerna Rao, Joe Bojnowski, Tiffany Hawley, David Landau

**Absent:** Alan Clavette

**Also Present:** Steve Maguire, Senior Land Use Enforcement Officer, Helen Muro, Clerk

Ms. Sharpe called the meeting to order at 7:30 p.m.

**Public Hearings**

**Application #23-02 by Ferdinand DiMaria, for a property located at 3 Winslow Road, for a Variance of the Zoning Regulations of the Town of Newtown §7.02.100, Chart VII-1, so as to allow the construction of a 2 car garage closer to the property line than the setback allows, as shown on a set of plans entitled “Zoning Location Survey, Prepared for Ferdinand DiMaria & Marialisa B. DiMaria, 3 Winslow Road, Newtown, CT”, dated March 24, 2022 and supporting documents submitted to the Land Use Agency 2/15/23.**

Mr. Maguire told the Board the variance application is for a front and side yard setback for a garage.

Ferdinand DiMaria, 3 Winslow Road, said the backyard has a significant slope, there is a well on the right side of the property, and a curtain drain that goes around the perimeter of the property. Mr. DiMaria said the other side of the lot is where the septic is located and the leach fields are in the front yard making the proposed spot is the only plausible location.

Mr. Carley asked if the application could pull the garage up close to the existing garage in order to eliminate the front encroachment. Mr. DiMaria said it would be hard to fit a 2 car garage in that space. Mr. Landau asked why the garage couldn't be pulled back in line with the house. Mr. DiMaria said placing the garage too close to the house would make it hard to pull in and out of the garage. He also said it would affect the existing curtain drain. Mr. DiMaria explained that the curtain drain and a sump pump in the basement were installed decades ago because of water issues, so it is very important not to disturb the curtain drain as there haven't been any water issues since the installation.

*These minutes are subject to the approval of the Board.  
Copies of Applications and Documents are on file at the Land Use Agency.*

With no further comments, Ms. Sharpe declared the public hearing closed at 7:39 pm.

**Application #23-03 by John Bello, Bello Motorsports, LLC, for a property located at 29 Philo Curtis Road, for a Variance of the Zoning Regulations of the Town of Newtown §9.03.210 and §9.03.301, so as to allow the expansion of a nonconforming use, as shown on a set of plans entitled “Improvement Location Survey, prepared for JOKRS, LLC, 29 Philo Curtis Road, Newtown, CT”, dated April 7, 2017 and supporting documents submitted to the Land Use Agency February 25, 2023.**

Mr. Maguire gave a history of the property. The property in question is a pre-existing, nonconforming commercial building. Previously the property operated as a machine shop. In 2017, an application for a change of use was submitted and the Board determined that a hobby car facility was a similar or less obtrusive use. A second story addition was also approved in that application. In 2018, another application for an attached barn in the back of the property was submitted and denied on the grounds of expansion of a non-conforming use. Subsequent to that, complaints regarding outdoor storage of trailers and shipping containers on the property have been received. The violations have been tabled by the hearing officer to give Mr. Bello the opportunity to return to ZBA which is the application being presented tonight.

John Bello, 29 Philo Curtis Road, said he is requesting an expansion of the existing building. The original expansion was 50x100 and now is proposed as 60x70. Mr. Bello said the building has been turned towards the commercial, industrial side of the neighborhood and has been pushed 10 feet in away from residential properties. The reason for the expansion is to bring work that is currently being done outside, inside. Mr. Bello said if this application is approved the storage containers will be removed from the site and the trailers will be parked on the side of the building. Mr. Bello said he installed an 8foot fence on the residential side of the property.

Ms. Sharpe asked Mr. Bello to describe the activity going on in the building. Mr. Bello said work is done on race cars, currently they are limited on space causing work to be brought outside.

Ms. Sharpe asked what has been done to protect the public from viewing what is going on in the property. Mr. Bello said an 8-foot fence about a foot off the ground has been installed in the back of the site. From the roadside, the facility looks like a house that conforms to the neighborhood. There is no signage intentionally.

Mr. Carley noted the 2018 variance denial and questioned what has changed from then and now. Mr. Bello said they are working outside and the noise is an issue. Mr. Carley said his concern is that the business has gotten too big for the property and this issue doesn’t constitute a hardship. Mr. Bello said this issue has existed for 5 years.

Mr. Maguire spoke about pre-existing, non-conforming uses. Ms. Rao asked what the current zoning is for where the property is located otherwise and Mr. Maguire said residential. Ms. Rao asked Mr. Maguire to confirm the property was originally a machine shop and was changed to an automotive facility and Mr. Maguire affirmed. Ms. Rao agreed the first application for the use variance was a similar or less obtrusive use but now this application is going into the direction of expanding the non-conformity again. Ms. Sharpe said the garage addition will bring the work inside and will be less impacting to the neighborhood.

Ms. Rowan asked if current application is in response to the violations of the trailers, and the storage containers and Mr. Bello affirmed. Mr. Bello said the new building will allow everything to be stored inside. Ms. Rao asked what the citation was issued for, and Mr. Bello said for the 3 storage containers.

Mr. Landau asked Mr. Maguire to confirm if the Board is looking to decide if the current use is similar in nature to the original nonconforming use of a machine shop. Mr. Maguire said the change of use to hobby, automotive facility was already approved in 2017. Mr. Maguire said the question now is whether their expansion, the garage addition, is permissible or not. Mr. Maguire clarified in this case the commission is not looking at hardships but a special niche area of non-conforming uses in which they decide whether expansion is permissible or not. Mr. Maguire noted there was no provision from for outdoor storage in the grandfathering of the original nonconformity.

With no further questions from the Commission, Ms. Sharpe invited public comment.

Dennis Bloom, 25 Philo Curtis Road, speaking as a neighbor and not a member of P&Z, spoke in favor of the Bello Family and the automotive facility.

Douglas Leone, 34 Russet Road, spoke in favor of the Bello Family and the automotive facility.

Elindia Avellino, 31 Jo Mar Drive, spoke in favor of the application.

Ryan Blanchard, 38 Terrell Farm Road, Bethlehem, CT, spoke in favor of the Bello Family and the automotive facility.

Nick Kopcik, 1 Short Hill Road, spoke in favor of the application.

Melissa Kopcik, 1 Short Hill Road, spoke in favor of the Bello Family and the automotive facility.

Ms. Sharpe asked Mr. Bello what the height is of the proposed building. Mr. Bello said the original building proposal was approximately 21 feet and the new, smaller building will be around 4 feet lower.

Ms. Rao asked if the new building will have similar design characteristics of the existing building. Mr. Bello said the structure will be 1 story and built to look like a barn.

Anthony Bello, 12 Glenmor Drive, spoke in favor of the automotive facility.

Steve Antal, 34 Pearl Street, said there is no landscape buffer or screening beyond the fencing. Mr. Antal said the property looks like a truck depot from the side and the commercial aspect of the property has a negative impact on his property value.

Pete Leone, 31 Pearl Street, expressed issues with the loud engines. Mr. Leone recommended moving the facility to an industrial zone where expansion is permitted.

Srikanth Mukka, 36 Pearl Street, expressed concerns with the expansion and noise from the facility.

Brett Baker, 33 Philo Curtis Road, noted that he hasn't heard an actual hardship for the application.

Mr. Rao asked Mr. Maguire if CT Engineering Associates next door has containers on their property and Mr. Maguire said he was unsure.

Ms. Hawley asked Mr. Bello if the car engines are run past sunset and Mr. Bello said no. Mr. Bello said if the expansion is approved the cars will not be started up outside. Ms. Hawley asked if he has ever received a noise complaint and Mr. Bello said no.

Ms. Sharpe declared the public hearing closed at 8:40 pm.

## **Discussion and Action**

### **Application 23.02**

Ms. Sharpe designated Mr. Landau to vote in replace of Mr. Clavette on Application 23.02.

Mr. Carley questioned why the garage can't get moved closer to the house where it would meet one setback requirement.

Ms. Rao noted the applicant said doing so would narrow the current entrance to the garage and interfere with the curtain drain.

Mr. Carley and Ms. Rao agreed the lot limitations can act as a hardship.

Ms. Sharpe said she would be inclined to approve it because the structure fits in with the character of the neighborhood.

Mr. Landau asked if approving this application will take up any reserve capacity for future septic. Mr. Maguire said for this addition they would have to provide a reserve area or perform a B100 through the Health Department.

Ms. Rowan moved to approve Application 23-02 based on topography as it relates to the drainage and clearance between the current garage and the driveway. Ms. Rao moved to amend the approval to add the lack of space around the house and the shape of the existing structure considering the shape of the rest of the lot. Mr. Landau seconded.

*The Board voted as follows:*

*Jane Sharpe - AYE*

*Ross Carley - AYE*

*Rachel Rowan – AYE*

*Prerna Rao - AYE*

*David Landau - AYE*

***The motion to approve Application 23-02 carried 5-0.***

### **Application 23.03**

Ms. Sharpe designated Mr. Landau to vote in replace of Mr. Clavette on Application 23.03.

Mr. Carley said he still questions what has changed from the denial in 2018 to now.

Mr. Maguire said in 2018 the variance was denied due to the substantial increase of the nonconformity.

Mr. Carley expressed concerns with the violations that have not been addressed on the property.

Mr. Landau questioned if square footage can be factored into non-conformity.

Ms. Rao said adding to the current pre-existing non-conforming use would be an be an expansion.

Ms. Sharpe said the storage containers on the residential side of the property need to be removed.

Mr. Maguire said when he issued the violation it was his understanding that any outdoor storage or any expansion other than the original footprint the building would be an expansion of a non-conforming use. Mr. Maguire said whether it's a trailer, container or a structure he views that as an expansion of a non-conforming use.

Mr. Carley wondered what invalidates the 2018 decision and questioned if this is approved what invalidates the applicant from expanding again in the future.

Ms. Rowan noted the property is close to I-84 which is loud in itself, and said denying this application would deprive the property owner reasonable use of his own land.

Ms. Rao said requiring additional plantings could be included as conditions into any approvals.

Mr. Landau suggested shifting the building over towards the other industrial property and any garage bays should be opposite the residential side.

Mr. Maguire said his concern is that the proposal for the addition will increase the nonconformity and the same vehicles in violation will still be parked outside.

Mr. Carley said he feels it has not been proven why the board should override the 2018 decision. Mr. Landau asked for clarification on the 2018 denial again and Mr. Maguire said the application was denied due to the substantial increase of the non-conformity. Mr. Landau questioned if they are decreasing the nonconformity by going from machine shop to a hobby car facility.

The Board questioned if they can determine a hardship for the application. Ms. Rao said she thinks hardships of the lot can be taken into consideration if it's already a permitted use. Ms. Rao said there are other regulations that would apply in this situation.

Ms. Sharpe said she feels enclosing all the outdoor work would eliminate the neighborhoods issues. Ms. Rao said the addition of the extra trucks and containers in itself is an expansion of the nonconforming use and currently in violation.

Ms. Rowan said in her opinion changing the footprint of the building from 50x100 to 60x70 can prove the 2018 decision being a more substantial increase in use than now.

Ms. Rao moved to table the discussion. Hearing none, Mr. Landau made a motion to approve the application with the following conditions:

- The building square footage must be 60x70
- The vegetation will be as proposed on the map entitled “Proposed Site Plan, 29 Philo Curtis Road” dated June 6, 2018.
- Any garage doors for cars will be on the South side of the building only
- Any parking has to be on the South side of the building.
- 1- Story Height Restriction
- The design of the structure is to be kept in character with the neighborhood.

Ms. Rao asked if the motion is being moved on the basis that this is an intensification of the existing use as opposed to an expansion of the non-conformity and Mr. Landau said yes.

Ms. Rowan seconded.

*The Board voted as follows:*

*Jane Sharpe - AYE*

*Ross Carley - NAY*

*Rachel Rowan – AYE*

*Prerna Rao - AYE*

*David Landau - AYE*

***The motion to approve Application 23-03 with conditions carried 4-1.***

### **Minutes**

Ms. Hawley moved to approve the minutes of February 1, 2023. Mr. Carley seconded. All were in favor and the minutes of February 1, 2023 were approved.

### **Adjournment**

Mr. Carley moved to adjourn the meeting. Ms. Rao seconded. All were in favor and the meeting was adjourned at 9:47 p.m.

*Respectfully submitted,  
Helen Muro, clerk*