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TOWN OF NEWTOWN
ZONING BOARD OF APPEALS

MINUTES
REGULAR MEETING
Wednesday April 4, 2018 at 7:30 PM
Meeting Room 3, 3 Primrose Street

These minutes are subject to approval by the Zoning Board of Appeals.

Present: Alan Clavette, Barbara O'Connor, Prerna Rao, Jane Sharpe, Ross Carley, Christina Paradis, Joe Bojnowski

The meeting was opened at 7:30 PM

Mr. Clavette asked members to review the minutes of February 22, 2018. Ms. O'Connor made a motion to approve. Ms. Sharpe seconded and the minutes were approved.

Ms. O'Connor read the call for the hearing:

Docket 18-02 to apply for a variance of the Town of Newtown Zoning Regulations of Chart VII-I so as to permit a storage area with a shed style slanted roof on the right side of the current garage/shed with two open sides to be constructed within the setback area of the side yard at a property located at 41 Brushy Hill Road, Newtown, as shown on a set of plans titled "Zoning Location Survey prepared for Beth H. & Grunde E. Haugeto, #41 Brushy Hill Road, Newtown, Connecticut" dated Feb. 28, 2018.

Mr. and Mrs. Haugeto came forward as the applicants and showed members pictures of their property. They have no basement or attic storage and the property is filled with ledge. It is also a corner lot with two front setbacks. Mrs. Haugeto explained working with a Zoning Enforcement Officer after beginning installation of the storage area roof. The back and front will remain open on the structure which attaches to an existing shed.

Rick Cooper, 6 Cedar Circle thought the structure was unattractive and would rather see a two car garage installed.

With no other public to speak towards the application, the hearing was closed.

Docket 18-03 to apply for a variance of the Town of Newtown Zoning Regulations of Chart VII-I so as to permit relocation and rebuilding of the Historic Cherry Grove 1883 School House, 30' from the front set back at a property located at 2 Holmes Farm Road, as shown on a set of plans titled "Zoning Location Survey for 2 Holmes Farm Road, Newtown, CT, prepared for Bruce and Jen Hoag", dated March 21, 2018.

Mr. and Mrs. Hoag attended as the applicants and explained their request for including a historic structure in their front yard. Mr. Hoag said that there is a wetlands area and swale that runs between the house and proposed location. He also noted a slope from the driveway to the house. Lastly, the applicants noted utilities that would prohibit the structure from being further off of the road.

There were no members of the public wishing to speak and the hearing was closed.

Docket 18-04 to apply for a variance of the Town of Newtown Zoning Regulations §7.02.100, so as to permit the construction of a single family home within the front setback to replace and enlarge an existing cottage for a property located at 165 Lakeview Terrace, as shown on a set of plans titled "Septic Plan Prepared for William Ainsworth, 165 Lakeview Terrace, Sandy Hook, Connecticut" dated June 6, 2017.

Robert Hall, 43 Main Street, came forward with his clients, Mr. and Mrs. Ainsworth. The applicant is seeking to convert the existing summer home into a three bedroom house. Mr. Hall explained the difficulty with small lots to locate well and septic in an area that does not affect neighboring properties. Pictures submitted showed the steep drop off at the rear of the property. The applicant also showed an architectural drawing of the proposed house.

Peter Radwillis, 167 Lakeview Terrace, thought that the renovation would benefit the neighborhood and add value.

With no other public participation, the hearing was closed.

Docket 18-05 to appeal for Correction of Alleged Error in a decision by the Zoning Officer who on March 20, 2018 denied a permit requested by 18 Commerce Road LLC, to operate a medical marijuana dispensary at 18 Commerce Road, as shown in an application received to the Zoning Board of Appeals on March 20, 2018.

Robert Hall, 43 Main Street, came forward with David Bonadio of 18 Commerce Road, LLC, Martin Withers, Tom Karvosky, and Jennifer Stack, and a team of professionals from the Medical Marijuana field. Mr. Hall explained the request for a medical marijuana dispensary that was submitted to the Land Use Agency and denied by Director George Benson. Mr. Benson had then provided the applicant with a letter stating his reasoning. Mr. Hall said that his interpretation is that a dispensary would fall under a retail use and would therefore be approved under applicable zones per the zoning regulations. Mr. Karvosky is a pharmacist that works at the Bethel dispensary. He talked to members about the process of obtaining a license for the prescription and then going to a facility to retrieve it. Ms. Stack noted how strict the policies are for regulating the buildings and procedures.

Mr. Benson supported his argument by explaining that the regulations are permissive in nature and by not explicitly permitting the use, it becomes prohibited. He argued that is it a separate category of retail and is specifically defined in the regulations. He had suggested the applicant go for a text amendment to Planning and Zoning to apply to add it as a permitted use.

Members discussed the definition of retail and the nature of the Regulations. They also talked about responsibility of Planning and Zoning versus Zoning Board of Appeals. Ms. Rao asked if anything allowed in the zoning regulations was as specific and regulated as a dispensary would be. Mr. Carley made the connection to a store like Costco where a membership card is shown to be able to enter the building. They also discussed the previous action by the Planning and Zoning Commission of a moratorium that added confusion for the applicant.

After much discussion, Mr. Clavette made a motion to uphold the decision of the enforcement officer because of the special nature that puts medical marijuana dispensary outside of the normal retail. Ms. Rao seconded. The board then took a vote:

Clavette... AYE O'Connor...NAY

Sharpe...NAY Carley... NAY

Rao... AYE

The motion failed.

Ms. Sharpe made a motion to approve the permit request, against the decision of the enforcement officer. Ms. O'Connor seconded. The Commission took a vote.

Clavette... NAY O'Connor...AYE

Sharpe...AYE Carley... AYE

Rao... NAY

The motion failed.

A 4-1 vote is needed for the correction of alleged error, so the original decision of the enforcement officer was upheld by default.

Members then discussed the other applications to take action.

Docket 18-02: Ms. Rao made a motions to approve the application due to ledge and the corner lot. Ms. Sharpe seconded. All members voted in favor.

Docket 18-03: Mr. Carley made a motion to approve the application based on topography and wetlands. Ms. Sharpe seconded and the approval was unanimous.

Docket 18-04: Mr. Clavette made a motion to approve the application based on the size of the lot, topography and limited additional non-conformity. Ms. Rao seconded and the motion was approved unanimously.

With no other business, Ms. Paradis made a motion to adjourn. Ms. Sharpe seconded. The meeting was adjourned at 9:54 PM.

*Respectfully Submitted,
Georgia Contois, Clerk*