



TOWN OF ELLINGTON

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**ZONING BOARD OF APPEALS
REGULAR MEETING MINUTES
MONDAY, SEPTEMBER 14, 2020, 7:00 PM
TOWN HALL ANNEX, 57 MAIN STREET, ELLINGTON, CT**

PRESENT: Vice Chairman Ken Braga; Present via ZOOM meeting: Regular Members Sulakshana Thanvanthri, Erin Stavens, and Alternates Ron Brown and Rodger Hosig

ABSENT: Chairman Art Aube, Regular Member Mort Heidari, and Alternate Ron Stomberg

STAFF

PRESENT: John Colonese, Assistant Town Planner/Zoning Enforcement Officer and Present via ZOOM meeting: Barbra Galovich, Recording Clerk

I. CALL TO ORDER:

Vice Chairman Braga called the Zoning Board of Appeals (ZBA) meeting to order at 7:08 PM at the Ellington Town Hall Annex, 57 Main Street, Ellington, CT.

John Colonese, Assistant Town Planner/Zoning Enforcement Officer, explained general procedures for how the meeting will be conducted.

II. PUBLIC COMMENTS (ON NON-AGENDA ITEMS): None

III. PUBLIC HEARINGS:

1. V202004 – Gondal Corporation, owner/applicant, request for a variance of the Ellington Zoning Regulations Section 6.3.7.3-Detached Signs Permitted in C, PC, I and IP Zones: to allow a 72 square foot detached sign (existing is a 48 square foot sign, 18 feet in height; requirement is a 20 square foot sign, 8 to 10 feet in height) at 83 West Road, APN 028-056-0000 in a Commercial (C) zone.

TIME: 7:10 PM

SEATED: Braga, Stavens, Thanvanthri, Hosig, and Brown

Attorney Bruce Fader, Jacobs, Walker, Rice & Barry, LLC, 146 Main Street, Manchester, CT and Hussnain Gondal, Gondal Corporation, 469 Rubber Ave., Naugatuck, CT were present to represent the application.

Attorney Fader stated Hussnain Gondal is an owner of Gondal Corporation, which is a family owned business that currently owns a few gas stations within Connecticut. Attorney Fader described improvements that have been made to the site such as resurfacing the pavement, and that the site is in compliance with environmental requirements. He noted the gas station is located at the intersection of Route 83 (West Road) and Middle Butcher Road and is a

corner lot. The gas station has an existing detached sign and only one wall sign facing West Road, whereas the regulations allow a wall sign for each wall of the building facing a different street. Attorney Fader explained a Special Permit was granted by the Planning & Zoning Commission (PZC) in September 1990 to increase total signage throughout the site to 87 s.f. where it was previously 72 s.f. He provided an exhibit showing the 1990 (PZC) meeting minutes, a 2004 zoning permit, and the 1990 Special Permit. He said it was deemed to be legally non-conforming based on the 2004 zoning permit. He noted the existing detached sign is 48 s.f., and including the existing wall sign the property now has much less than 87 s.f. They are requesting a variance for 72 s.f. for the detached sign. He said they would be willing to sacrifice having a second wall sign in order to have a larger detached sign. He feels that the request is within reach of the historical use of signage at the site.

Attorney Fader referenced the staff report by Mr. Colonese. He stated that not all the signs in the immediate area, as well as along Route 83, meet the current sign requirements. He submitted as evidence the minutes from the September 11, 2000 ZBA meeting, approving a variance for the Lee's Auto detached sign. He asked the Board to recognize that even though there are minimum sign requirements, there are reasons to vary them. He noted that gas stations want to show their pricing for the different types of fuel, as well as credit and non-credit prices. He stated that the 2015 Route 83 Corridor Study, referenced in Mr. Colonese's report, is only advisory and not part of the regulations. He said the reasons for approving the variance request is the historical record of the site, which supports having a minimum square footage of 60 s.f. He believes the request meets the extreme difficulty criteria outlined in Conn. Gen. Stat. Section 8-7 which is a basis for granting a variance.

Vice Chairman Braga said he would rather not see the detached sign get any bigger. He said the proposal would be in conflict with the 2015 Route 83 Corridor Study and does not see a hardship for the application. Alternate Brown stated that he believes extending the existing legal non-conformity is the wrong thing to do. He is not in favor of granting the requested variance and expanding on what has already been approved.

Commissioner Thanvanthri believes the sign would be too big for the area and doesn't believe there is hardship because the gas station does not have a visibility issue where they are located. She noted that the property next door is a residential home. She doesn't see the need for the larger sign.

Commissioner Stavens asked what the height of the current sign is. Attorney Fader replied that the applicant will not be extending the existing height of 18 feet. Commissioner Stavens agrees with the other commissioners and does not see a hardship. She does like the proposed sign design better than the existing design and suggested they work within the requirements.

Attorney Fader offered to reduce the square footage request from 72 to 60 s.f. if the commission was inclined to accept this amount.

Alternate Hosig stated 72 s.f. is too large, he would consider 60 s.f. if it had been approved previously by other commissions. He would not like to see anything huge in the area.

John Colonese, Assistant Town Planner, said the existing 48 s.f. detached sign was most recently granted zoning permit approval in 2004 and the current height and front property line setback of the detached sign are non-conforming. The variance granted in 1970 is for 49 s.f. of signage for the detached sign. The 1990 Special Permit to which Attorney Fader refers, was granted for the site signage whereas the detached sign required an administrative approval. He evidenced a 1990 letter from Town Planner at the time, stating that the 1990

Special Permit application was not for the detached sign, but instead for the remaining site signage. He added that the applicant could redesign the sign at 49 s.f. pursuant to the 1970 variance and seek approval from the Planning & Zoning Commission for the digital pricing.

Commissioner Thanvanthri suggested the applicant redesign the sign within the allowed parameters, and if it can't be done then submit an application for a variance. She suggested reducing the height with the redesign.

Hussnain Gondal explained that according to state laws for gas stations, the detached sign must post cash and credit pricing when offering cash and credit prices. The proposal would not set up the pricing to flash. He stated that they have done improvements to the site, such as resurfacing the pavement, adding new line stripping, power washing of the building, and landscaping. He said they plan to fix the dumpster enclosure. He would like to modernize the sign along with these site improvements.

No one from the public commented on the application.

MOVED (BROWN), SECONDED (STAVENS) AND PASSED UNANIMOUSLY TO CLOSE THE PUBLIC HEARING FOR V202004.

MOVED (BRAGA), SECONDED (BROWN) AND PASSED UNANIMOUSLY TO DENY V202004 – Gondal Corporation, owner/applicant, request for a variance of the Ellington Zoning Regulations Section 6.3.7.3-Detached Signs Permitted in C, PC, I and IP Zones: to allow a 72 square foot detached sign (existing is a 48 square foot sign, 18 feet in height; requirement is a 20 square foot sign, 8 to 10 feet in height) at 83 West Road, APN 028-056-0000 in a Commercial (C) zone.

2. V202005 – Dallas Reid, owner/applicant, request for a variance of the Ellington Zoning Regulations Section 3.2.3-Minimum Yard Setbacks: to reduce the side yard setback from 10ft to 2ft and the rear yard setback from 10ft to 3ft for a shed at 211 Pinney Street, APN 053-33-0000 in a Rural Agricultural Residential (RAR) zone.

TIME: 8:01 PM

SEATED: Braga, Stavens, Thanvanthri, Hosig, and Brown

Dallas Reid, 211 Pinney Street, Ellington was present to represent the application. Mr. Reid explained he is looking to place a new shed 2 feet and 3 feet from the property lines in the corner of his lot due to elevation of the land, trees on site, and the leaching field which is located diagonally across the back portion of the property. Vice Chairman Braga asked for a further explanation of why he would like to keep the proposed shed beyond the setbacks. Mr. Reid stated he would like to limit tree cutting if possible. He stated that he also wants to install a pool next year and the septic system and leach field are in the middle of the yard. Mr. Reid stated the reason for his hardship is that the land does a dip. He is proposing to put the shed in the flat portion of the rear of the property.

Commissioner Stavens stated she drives by the property and it appears that the tree line is larger than what is shown on the site plan. Alternate Brown has concerns about the location of the shed and stated there may not be enough room around the shed to maintain it without encroaching onto the neighbor's property.

The Commission discussed the possibility of rotating the shed 90 degrees and moving it closer into the yard. Mr. Reid explained he would prefer to have the shed close to the back corner of the lot, rather than in the middle of the back yard. Vice Chairman Braga and Alternate Hosig both stated the shed could be relocated to be compliance with the zoning regulations. Upon discussion between the Board and applicant, Mr. Reid agreed with the commission to change the request from 2 and 3 feet to 5 feet from the side yard and 5 feet from the rear yard however the shed would not have to be rotated 90 degrees.

Mr. Colonese explained to the owner that he will need to re-apply to North Central District Health Department since the proposed shed would be moving closer to the leach field.

David Wittig, owner of 213 Pinney Street, asked why Mr. Reid did not want to level the land and move the shed to the other side of the property. Mr. Reid responded he is trying to minimize leveling and clearing at this time. Mr. Wittig said he did not have a problem with the shed as proposed.

MOVED (BROWN), SECONDED (STAVENS) AND PASSED UNANIMOUSLY TO CLOSE THE PUBLIC HEARING FOR V202005.

MOVED (BROWN), SECONDED (BRAGA) AND PASSED (YEA - BRAGA, STAVENS, THANVANTHRI, AND BROWN; NAY - HOSIG) TO APPROVE V202005 – Dallas Reid, owner/applicant, request for a variance of the Ellington Zoning Regulations Section 3.2.3-Minimum Yard Setbacks: to reduce the side yard setback from 10ft to 5ft and the rear yard setback from 10ft to 5ft for a shed at 211 Pinney Street, APN 053-33-0000 in a Rural Agricultural Residential (RAR) zone.

HARDSHIP: Topography of property

3. V202006 – David Wittig, owner/applicant, request for a variance of the Ellington Zoning Regulations Section 3.2.3-Minimum Yard Setbacks: to reduce the side yard setback from 10ft to 0.5ft for a lean-to attached to the detached garage at 9 Deborah Drive, APN 160-043-0000 in a Rural Agricultural Residential (RAR) zone.

TIME: 8:24 PM

SEATED: Stavens, Thanvanthri, Hosig, and Brown

Vice Chairman Braga stated that he will recuse himself from the application. John Colonese explained to the applicant that this is a five member Board and if only four members are seated, all four seated commissioners will need to be in favor in order for the proposed variance to be approved.

David Wittig, 9 Deborah Drive, Ellington was present to represent the application and agreed to have the hearing open with four members seated on the application. He explained that he showed Mr. Colonese his property marker and that is what he measured the front line of the parcel from. He stated the Town won't come out and show him where his property pins are located. Mr. Colonese disagreed with Mr. Wittig in terms of what Mr. Wittig believes is his property marker. He added that he is not a licensed land surveyor and the Town does not provide land surveying services. Mr. Colonese advised Mr. Wittig to hire a licensed land surveyor to stake out the property to determine where the property line is in relation to the existing lean-to.

Mr. Colonese explained that based on the information available, he believes the recently constructed lean-to to be within the side yard setback requirement. Commissioner Hosig suggested to continue this application to the next meeting in order to allow the owner time to hire a surveyor. Commissioner Thanvanthri recommended that the owner find a land surveyor and come back to the Board next month, since there is a dispute over the marker.

Mr. Colonese noted he contacted the Public Works Department and they did not have any additional mapping in that area. He referenced the subdivision map that was approved for this section of Woodside Acres.

No one from the public commented on the application.

Vice Chairman Braga asked Mr. Wittig if he would like to continue the public hearing to next month and hire a surveyor to stake his property. Mr. Wittig agreed to hire a land surveyor to stake the property line in order to determine the setback distance of the lean-to.

MOVED (HOSIG), SECONDED (STAVENS) AND PASSED UNANIMOUSLY TO CONTINUE THE PUBLIC HEARING FOR V202006 TO THE OCTOBER 5, 2020 REGULAR MEETING.

IV. ADMINISTRATIVE BUSINESS:

1. Approval of the August 3, 2020 Regular Meeting Minutes.

MOVED (STAVENS), SECONDED (HOSIG) AND PASSED UNANIMOUSLY TO APPROVE THE AUGUST 3, 2020 MEETING MINUTES AS WRITTEN.

2. Correspondence/Discussion: **None**

V. ADJOURNMENT:

MOVED (HOSIG), SECONDED (THANVANTHRI) AND PASSED UNANIMOUSLY TO ADJOURN THE ZBA MEETING AT 8:49 PM.

Respectfully submitted,

Barbra Galovich, Recording Clerk