

TOWN OF EAST BLOOMFIELD

February 22, 2023

Zoning Board of Appeals Members Present, Sonja Torpey, Art Babcock, Mark Thorn, Tim Crocker

Absent: Rosemary Garlapow

Others Present: Kimberly Rayburn (Building and Zoning), Christel Daggett (Secretary), Rick Scott (Applicant), Aric Lesperance (Neighbor of Rick Scott)

Torpey opened the meeting at 7:00 pm. The Board opened the public hearing and waived the reading of the public notice.

I. Area Variance, TV1-23 Owner Rick & Sue Scott 7596 St Rt.5&20 #67.00-1-60.200
Addition onto barn requesting side set back of 6 ft. where 25 ft. is required.

Scott explained he started building a shelter for his Skid Steer so he wouldn't have to put a tarp over it anymore and try to climb on it without slipping or falling off during the winter. Scott stated he would keep the Skid Steer in the shelter so all he would have to do is pull it out when he needed to use it. Scott stated that building the shelter makes it look better, that it fits into the landscape and none of his neighbors have complained. Scott also stated that this area was used for parking vehicles for forty years and he didn't realize he had to get a building permit or a variance to build the 28 x 19 shelter. Scott said he knew he needed one for a house but, not a shelter. He took photos that show there is a natural hedgerow in between him and the neighboring property that also helps block the view of the barn.

Torpey stated that a variance is needed because it is an accessory building which has a side setback of 25 ft. It was mentioned it may have had a smaller setback when the property was zoned AR-1. Scott stated the house was built in 1812. Scott stated he has lived at his residence for 40 years. He believes it was part of a larger farm before it got subdivided. When he purchased his lot there were 19 acres for sale but he could only afford 4 acres. Torpey stated the house is 40 ft. from the side and our current setback for the AR-2 District is 50 ft. Therefore, the house is already pre-existing non-conforming. Torpey said she noticed on the map that the East side of the barn used to be a driveway? Scott stated it was. Torpey asked Scott if the trees in the hedgerow were on his side of the line? Scott stated yes. Babcock asked Scott if he made the sketch with the dimensions on it that was presented. Scott answered yes. Scott stated that he had a home equity loan on his house, so he took the numbers off that from the survey map and from information he received from Rayburn. Scott stated he took mechanical drawing in high school. Scott stated he measured the six feet to the property line. Babcock asked Scott how he knew where the property line was. Scott stated he knew about where it is. Babcock stated he wanted to point out that these dimensions are approximate as we do not have an actual survey. Rayburn asked Scott if he took the measurements off the survey, he had previously done with the equity loan. Scott stated yes that is where he got them from. Scott stated while he was putting posts in the ground building the shelter, he hit a bunch of stone that he believed was an old stone wall so, he rented a pole digger and ended up moving the holes 17 inches. Scott stated the appraiser said the approximate distance is 28 to 30 ft. from the property line. Scott stated he didn't think much of the side setbacks as there must have been a stone wall there before. Babcock stated that just to get things straight for the Zoning Board purpose he asked Scott since you have lived there for so many years you want to cover your piece of equipment and you wanted to put on a roof that you are attaching to the existing barn. He asked Scott if he had a permit as he is doing construction, and now creating a structure. Scott stated he will obtain a permit if the variance is approved. Scott stated he knew you

needed a permit for a house not a barn. Babcock asked Scott if he had his own contractor? Scott stated no he did it himself.

Babcock asked how this all came about why now was Scott coming in for a Variance? Rayburn stated as she was inspecting an apartment next door when she noticed Scott's Structure and informed him he needed to come in for a Variance before continuing any further and if approved, he would need to obtain a building permit.

Babcock stated that in the last few years they have had a lot of applications where people are asking more forgiveness than permission because they have already done it. He added to him it makes people get the idea that somebody went ahead and did something that wasn't up to par, wasn't per the standard, was not overseen by the Town, now it's built, now what are we going to do? We will just go to the Zoning Board and get a variance and everything will be fine. We don't want residents to think it's better to ask for forgiveness than permission. Somewhere, along the line I wouldn't want anybody in the Town to think that as the Zoning Board we just respond with a rubberstamp of here's your variance. Thorn stated that Scott keeps saying how his neighbors say it looks great however, part of the reason the Zoning Board exists is to protect future instances, and future residences. The zoning Board is here to protect residents against people who don't follow the rules of setbacks or property lines.

Babcock motioned Crocker seconded to close the public hearing, all Board members in attendance voted aye.

The Board then started their review of the State mandated five (5) criteria tests.

1. **Undesirable change to the neighborhood:** Constitutes visual improvement overseeing the equipment. The structure matches the design of the barn uniformity. Thorn would put a caveat on it, if everybody on that street started building at 5 feet from the property line then it would be undesirable and would become an issue from the ZBA point of view.
2. **Alternative method:** Appears to be an area on the other side of the barn. However, the Applicant said there is a slope that would prohibit putting the shed there and would involve greater cost.
3. **Substantiality:** Significant because it eats up 90% of what the setback is supposed to be.
4. **Impact on the environment:** No additional impact since area was already a parking area, compacted soil, no tree removal, minimal impact.
5. **Self-creation:** The Board feels this is self-created.

A brief discussion was held on the multiple residence district neighboring the property. They want to avoid any potential conflicts between the two. Thorn stated at this time you can see through the hedgerow. Torpey stated that she would be in favor as the location was a pre-existing driveway. The parcel was subdivided and not subject to the current setbacks. She does not feel its undesirable, there are no objections from the neighbors, and possible stipulations could be placed in order to protect surrounding properties. She feels it would be a hardship for the applicant to not have the shelter. Thorn stated the bigger hardship would be taking down what is already there. Babcock and Thorn reiterated they do not want to set a precedence. Torpey asked the Board if Scott had come in to request the variance before it was built would they be likely to approve it. Babcock stated he would not, Thorn stated that he feels the request would have been to substantial and that zoning is there to prevent structures from being built to close and we still do not know how close. Babcock stated from the survey next door he scaled it off, (which is also not a perfect dimension) and its about anywhere from four (4) to seven (7) feet. No one knows for sure. Scotts measurements are based on a sketch that he did not bring with him. A brief discussion was held on future applications requiring a survey.

Torpey wanted to pole the Board to see where everyone stands. Babcock stated that he agrees with some of Torpey's thoughts however he mentioned restricting the use. Scott stated that he is planning on a woodworking shop in the existing barn. Thorn agreed with Torpey and Babcock and they discussed allowable uses and then Torpey read the definition of Home Occupation and the regulations that go with it. A brief discussion was held.

Torpey declared SEQR a Type II with no further action required.

Thorn motioned and Torpey seconded to grant the area variance TV1-23 Owner Rick & Sue Scott 7596 St Rt.5&20 #67.00-1-60.20 Addition onto barn requesting side set back of 6 ft. where 25 ft. is required.

Whereas:

1. The Board considered all the criteria and includes the discussion in the minutes above.
2. Need to obtain Building Permit
3. The addition is acceptable to the neighborhood
4. No environmental issues
5. As stated the request is substantial, however they feel the hardship of having to alter the current building would be significant
6. The usage applies to storage of owners personal equipment and vehicles

Babcock stated he would like verbiage added to say that this is a unique circumstance. Thorn then added to his motion,

7. The property borderlines two separate zoning districts and taking into consideration the lesser setback on one side this is a unique case and the Board is not setting a precedence.

Record of Vote:

Babcock Aye Thorn Aye Torpey Aye Crocker Aye

All Board members present voted Aye, Vote was carried unanimously.

II. Discussions:

The Board spoke to Rick Scotts neighbor Aric Lesperance about setting up a concept meeting for a project he will need a variance for. Aric stated that he took down an existing house that was also in the prior AR-1 district and did not meet the existing setbacks. He would like to build another house that will be in the same location with a slightly larger footprint and cannot meet the existing setback. The Board advised Aric he could come in with a survey and request a concept meeting before applying for a variance.

III. Meeting Adjourned

Thorn motioned and Torpey seconded to adjourn at 8:45 pm. All Board Members present vote Aye. Vote was carried.

Respectfully submitted,

Christel Daggett

Planning & Zoning Board Secretary