

TOWN OF EAST BLOOMFIELD

Zoning Board of Appeals
June 19, 2019

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

Others Present: Kim Rayburn (Secretary), Jim Kier (Code Enforcement Officer), Mark & Sue Brassie

Babcock opened the meeting at 7:30 pm, public hearing was opened and reading of the notice was waived.

I. Review TV6-19 property located at 7781 St Rts 5&20 for Owner Mark Brassie has applied for an expansion to a non-conforming structure. **135-33 Expansion of nonconforming uses and/or structures** *The expansion of a nonconforming use or structure hereunder shall be subject to approval by the Zoning Board of Appeals and each case shall be considered on an individual basis.*

Brassie gave an overview of the project. The homeowner would like to erect a 12 x 34 ft addition off the rear of existing barn. The barn currently sits twenty-four and a half (24.5) feet back from the right of way (row) where seventy-five (75) is today's standard. The side currently angles away from the property line the closet rear corner is twelve plus (12+) ft from the side line then angles away. They are not increasing the non-conformity to the front or side lines. It will be a slanted shed roof structure for storage of their outdoor equipment. Torpey asked about another smaller structure to the rear of this barn, Brassie stated it will most likely be taken down. Thorn mentioned the adjacent property consists of agricultural fields, Brassie stated the Town also owns property consisting of a water tower and cell/communication towers. Garlapow asked if the structure was currently being built. Kier stated that he had a conversation with Brassie regarding the project, Brassie stated as he had help from a friend and then Kier realized he needed this approval before continuing, and he has stopped construction.

Babcock stated they would be reviewing the location, size, nature, intensity, screening and access parking. Thorn stated he was ok with the addition as he feels it's in coordination with the above points of the review. Torpey does not see the necessity for screening as it is behind the existing structure and the adjacent property is not residential. Babcock stated there is a dense group of trees between the barn and the road, Kier stated the addition will be in harmony with the existing structures and matching in color. Access parking is not applicable.

Brassie explained that they have cleaned up the property, when he bought the property, he found over three-hundred (300) tires hidden among the trees, and they have gone through ten (10) of the largest dumpsters available getting rid of debris.

SEQR- Type II, no further action is required.

Babcock made a motion and Torpey seconded the motion to close the public hearing, all Board members present voted aye.

Thorn made a motion Garlapow seconded the motion to approve TV6-19 for an expansion to a non-conforming structure Owner Mark & Sue Brassie, property located at 7781 St Rts 5&20. tax # 79.00-3-3.000

Whereas:

1. The four (4) applicable standards listed in 135-33 A have been sufficiently met for an expansion to a non-conforming structure
2. The location and nature of project is consistent with the neighborhood
3. No need for additional screening
4. off street parking is not applicable
5. The Zoning Board does not feel the need to prescribe any further conditions

Record of Vote:

Art Babcock Aye Mark Thorn Aye Sonja Torpey Aye Tim Crocker Aye Rosemary Garlapow Aye
All Board members present voted Aye. Vote was carried unanimously.

II. Discussion: Rayburn and Kier gave a brief update on potential applications that will be coming in. Kier wanted to discuss the possibility of having a concept meeting with a potential buyer of 2442 Whalen Rd. The potential buyer would like to obtain a home occupation for making granola in the garage that was being used as an auto repair doll-up shop. The concern would be that the home occupation rules state that you can not use in excess of five hundred (500) sq ft. of an accessory structure. This structure is more like five thousand (5,000) sq ft. They wanted to ask the Board if they felt this was possible. The Board and Kier both stated that a concept meeting would be a good idea as they would like more information on the process and equipment used to make the granola.

The Bloomfield Mini Storage is interested in ground signage, again there are two business on this parcel, as the front structure has a commercial business of a can and bottle return. Rayburn and Kier advised the new owners of the property of the current code and helped steer them in a more code compliant request of a variance.

Kier and Rayburn had a conversation with the Town Attorney and it was determined that a sign variance is indeed an area variance. Babcock also had a conversation with the Town Attorney but did not receive his final answer on the subject prior to Kier and Rayburns conversation. Babcock stated that since they gave the variance back in 2008 to have a multiple business on one property, the code then changed to allow this so the variance went away. The code is explicit on what is allowed for multiple businesses. He also stated that the previous signage was not in harmony with the new revised code, but that didn't mean that it wasn't supposed to conform. He feels that it should conform, and making the owner of the property bring it into compliance should be done by the Town looking into it or someone coming in and requesting more signage making it have a need for review. He felt they needed to first comply with the code as its written in the signage law. Thorn stated we can't tell them to come into compliance, what we can do is tell them that we would like them to come closer to the standard that has been accepted. Rayburn stated the new sign code was put in place well after the approval in 2008 to allow for more than one business. The sign code does not go back and state anyone not in compliance with this code has so much time to bring their property into compliance with the new code. They are pre-existing non-conforming. Kier, Thorn and Torpey agreed as it was a grandfathered action. Babcock stated that what we are looking at is the amount of signage and being able to compare it to a baseline of what's allowed and what isn't. Babcock stated that if everything there now is allowed, even though its totally not in compliance with what our code calls for then we could have gone from there. Thorn stated we would need to figure out what is reasonable to allow them to have, while looking at substantiality. Babcock reviewed the sign intent, and felt that there was already too much signage for one business on the property, before putting in an additional business and now additional signage. He also feels a few of the signs were considered abandoned and should have been removed and not re-used in the past. He feels we should be looking at what would make it look better and be less cluttered. Babcock asked if we are basing substantial on what was allowed thirty (30) years ago or what should be allowed in a proposed development review which is what the code says and it also that they should bring the property into compliance before the review. Torpey stated the code reads if a project is proposed for a parcel, we are only talking about signs. Thorn feels that section refers to the example of putting up a third business.

II. Meeting Adjourned

Babcock made a motion and Crocker seconded the motion to close the meeting @ 9:45 pm. All Board members present voted aye, Vote was carried unanimously.

Respectfully submitted,

Kim Rayburn

Planning & Zoning Board Secretary