



TOWN OF ROXBURY CONNECTICUT

Zoning Commission

29 North Street • P.O. Box 203 • Roxbury, CT 06783-0203

ROXBURY ZONING COMMISSION REGULAR MEETING SEPTEMBER 12, 2016

MINUTES

CALL TO ORDER

Chairman Conway called the Regular Meeting to order at 7:30 p.m.
Regular Members Present: James Conway and Alan Johnson
Alternates Present: William Horrigan, David Miller and Curtiss Smith
Public Present: Mr. & Mrs. Montesi and Mr. Piskura

SEATING OF MEMBERS

Chairman Conway seated regular members Johnson, Horrigan for Curly, Miller for Tester, Smith for Loya and himself.

PUBLIC COMMENT

None

APPROVAL OF MINUTES

Regular Meeting – August 8, 2016

MOTION: To approve the minutes as written. Motion by Horrigan, seconded by Miller and unanimously approved.

BUSINESS

Treehouse Regulations

Chairman Conway noted that the proposed regulations have been approved, but the Commission will hold off on the public hearing until the other pending regulations are ready.

Half Story Regulations

Mr. Cody noted that he had asked the town attorney to approve the proposed changes approved by the Commission and was surprised to receive a memo with several pages of new recommendations. Mr. Cody noted that a diagram (from Ridgefield's regulation) was included in the previous meeting packet. Chairman Conway said he would prefer to see a condensed version of the memo. He noted that these recommendations had just been received and he suggested that the Commission review them for discussion at the next meeting. He reminded the Commission that a complaint regarding a house on Judd's Bridge Road prompted scrutiny of this regulation.

Farmer's Market

Chairman Conway noted that we are waiting for advice from the town attorney. He noted that we do not have a regulation to allow Farmer's Markets so the Commission will have to write one.

ZBA - Nonconformity Issues

Chairman Conway noted that Elaine Curly had volunteered to develop a proposed regulation. Mr. Miller felt that expansion of nonconformity must only be granted when a hardship can be proved. He stated that he would not be in favor of an automatic 25% increase. He expressed concern that there are already a limited number of smaller homes for young people. If we allow the smaller homes to be enlarged they become unaffordable and are no longer available as starter homes. He is in favor of protecting these smaller homes through the use of zoning regulations.

Chairman Conway explained that previously the Commission had discussed the idea of allowing expansion of up to 25% of the footprint. This would allow an elderly couple to add a second bathroom or a younger family to add another bedroom, etc. He noted ZBA's concern that they can't approve these applications because personal hardship is not a valid consideration. ZBA has asked Zoning to consider some regulation changes that might provide some relief.

Chairman Conway read a letter he received from Mr. Piskura. The letter in part asked, "If the road side setback line bisects a house, can one legally add onto the rear of the house, provided the addition is entirely on conforming ground?" The letter also expressed opposition to a 25% restriction.

Chairman Conway also read the Bridgewater and Washington regulations. Mr. Smith noted that in his experience Bridgewater and Washington's interpretation are more common in that an addition behind the setback line is unlimited. Roxbury's interpretation prevents an increase to the mass and/or changes to the characteristics of the nonconforming use.

Mr. Horrigan noted that the concern is having something massive built without some restriction – hence the 25% limit.

MOTION: To add Mr. Piskura to the agenda. Motion by Miller, seconded by Johnson and unanimously approved.

Mr. Piskura reiterated that under Roxbury's interpretation of its regulations if any part of a building is nonconforming, then the whole building is considered nonconforming. He suggested that Zoning restrictions are arbitrary and imposed after the fact. Mr. Miller argued that Zoning regulations are neither arbitrary nor after the fact as these rules were in place when the homes were purchased,

Mr. Piskura noted that Washington's regulations do allow for expansion of a nonconforming building as long as the expansion was in the conforming area outside of the setback.

Mr. Miller explained that the purpose of Zoning is to protect the town. He noted that the town's need for smaller houses could be supported by zoning regulations. He noted that he would be sympathetic to the personal hardship examples presented. He gave an example of homeowners who build on every square inch of property and then have to park across the street.

Mr. Horrigan suggested that we could write a regulation for the elderly couple. Mr. Cody noted that ZBA has the authority right now to grant that as a hardship. Mr. Smith noted that topographic hardships are allowed. He used the example of a very narrow lot along a river where there is no property to expand on. Mr. Miller argued that he did not feel that topography constitutes a valid hardship.

Chairman Conway noted that the zoning regulations were changed to allow handicap access without going through ZBA. He further noted that ZBA presented the case where an elderly couple needed a bathroom downstairs and they could not approve it because there was no valid hardship. Mr. Cody reminded that the reason nonconformity is in the regulations is to reduce or eliminate the nonconformity, not to rubber stamp them.

Mr. Conway expressed the need to work with people and encourage them to stay in town and the 25% would help in these situations.

Mr. Smith wondered if building permits have been denied for additions to nonconforming homes that are beyond the 50 foot setback as that would be unusual. Mr. Piskura suggested that it is permissible to consider a nonconforming house as a guest house and put a larger house beyond the setback.

Mr. Miller noted that his concern is with the 1 & 2-acre lots that are being over built. Mr. Smith worries about denials being appealed if the addition is beyond the setback. Mr. Miller noted that it does defeat the notion of affordable housing.

Mr. Conway asked about the percentage of housing that must be affordable. He noted that in the past the town's quota was satisfied by rental properties. Mr. Miller suggested that it is based on a formula as a % of the number of homes for sale.

Mr. Piskura suggested differentiating between conforming acreage and frontage. Bridgewater's regulation requires a conforming use in a nonconforming building. This eliminates barns within setbacks being converted. Mr. Piskura argued that anything built in a conforming area (outside the setback) should be allowed. He suggested allowing expansion on 3-acre parcels. Mr. Johnson argued that most of the village homes are on smaller lots and should be considered.

Mr. Horrigan suggested that a small bump-out for a bathroom would not affect a 1-acre lot at all. Maybe we need a sliding scale. Mr. Smith cautions that lot coverage should be a consideration.

Mr. Miller said that expansion is prohibited now. Mr. Smith argued that we can't prohibit expansion beyond the setback. Mr. Conway noted that we do allow building beyond the setback. Mr. Miller felt we should restrict the amount of build out.

Mrs. Eddy explained that the town attorney wrote the current zoning regulations. Mr. Cody read a section of the zoning regulations on Non-Conformity which explains that nonconforming buildings cannot be enlarged or altered except where the result is to reduce or eliminate the nonconformity.

Mr. Piskura wondered why the town would want to be more restrictive than other towns. He noted that the ZEO in Brookfield believes that ZBA should offer relief to people in these situations. Mr. Piskura suggested that it is ZBA's job to keep an eye on zoning. Mr. Miller explained that ZBA should not override zoning unless a hardship is proven.

Mr. Horrigan suggested the idea of expansion by creating a second story. Mr. Cody noted that would be considered an intensification of nonconformity and not allowed.

Mrs. Eddy noted that the current regulations were changed 15 years ago and the change was precipitated by the expansion of the Berkley house on Town Line Road. Prior to that the interpretation of nonconformity was as Mr. Piskura suggested, but that was before a huge addition was added to back of a nonconforming house. Mr. Conway noted that if we allow 4,000 sq. foot houses 50 feet from the road, it will change the character of the town.

Mr. Piskura voiced his opinion that expansion behind the 50-foot setback should not be limited. Mr. Smith added that current regulations are not in keeping with other towns. He noted that Woodbury has recently changed its regulation to allow expansion up to a certain percentage on the side of a house as long as it is no closer than 10 feet from the street line.

Mr. Conway noted that the Commission is following its regulations as they currently exist but they would continue to review this issue. If the Commission finds there is need to amend the regulations, then it will work toward that end.

REPORTS

ZEO Report

Mr. Cody reviewed his written report.

- Farmer - 72 Weller's Bridge - The fence is now in compliance.
- Daly's - 14 Weller's Bridge - An extension was granted.
- Hastings - 57 Chalybes West - Investigation proved no compliance issue. The complaint regarding smell was directly to the Newtown Health District.
- Booth - Grassy Hill - No barn permits have been applied for as of yet.
- Rower - 340 Painter Hill Road - They are working on the foundation.
- Mine Hill Distillery - They are beginning the dismantling of the train station.

- Montesi – 67 Garnet Road – A Notice of Violation was issued. The next step would be a Cease and Desist which can be appealed to ZBA. Chairman Conway noted the commission can have no input as this is an enforcement issue

Chairman's Report

None

COMMUNICATIONS

Outdoor wood burning furnaces

Mr. Cody noted the state regulations would apply. He feels there is no need to develop town regulations. A memo from Environment & Human Health (EHHI) was mentioned. It notes that 19 CT towns do prohibit these furnaces.

NHCOG

Housing Forum will take place Sept. 14 at the office in Goshen. It was noted that Elaine Curly could not attend and wondered if other members might be available.

ADJOURNMENT:

MOTION: To adjourn the meeting at 8:32 p.m. by D. Miller, seconded by A. Johnson and unanimously approved.

Respectfully submitted,

Karen S. Eddy

Karen S. Eddy

Land Use Administrator

These minutes are not considered official until approved at the next meeting of The Roxbury Zoning Commission