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Town of North Reading
Massachusetts

Board of Appeals

MINUTES

Zoning Board of Appeals

November 10, 2022

Teleconference/Virtual Meeting

Members Present: Jennifer Platt, Bob Breen, Maria Lockhart, and Michelle Bodian

Also present: Kathy Morgan, Secretary

Attendees noted: Elizabeth Dailey from Kallman Law Office, John, Attorney Joe Keyes, Mike Karugu, Dave O'Neil, Gabe Debendictes

Chair opened the meeting at 7:00 pm

Continued Public Hearings

110 Main St. – Appeal of the Building Commissioner's decision

Chair read the notice and opened the continued public hearing. There was no representative present or any abutters present for the hearing. Chair explained that the appeal was for the time period that the Building Commissioner put on them to remove the heavy equipment from the site. The Board has kept the hearing open for them to work together in clearing up the lot.

Mr. Breen moved to close the public hearing, seconded by Ms. Lockhart; and voted Mr. Breen – yes, Ms. Lockhart – yes, and Ms. Platt – yes.

Mr. Breen moved to uphold the Building Inspector's decision in accordance to the North Reading bylaws: for vehicle storage, no use classification as listed in the 1997 North American Industry Classification System is permitted in the Highway Business District which is not listed and, therefore, considered prohibited as per section 200-32. The storage of heavy equipment is a prohibited use in the Highway Business district according to the Town's bylaws section 200-39, seconded by Ms. Lockhart; and voted Mr. Breen – yes, Ms. Lockhart – yes, and Ms. Platt – yes.

142 Main Street - Special Use Permit for a Landscaping/Stone business

There was an issue at the site this past week with the Fire Department having access to the back trailer park. The new owner of 144 Main St. put up a fence and a chain to stop the owners at the trailer park from going through the gas station into the trailer park and now the Fire Department has gotten involved. The applicant has filed with CPC but needs more time to address this new issue and requested a continuance to January.

Mr. Breen moved to continue the Public Hearing to January 12, 2023, seconded by Ms. Lockhart; and voted Mr. Breen – yes, Ms. Lockhart – yes, and Ms. Platt – yes

25 Maple Road – Appeal of the Building Commissioner's decision

Chair read the notice and reopened the Public Hearing. Attorney Keyes and Mr. Smith were present. Attorney Keyes submitted additional materials, including the title, deed, and plan showing the parcels divided on a map. Attorney Keyes gave an overview of the appeal so far and showed the assessing map for this parcel with the wetland and floodplain layers showing the amount of wetlands on this 2.2 acre parcel. Attorney Keyes submitted an excerpt from a memo from KP Law that outlines a test to qualify as a grandfathered lot, which the applicant believes this lot does. Attorney Keyes went over the parameters for that test. This lot is in an RA district, which requires a minimum 40,000 s.f. This lot has 2.2 acres. Attorney Keyes stated that outlined under the Table of Dimensional & Density regulations it is stated that "Areas which are designated as floodplain or wetland are subject to the dimensional and density regulations of the district in which they are located and to the special provisions and conditions of section 200-44. Attorney Keyes stated that because they can't meet those measures, they should be deemed grandfathered and have an exempted lot. Chair acknowledged that they are going to need relief, but as far as Ch 40, §6, paragraph 4, it refers to a lot that was once conforming and as zoning changed through the years, the lot became nonconforming, but was big enough that the legislature thought should have some protection. There are two categories of lots in paragraph 4: 1) a lot that was in single ownership, and 2) a series of lots that were in common ownership, but, she also said, a key criteria is that not more than 3 such adjoining lots held in common ownership. Attorney Keyes said the Town shows this lot as a single lot. Chair said the Town on an assessment lot is not definitive or connected with the language in Ch 40A. The recorded map shows lots of little lots, of which the owner owns eight of the adjoining lots, making a 2 acre lot. Because of this, it takes this lot out of grandfathered exemption. The wetlands are out of the Board of Appeals jurisdiction. The Chair stated, when they get to the building stages and they need a variance, then they can come back to the Board of Appeals for that. Mr. Breen would agree with Ms. Platt. Ms. Lockhart would also agree. Attorney Keyes

said that the wetlands are noted on the Table of Dimensional & Density and viewed as some other measure to meet. Mr. Smith believes this lot meets the four criteria outlined in the memo from KP Law and the lot should get the exemption and deal with wetlands after. Attorney Keyes believes Chair is confusing the legal description and what is described on the plan. Attorney Keyes said we only own the one lot; we are not trying to take three adjoining lots and make them into a lot that's at least 5,000 s.f. Chair said the one lot is not shown on a recorded plan that's been submitted and endorsed before the Zoning Bylaws changed, increasing a bulk or dimensional criteria which made the lot non-conforming. The lot is conforming as to size.

Mr. Breen moved to close the Public Hearing, seconded by Ms. Lockhart; Mr. Breen – yes, Ms. Lockhart – yes, Ms. Platt – yes.

Discussion: Ms. Platt said the Building Commissioner determined that this lot is buildable and the Board agrees. Ms. Platt said she disagrees with giving this a single lot exemption because the lot does not fall within the parameters of Ch 40A, Section 6. Mr. Breen said he would agree with the decision of Town Counsel. He stated the lot should fall under zoning bylaws as opposed to being grandfathered. Ms. Lockhart said she would agree and believes ConCom would have a bigger role.

Mr. Breen moved with regard to the petitioner's application for relief from and attending to the appeal of the Building Commissioner's determination for a single lot exemption, that the petition and application be denied, and that effectively the building inspector's decision be controlling. Ms. Lockhart seconded the motion; and voted Mr. Breen – yes, Ms. Lockhart – yes, and Ms. Platt – yes.

33 Lakeside Blvd – Variance for a landing and stairs

The applicant was sent a continuation form, but it hasn't been received back. The Board agreed to continue the hearing contingent on the applicant submitting some status or some indication that he wants to move forward.

Mr. Breen moved to continue the public hearing to December 1, 2022, seconded by Ms. Lockhart

3 Linwood Ave – Special Permit for chickens and a variance for the chicken coop

The public hearing was advertised in the newspaper, but the applicant wasn't able to get notices out to the abutters because of health reasons. Chair read the hearing notice and opened the public hearing.

Mr. Breen moved to grant the petitioner, Jeff Gannon, 3 Linwood Ave, North Reading, Map 4, parcel 97 for a special permit to raise chickens and a variance for the coop, a continuance to December 1, 2022. Ms. Lockhart seconded the motion; and it was voted: Mr. Breen – yes, Ms. Lockhart – yes, and Ms. Platt – yes.

247 Main St. – Special Use Permit for a Medical Transportation Business

Chair read the hearing notice and opened the public hearing. Attorney Dailey from the Richard Kallman Law firm and the applicants, Caroline Kamau and Michael Karugu, were present. Attorney Dailey explained that the applicants are looking to purchase 247 Main St. and run a medical transportation business out of this site. The property is in the Highway Business district and is occupied by a busy real estate office and a jewelry business on the first floor. The applicant will have ten vans and will operate from 6 am week days. Employees will come to the office in the morning, pick up a van, and pick up clients at their residence. No clients will be coming to the office. They don't expect to make any changes to the building. Chair asked if the jewelry business will stay. Attorney Dailey said it is not certain whether they will stay or not but they are more of a wholesaler. There are 24 to 25 parking spaces, they will use 10 for the vans and some for employee personal vehicles, so they should have 15 spots left for the jewelry business or any other business. Ms. Lockhart asked how snow removal would be done if van's staying. Attorney Dailey said vans could be moved to the other side of the parking lot. A memo from Community Planning dated 11/7/22 was read stating a site plan would be required when they come before Community Planning.

Ms. Kamau explained how a normal day would go. They currently have 5 drivers who receive their schedules and then come to the site to pick up the required van, in some instances a wheelchair van is needed; and then they would return the van later in the day. She said there are rarely more than two at a time. Chair asked how many employees would work in the office. Ms. Kamau said two employees would be in the office, scheduling, dispatching, payroll, phones. Chair asked if vans will have sirens. Mr. Karugu said no sirens. The vans are regular vans, some conversions for picking up wheelchairs. Chair asked if there were any abutters. Dave O'Neill, the current owner of the building was present and said the only abutters are Stop & Shop and the cemetery that wraps around the back of the building. A memo from the Building Commissioner was read. Chair noted that there will be a condition that their business operates out of the site and doesn't just park the vans at the site.

Mr. Breen moved to close the public hearing, seconded by Ms. Lockhart; and voted, Mr. Breen – yes, Ms. Lockhart – yes, and Ms. Platt – yes.

Mr. Breen moved on the petition of Ms. Kamau and Mr. Karugu, at 247 Main St., North Reading, MA, Map 13, Parcel 12, be permitted with an understanding that owners run the business at the location. Ms. Lockhart seconded the motion; and it was voted: Mr. Breen – yes, Ms. Lockhart – yes, and Ms. Platt – yes.

Minutes

Ms. Platt moved to approve the Minutes of 10/13/22, seconded by Ms. Lockhart and voted; Mr. Breen – yes, Ms. Lockhart – yes and Ms. Platt – yes.

Members welcomed Michelle Bodian as a new Associate Member. Ms. Lockhart was voted in as a full member by the Select Board and will complete the remainder of Mr. Ragucci's term.

Mr. Breen moved to adjourn, seconded by Ms. Lockhart, and it was voted unanimously in favor.

Approved  DocuSigned by:
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