

# TOWN OF MONROE ZONING BOARD OF APPEALS MINUTES

— 04/27/2021

---

TOWN OF MONROE ZONING BOARD OF APPEALS (Tuesday, April 27, 2021)

Generated by Norinne McSweeney

Members present Chairperson - Michael Murphy, Kevin Scully, Austin Seid, Marci Daniel

Members Absent:

Peter Lewis

Consultants:

David MacCartney, Esq.

1. Welcome

Procedural: 1.01 Roll Call

Procedural: 1.02 Pledge of Allegiance

2. New Projects

Action, Discussion: 2.01 Anthony Piazza (Z057-2021) SBL # 21-1-30 5 High Ridge Road

Anthony Piazza - applicant add a dining room to the house (large family) 13 x 24 size room continues roof ridge least intrusive design 1 acre zone - only has 1/2 acre lot coverage add 2% Mr. MacCartney the application is basically here for 5 variances, 3 are pre-existing conditions that already exist lot area a lot within the front yard, the proposed project does not impact those three, the project brings the side yard down to 22 ft where 30 is required and lot coverage is existing at 33.1 and this would increase to 35 with 15 being the maximum. Prior variances you received back in 2002 did they relate to lot coverage or even the side yard. Mr. Piazza I believe we added 3 feet on the other side that we are not touching now Chairman Murphy: first time before the board hear the applicant provided all information to move forward complete application does board want a site visit any issues from other board members many times inaudible BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to schedule a Public Hearing for May 25, 2021.

Motion by Kevin Scully, second by Austin Seid.

Final Resolution: Motion Carries

Yea: Chairperson - Michael Murphy, Kevin Scully, Austin Seid, Marci Daniel

Action, Discussion: 2.02 Claire Runco - Air LLC (Z059-2021) SBL # 25-3-6.12 355 Route 17M

David Niemotko Tri Angela Air LLC owner Claire Runco Managing Member received letter from building department referring project to the ZBA there are some concerns on the site that are

being addressed during this time the Building Inspector references section 57-5 compliance with build requirements; nonconforming structures any alterations associated with the building that's in non-conformance even though it is pre-existing needs a variance project is located in the GB (General Business) district which requires a 60 foot front yard setback and existing is 18.9 variance required 41.1 feet history on the site - the building has been in existence for 50 years plus Chairman Murphy no additions proposed to the building itself, just some site work Mr. Niemotko we are not asking for any variances associated with additions there has been some work done in the back over the years that needs to be addressed per the building code not the zoning code, we are currently in the middle of that process, we've prepared architectural plans the scope of the work is listed on the building departments letter page 2 items one, two and three. The work is on an existing storage area and a connector, but none of these trigger the bulk requirements of the zoning code, but it does trigger the front yard setback, which is a hardship. We are here asking the board to grant us the front yard variance as a pre-existing non-conforming condition. Member Seid you need this variance in order to make the work in the back conforming. How long has the work been in the back or is it a work in progress? Mr. Niemotko part of it is modifying what's there, part of it is upgrading Chairman Murphy lets go over the construction that is being proposed. We understand the history of the property the location has been there since the 1950's maybe earlier Mr. Niemotko retaining wall has been removed from new design instead a shallow swale to catch some of the water that sheds down and then diverted away, now it accumulates in the back and is freezes over gravel area will remain Mr. Murphy concrete pad behind the building that's not parking, no that is not striped for parking that is just used for access Mr. Niemotko architectural plans have been submitted to building department, I didn't think they were directly related to the front yard set back. But the area being upgraded is in the back where is says block retaining wall and concrete, areas around there that are bump outs to the existing building that have evolved through the years and they need to be upgraded, whether by damage from water, or the area that goes from the restaurant to the storage area which has deteriorated over the years. Mr. MacCartney the building was built long before zoning code, it was in conformity and no problem with regard to the front yard setback when built in excess of 50 years ago. It is way out of whack with current front yard requirements, but there is work that's done and or needs to be done that would be considered a structural alteration or enlargement and the Building Inspector requires a variance for this to be done to be in compliance. Without the variance the work can't be done. Member Seid in looking at the plans the work is being done on the back which is well within the setback, why would that be non-conforming. I was under the impression that you can improve a non-conforming structure as long as you don't exacerbate the con-conformance. Chairman Murphy if you make any additions to a non-conforming structure even if it falls within the building envelope you still have to get the variance. Mr. Niemotko we are just looking for the 41.1 ft variance for pre existing non conforming building so that we can go ahead and remediate the other items that are in the back that are not in question of the zoning code. Chairman Murphy what about lot coverage? Please provide us with that information. Existing lot coverage and proposed lot coverage and amount of variance

if required.open discussion between board members, Mr. MacCartney and Mr. Niemotko.Mr. Niemotko introduces Mr. Ron Kossar Attorney for the applicant who would like to speak.Mr. Kossar to put the whole project into context there is a serious issue as to whether this was a legal non-conforming pre-existing use with respect to the four additions or not. This building was built prior to 1965 when you enacted your zoning ordinance. There is some evidence that refers to these additions prior to 1965 and then some records showing 1970 it is not known exactly when, but rather than litigate that issue of legal pre-existing non-conformance we decided to adhere to the building inspectors request and come before the ZBA for a variance. Originally we were going to demolish the structures until it turned out that 3 of the 4 additions were required to run the restaurant. We demolished the one structure that didn't aid in the running of the restaurant and come before you for the front yard set back variance. Mr. Maldonado has already approved the swale in his capacity as the building inspector. So we just need the variance to so we can get the building permits to upgrade and or improve the existing structures.Chairman Murphy over the years the owner has maintained the property in very good shape, made improvements in terms of painting and keeping it looking nice and clean, so they have been a good neighbor to the community.

BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to schedule a Public Hearing for May 25, 2021.

Motion by Austin Seid, second by Kevin Scully.

Final Resolution: Motion Carries

Yea: Chairperson - Michael Murphy, Kevin Scully, Austin Seid, Marci Daniel

### 3. Returning Projects

Action, Discussion: 3.01 Pietro Fini (Z056-2021) SBL # 31-1-25.42 144 Fini Road

Jay Myrow - BLuestein, Shapiro, Richard and Baronereviewed the project - we are here appealing the determination made by the building inspector that a building on the subject property is being operated as a two-family dwelling in violation of a 1983 site plan where the building itself is designated as a single family dwelling. As stated at the last meeting, we believe that the designation wasn't germane to the application to the purpose of the site plan that was considered in 1983 and if fact was in error. Last meeting we reviewed the information I was able to gather from the building department, the accessors office and the planning/zoning departments. The building department had nothing prior to 1983, accessors office was devoid of any information prior to the 5 unit building was rebuilt, there were no minutes or records from 1983 available. Mr. Fini states that when he bought the building in 1973 it was a two-family and it has been used that way since 1973. Tonight I produced an affidavit from Mr. Fini as to what the property was when he bought it and I was also able to reach the Gerzkis family who sold the property to Mr. Fini. Mr. Gerzkis recalls the property as only ever being a two-family dwelling.

BE IT RESOLVED, that the Zoning Board of Appeals of the Town of Monroe hereby makes a motion to schedule a Public Hearing for May 25, 2021.

Motion by Marci Daniel, second by Austin Seid.

Final Resolution: Motion Carries

Yea: Chairperson - Michael Murphy, Kevin Scully, Austin Seid, Marci Daniel

#### 4. Adjournment of Meeting

Action: 4.01 Adjournment of Meeting

BE IR RESOLVED, the Zoning Board of Appeals of the Town of Monroe hereby adjourns the meeting at 8:30 pm.

Motion by Kevin Scully, second by Marci Daniel.

Final Resolution: Motion Carries

Yea: Chairperson - Michael Murphy, Kevin Scully, Austin Seid, Marci Daniel