

TOWN OF WESTON, CONNECTICUT
ZONING BOARD OF APPEALS HEARING VIA ZOOM

September 27, 2022

MINUTES

Present: Board Members: Chairman, Ilene Richardson, Vice-Chairman, Don Scarborough, MacLeod Snaith, Dan Gilbert, John Moran and Alternate, James Low
Also: Tracy Kulikowski, Land Use Director, James Pjura, Code Enforcement Officer

Chairman Richardson opened the Hearing at 7:30 p.m. and Ms. Kulikowski read the Legal Notice into the record.

96 GEORGETOWN ROAD, OWNERS THREE KS LLC & NICHOLAS KLOKUS, MAP 3 BLOCK 1 LOT 27, APPEAL OF THE CODE ENFORCEMENT OFFICER'S ISSUANCE OF A ZONING PERMIT ON AUGUST 18, 2022 FOR 98 GEORGETOWN ROAD

Mr. Walpuck stated that he filed this appeal because he is not sure if the correct procedures were followed in issuing the zoning permit for 98 Georgetown Road and questioned whether P&Z referred the matter back to Mr. Pjura because of irregularities. Ms. Richardson explained that Mr. Walpuck needs to present his case of why the issuance of the zoning permit was invalid. Mr. Walpuck stated that Mr. Pjura referred the matter to P&Z and P&Z deferred it back to Mr. Pjura with the understanding that he was to figure out irregularities with the material submitted and how that decision was made. Mr. Pjura stated that because of the easement issues, he thought he should get clarification from P&Z.

Ms. Richardson asked for information from Town Attorney, Bamonte who explained that the root question is why does the application for 98 Georgetown Road not conform to zoning regulations that required an appeal?

Mr. Walpuck stated that one issue is that Attorney Sullivan's previous opinion said that the ZBA and P&Z should assume that 3K's should have an easement and does not appear in the record. He further stated that the applicant removed the existing driveway for 96 Georgetown Road and Mr. Hubli's survey does not show the 3rd driveway or circular turnaround and only shows two access points. Discussion ensued.

Attorney Bamonte stated that Attorney Sullivan's previous opinion that you should assume an existing easement and the fact that Mr. Hubli's survey does not show those same areas and is why the application should be denied are two separate issues. P&Z cannot determine matters of title, an easement or right of way is a title issue and a completely separate issue that can only be settled in court. It does not create a zoning violation with the easement or right of way not shown on Mr. Hubli's survey.

Mr. Walpuck stated that they are talking about the removal of an existing driveway that existed for over 20 years and the issue is with 98 Georgetown Road being the 3rd driveway. All he is asking is for Mr. Hubli to put in the circle and make safe access for three driveways.

Mr. Hubli commented that he has done all he needed to do, he received the zoning permit approval, and needs to do nothing more. Attorney Vitti, representing Mr. Hubli, stated that the easement has nothing to do with P&Z or ZBA, the issue is whether or not the zoning permit was issued properly. The fact that an easement may or may not have existed is not the issue, it is a civil issue between parties and subject of pending litigation. It conforms to zoning regulations and requested that the Board deny the appeal so Mr. Hubli can proceed with construction of his home. Discussion ensued.

Ms. Richardson then explained that the charge of the ZBA is to either approving or denying based on the merits of the specific appeal and needs clarity on what the specific nature of your appeal is alleging. Mr. Walpuck stated that 98 Georgetown Road doesn't have the requisite frontage without the circle.

Attorney Bamonte stated that he did look at frontage when he reviewed the application with Mr. Pjura and understands that at some point the lots used that dotted circular as frontage, but the lots as currently configured, and according to Section 321.5 which identifies frontage requirements, he did not see any violation. Mr. Walpuck then referred to the P&Z's General Procedural Guidelines and stated that Mr. Pjura did the correct thing in referring to the P&Z and doesn't understand why it got referred back to Mr. Pjura. Discussion ensued.

Following discussion, Ms. Richardson polled the Members to see if they were prepared to vote or if they needed additional information.

Mr. Gilbert made a motion to close the Public Hearing and Ms. Richardson seconded. All in favor, the motion carried (5-0).

DELIBERATIONS:

(Richardson, Scarborough, Gilbert, Snaith, Moran)

Mr. Scarborough thinks the Board is being asked to do something that is not part of the purview of the Zoning Board of Appeals. Mr. Gilbert stated that it is a complex issue and every issue raised by the appellant was addressed by the Town Attorney and did not hear anything that made him think that the Code Enforcement Officer didn't exercise his authority responsibly. Ms. Richardson concurred and did not see any violation with the issuance of the permit. Mr. Snaith commented that all the materials were reviewed and proved to be valid and the zoning permit was issued.

MOTION TO DENY

Ms. Richardson made a motion to deny the appeal of the Code Enforcement Officer's issuance of a zoning permit on August 18, 2022 for 98 Georgetown Road, Map 3 Block 1 Lot 62 and Mr. Moran seconded. The motion was voted on and carried (5-0).

APPROVAL OF MINUTES

Mr. Moran made a motion to approve the Minutes from June 28, 2022 and Mr. Gilbert seconded. All in favor, the motion carried (5-0).

MOTION TO ADJOURN

Mr. Gilbert made a motion to adjourn and Mr. Scarborough seconded. All in favor, the meeting adjourned at 8:38 p.m.

Respectfully submitted,

Delana Lustberg
Board Secretary

Date Approved: