
Zoning Board of Appeals Minutes 03/22/2018

MOTIONS

Town of Old Saybrook
Zoning Board of Appeals

NOTICE IS HEREBY GIVEN that the Zoning Board of Appeals of the Town of Old Saybrook at its **Special Meeting** that was held on **Thursday, March 22, 2018 at 7:00 p.m.** at the Town Hall, First Floor Conference Room, 302 Main Street, heard and decided the following appeals:

Seated for this evenings meeting and voting were the following members: Philip Broadhurst, Chairman, Robert McIntyre, Vice Chairman, Dorothy Alexander, Secretary, Kevin Danby and Catherine Purcell, alternate

Present: Kim Barrows, Clerk, Christina Costa, ZEO, Attorney Michael Cronin, counsel for the ZBA, Attorney Mark Branse, counsel for the Zoning Enforcement Officer and Attorney Alan Curto, assisting Attorney Branse

Absent: Adam Boyd, Jacqueline Prast, alternate and Mark Velardi, alternate

The Chairman introduced the Board members who were seated for this evenings meeting. The four regular members (Broadhurst, McIntyre, Alexander, Danby) and one alternate (Purcell) were seated.

The meeting was then called to order at 7:04 p.m. The following public hearings were conducted, as well as the decision making sessions. The meeting has been recorded and the following actions were taken:

Attorney Cassella stated that he spoke with Attorney Branse and they both concurred that it was prudent to open the Public Hearing for both the Appeal and the ZBA Variance simultaneously since the information/documentation presented to the Board for both items is basically the same. The decision on the Appeal of the Cease & Desist will be made first, then the decision for the Variance Application.

PUBLIC HEARINGS

17/18-17- Legacy 4 HIM, LLC, appeal of the Zoning Enforcement Officer's Cease & Desist Order dated September 21, 2017 for property located at 810 Middlesex Tpke, Map 63/Lot 8, Restricted Business B-3 District & Residence AA-1 District.

Discussion and deliberation on the appeal of the Zoning Enforcement Officer's Cease & Desist Order dated September 21, 2017.

The property is located in both the B-3 and AA-1 Zoning Districts. Both Districts prohibit automotive uses. The automotive use located on the property is a pre-existing nonconforming use and any expansion of the use is prohibited by the Zoning Regulations.

The file and testimony presented reveals that the property has a history of violations relating to the expansion of a non-conforming use dating back to 1981. The violations have been remedied and then reoccur. The current owner/operator is aware of the non-conformities, limitations of his business/property and has even been denied variances to expand the non-conforming use. The ZEO received a complaint on September 19, 2017 which noted that a building was being constructed without permits. The property was inspected by the ZEO and the Wetlands Officer and several observations were made, i.e. motor vehicles parked over the Zoning District Boundary line in the Residential AA-2 District and within the State ROW as well as 770 Boston Post Road. A food truck was parked in the lot serving food, a metal building was being erected over a new poured concrete pad, a shed a metal shipping container with a door and hoop house were on site. There were no Certificate of Zoning Compliance, Inland Wetlands or Building permits on file for any of these structures. [Please refer to C&D in file for more information]. Attorney Cassella argued his clients side and Attorney Branse [counsel for the ZEO] went over the file from 1964 to the present on this property.

A **Motion** was made by P. Broadhurst, seconded by R. McIntyre to **UPHOLD the Cease & Desist order dated September 21, 2018** issued by the Zoning Enforcement Officer which appeal is Application **17/18-17 - "Legacy 4 Him, LLC"** based on the testimony heard this evening. No discussion and a vote was taken: In favor: P. Broadhurst, D. Alexander, R. McIntyre, K. Danby, C. Purcell Opposed: None Abstaining: None The motion passed unanimously. 5-0-0

17/18-28 - "Legacy 4 Him, LLC" seeks a variance of Par 10.6.1, 10.6.2 & 10.6.3 (Nonconformity enlargement/change/moving) of the Zoning Regulations to permit general automotive repairs with used car sales and expanded parking at 810 Middlesex Turnpike, Map 63/Lot 8, Restricted Business B-3 and Residence AA-1 Districts.

The purpose for the variance request was to define and clarify the existing nonconforming uses on the property, which was approved by a previous variance and is therefore legally nonconforming with respect to general automotive repair and used car

sales. Part of the application was to redefine the front parking area which is to remain within the property boundaries and the parking area in the rear portion of the lot on the residential zone would be buffered from wetlands and neighboring residentially used properties. The Board, after much discussion, felt that the applicant needed to go before the relevant Boards and Commissions for review and approval before applying for any variances.

A **Motion** was made by K. Danby, seconded by R. McIntyre to **DENY w/out Prejudice** Application **17/18-28 - “Legacy 4 Him, LLC”** in order to give the applicant the opportunity to go before the other Boards and Commissions in Town to review the process. No discussion and a vote was taken: In favor: P. Broadhurst, D. Alexander, R. McIntyre, K. Danby, C. Purcell Opposed: None Abstaining: None The motion passed unanimously. 5-0-0

REGULAR MEETING

Minutes: No action taken

Adjournment: A **Motion** was made by D. Alexander, seconded by C. Purcell to adjourn the March 22, 2018 Special Meeting of the Zoning Board of Appeals. No discussion and a vote was taken: In favor: P. Broadhurst, D. Alexander, R. McIntyre, K. Danby, C. Purcell Opposed: None Abstaining: None The motion passed unanimously. 5-0-0 The meeting was adjourned at 9:15 p.m.

Philip Broadhurst, Chairman

**THE NEXT MEETING OF THE ZONING BOARD OF APPEALS IS
WEDNESDAY, APRIL 11, 2018 AT 7:00 P.M.,
FIRST FLOOR CONFERENCE ROOM**