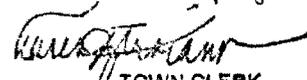


Town of Stafford
Zoning Board of Appeals
Regular Meeting
August 2, 2018 - 7:00 p.m.
Stafford Senior Center

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2018 AUG -6 A 9 06

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TOWN CLERK

Members Present: Anthony Guardiani, Chair
Tim Armstrong
Arlene Avery
Rich Longmore
Dennis Kaba, Alternate

Also Present: David Perkins, ZEO
Edward Muska, Town Attorney
Ken Slater, Attorney with Halloran & Sage,
representing Casagrande Builders
Mr. Casagandre
Public

Public Hearing

Application submitted by Casagrande Builders, Inc. to split off a 9,659 s.f. area out of an existing lot to create a new non-conforming lot; 90-92 Furnace Avenue, Map 49, Lot 6, Zone B.

Vary Sections 3.5a and 4.9 to allow a street frontage of 80 ft. where 250' is required (new lot) and allow street frontage on preexisting lot to be reduced from 163.94 to 83.94 where 250' is required.

Vary Sections 3.3 and 4.9 to allow a lot depth of 120' where 150' is required (new lot) and allow lot size of 9,659 s.f. where 40,000 s.f. is required (new lot).

Anthony Guardiani opened the public hearing at 7:00 p.m. and established a quorum with regular members Anthony Guardiani, Chair; Tim Armstrong, Arlene Avery, and Rich Longmore, and seating alternate member Dennis Kaba for Henry DaDalt. He read the legal notice into the record.

Attorney Ken Slater, representing the applicant, Casagrande Builders, said they are not proposing to change the property by building or adding anything to it. He said there is an existing house at 90 Furnace Avenue, built probably in the early 1900s, which they want to cut out as a separate parcel from the Isabella Court development behind it. He explained that it is a single family house and Isabella Court is a multi-family condominium development.

Attorney Slater said Isabella Court was a sensible project but that making an old house a unit in the project isn't practical. By separating it out, it would allow someone to buy the home as a single family home. He said the hardship is that the property is not marketable as part of the overall project. He noted this would be a first cut, so would not require subdivision approval. He said he felt it was a common sense solution to dealing with a unique property.

Attorney Slater said Mr. Casagrande bought the lot in order to gain access to the land behind it to build the development. He noted that the existing driveway that serves the house at 90 Furnace Avenue is accessed off of Isabella Court, so the condominium association and the homeowner at 90 Furnace Avenue would have to work out an agreement regarding access. He also said that allowing 83.94 feet for frontage would be ample to maintain the road.

Tim Armstrong asked why the property was not separated out initially before the development was built. Mr. Casagrande said no one had thought ahead and he relied on the engineer at the time for his advice.

Arlene Avery asked how the house was being used presently. Mr. Casagrande said he is currently renting it out as a single family home. Dave Perkins said this is so, but that it is technically considered a unit in the Isabella Court complex. Mr. Casagrande said there are 92 units in the project, and the single family house would make it 93. Attorney Slater said the driveway for 90 Furnace Avenue previously went out onto Furnace Avenue.

Arlene Avery asked how the house was originally approved by zoning as it does not appear to ever have had the appropriate frontage. Attorney Slater said he was unsure as it was before his time. He said 200 feet of frontage was required at that time. He said the variance would allow for the two lots. There was a question about when the Isabella Court development was built. Plans were drawn up in 2002 and the project was started in 2004.

The public hearing was opened to public comment. Nicole Leduc of Isabella Court asked if the lot is cut off from the development, if a new driveway would be created to access the house from Furnace Avenue. She said the condominium residents have had to pay for the maintenance of the entrance to that property, while the resident at 90 Furnace Avenue is not required to pay for condo fees.

Attorney Slater said they have no plans to install a driveway, and that would be a private contractual matter between the two properties. He said he hasn't done a title search and does not know if there is a legal obligation for the residents of 90 Furnace Avenue to pay association fees. Nicole Leduc said the condominium residents don't really have a say because the association is made up of two representatives from Casagrande and one Isabella Court resident. Therefore the Casagrandes run the Board and they are outvoted two to one.

Arlene Avery said right now the tenants at 90 Furnace Avenue have to go into the Isabella Court driveway, then turn left to get to their parking area. Therefore they have shared access. She said the property owner can still collect rent from the tenants there so there does not appear to be a hardship. The property is still marketable as a rental.

John Sepia of Isabella Court said the condominium development's entrance is a private drive and residents therefore have to pay for plowing, sanding, and other road maintenance. He said if the people at 90 Furnace Avenue want to use their entranceway, then they should be paying association fees.

Tom Riley of Isabella Court said it looks like no one applied for a variance in 2004. He said he would not have an objection to cutting the parcel out, but that it should be done right.

Amy Smith, the tenant at 90 Furnace Avenue, asked how things could be done right. She said there is no room to construct a driveway that would go out to Furnace Avenue. She said she likes living where

she is and does not wish to move. She questioned if this smaller sized lot request was approved, if she could rebuild if there was a fire.

Attorney Slater said if the variance was approved, it would be an improvement to the property. He said it makes more sense for 90 Furnace Avenue to use the private road for access, and suggested they might be able to get an easement. He said there would be no good place to put in a driveway to Furnace Avenue and this variance would create two legal lots.

Nicole Leduc expressed concerns about liability if the tenant or homeowner at 90 Furnace Avenue was backing out of their driveway and got in an accident with someone on the private drive into Isabella Court. Attorney Slater said homeowner's insurance should cover these issues.

Tom Riley asked if the Furnace Avenue property had received right-of-way (ROW) access. Attorney Slater said there is ROW access.

There were no further questions or comments. Arlene Avery made a motion to close the public hearing at 7:39 p.m., seconded by Dennis Kaba. All were in favor.

REGULAR MEETING AGENDA

1. Call to order
2. Establish a Quorum.
3. Approval of July 2, 2018 special meeting minutes.
4. Discussion and possible action – Appeal of agricultural permit #18-1 issued by Zoning Enforcement Officer for the Foster Hill Garden Shop, Owner: Karl Milikowski & Kimberly Dion, Location: 21 Stafford St., Map 54, Lot 13.3, Zone: AA.
5. Discussion and possible action: variance request – 90 & 92 Furnace Avenue, Map 49, Lot 6, Zone B.
6. Approval of 12/7/17; 4/19/18; 6/7/18 meeting minutes.
7. Adjournment

1. Call to order.

Anthony Guardiani, Chair, called the regular meeting to order at 7:40 p.m.

2. Establish a Quorum.

Anthony Guardiani, Chair, established a quorum with regular members Anthony Guardiani, Tim Armstrong, Arlene Avery, and Rich Longmore, seating alternate member Dennis Kaba for Henry DaDalt.

3. Approval of July 2, 2018 special meeting minutes.

Arlene Avery made a motion to approve the July 2, 2018 special meeting minutes, seconded by Rich Longmore. All were in favor.

4. Discussion and possible action - Appeal of agricultural permit #18-1 issued by Zoning Enforcement Officer for the Foster Hill Garden Shop, Owner: Karl Milikowski & Kimberly Dion, Location: 21 Stafford St., Map 54, Lot 13.3, Zone: AA.

The ZEO took a seat in the audience. Edward Muska, Town Attorney recapped, saying the Zoning Enforcement Officer had granted a permit to the Milikowskis for an agri-activity, and that an abutter filed an appeal. He said the Board needs to decide whether the permit the ZEO granted was in accordance with the zoning regulations. If they feel it was, then they need to deny the appeal. If they feel the ZEO acted incorrectly, then they need to approve the appeal. He provided two written motions (one for denial, and one for approval) that can be used in their decision.

Anthony Guradiani noted for the record that as he was not present for the public hearing the month before, he reviewed the records on the hearing and listened to the audio recording.

The Board discussed the appeal. Rich Longmore said he favored upholding the permit and denying the appeal. He said it comes down to the definition of a farm. He said the Milikowski property qualifies as a farm, noting that a farm can also include a residence.

Arlene Avery agreed. She said the appellant did not state the regulation that supported their argument, leaving it blank on the form. She said the several page brief provided also did not reference the regulation. However, she said the ZEO approved the permit under Section 7.19. She said she read through the definition of an ag-tivity and the five hour event held at the Milikowski property fit that description. She said their activity fell completely within the permit.

Tim Armstrong asked if Section 7.19 was written after the Milikowski's event. Arlene Avery said the event was held on April 28, 2018 and the zoning regulations were on the books earlier in April.

Arlene Avery moved that the appeal of Andrea Eldridge, Martha Abromaitis, and Tyler Roberts from the decision of the Zoning Enforcement Officer be denied and the permit issued to Karl Milikowski on April 17, 2018 to conduct an agricultural activity be hereby affirmed. Rich Longmore seconded the motion. Arlene Avery, Rich Longmore, Anthony Guardiani, and Dennis Kaba voted in favor of the motion. Tim Armstrong was opposed. Motion carried.

5. Discussion and possible action: variance request – 90 & 92 Furnace Avenue, Map 49, Lot 6, Zone B.

The Board discussed the variance request. Rich Longmore asked if it were permissible to grant multiple variances on a property. Dave Perkins said it is. Rich Longmore said this variance should have been done back when the development was to be built and granting it would correct an error.

Arlene Avery said she does not see a hardship. Rich Longmore said cutting the property away would not change the land in any way, and that the condominium association could later make a deal with the residents on Furnace Avenue to find a solution.

Anthony Guardiani said he did not see how it would make sense to grant the variance request. Arlene Avery said a goal of the ZBA is to prevent the extension of non-conforming uses. Rich Longmore said granting the variance would not make the property any more non-conforming.

Dave Perkins said the variance would end up making the property a buildable lot. He noted the issue of the driveway is not part of the ZBA's purview. He said the hardship may be unique to the property in that it would be the only single family home in a multi-family development. He said the Board would need four out of five votes in favor in order to grant the variance, and he suggested taking a straw poll first.

Arlene Avery and Tim Armstrong said they did not favor granting the variance. Dennis Kaba said he felt the hardship was self-made.

Arlene Avery made a motion seconded by Tim Armstrong to deny the variance request for 90 and 92 Furnace Avenue, Map 49, Lot 6, Zone B. All were in favor.

6. Approval of 12/7/17; 4/19/18; 6/7/18 meeting minutes.

Rich Longmore made a motion, seconded by Dennis Kaba to approve the 12/7/17; 4/19/18, and 6/7/18 meeting minutes. Rich Longmore, Dennis Kaba, Arlene Avery, and Tim Armstrong voted in favor. Anthony Guardiani voted in favor of approving the 12/7/17 meeting minutes and abstained on the minutes of 4/19/18 and 6/7/18. Motion carried.

7. Adjournment.

Anthony Guardiani made a motion to adjourn, seconded by Tim Armstrong. All were in favor. The August 2, 2018 meeting of the Stafford Board of Appeals was adjourned at 8:03 p.m.

Respectfully submitted,



Annie Gentile
Recording Secretary