

**TOWN OF SOUTHBURY
ZONING BOARD OF APPEALS
REGULAR MEETING
MAY 5, 2009
(summary of meeting)
(subject to approval)**

MEMBERS PRESENT: Peter Peterson - Vice Chairman; Geoffrey Ice; Paul Sullivan;
Douglas Breakstone - Alternate ; John Bucciarelli - Alternate; Robert Lieber - Alternate

MEMBERS ABSENT: Lemuel Johnson, Jr. - Chairman; Robert Greene

OTHER'S PRESENT: Member of the press and other interested parties

CALL TO ORDER: Vice Chairman Peterson called the meeting to order at 7:30 p.m.

PLEDGE OF ALLEGIANCE

SEATING OF ALTERNATES:

All alternates were seated

OUTSTANDING APPLICATIONS:

There were no outstanding applications.

PUBLIC HEARING:

Application #7444 David & Kathy Blersch/owners, Sara Blersch/applicant – applying for a variance to Section A-9.1 of the Zoning Regulations, relating to the 50 foot property line setback of commercial nurseries and greenhouses so as to permit an existing building (farm stand) in connection with a business to be located 11 feet from the property line. Property located at 124 Horse Fence Hill Road in an R-60 Zone.

Applicant Sara Blersch and property owner David Blersch gave a brief history of the property explaining the land has been in the family as a working farm since the 1940's and that the structure they wished to use for the sale of retail produce items to the public (farm stand) is an existing garage located within the 50 foot setback distance allowed to the property line. The use of a farm stand as a sales area was recently approved by Special Exception from the Planning Commission without use of the garage. Also, an agreement has been made with the Southbury Land Trust to establish a conservation easement on the property.

Ms. Blersch described the unique hardships of the property explaining, use of the existing structure as a farm stand in its present location 11 feet from the property line would not pose any environmental impact to the property as located behind the proposed farm stand is a milkweed patch which sustains a returning large Monarch butterfly habitat each year. Also, located within the area are deposits of rare petrified wood as documented by the Southbury Land Trust and Peabody Museum.

Ms. Blersch continued the construction of a new structure or the relocation of the current farm stand away from the property line in another direction would encroach into land designated for the planting of vegetables.

Return receipts were submitted for the record.

No correspondence was received.

Some discussion took place with regard to the Planning Commission's approval of retail use without the farm stand. The Board questioned whether or not the applicant would need to return to the Planning Commission for a modification if approved by the Zoning Board of Appeals.

As Mr. Massoud was unsure, he would seek clarification for the applicant from the Land Use Administrator.

The Board discussed with the applicant how the decision to apply for a waiver under Section A-9.1 had come about and if Section A-8 was ever considered.

Mr. Massoud explained as the farm stand area would exceed the square footage allowed under Section A-8, the decision to apply for a waiver under Section A-9.1 seemed more appropriate as the applicant has already been approved for Special Exception to allow the sale of retail items on the property.

The Zoning Officials report was received and made part of the record.

Mr. Massoud explained for the Board the definition of legal non-conforming use.

No one spoke in favor or in opposition to the application.

There being no further questions or concerns the public hearing was closed at 8:00 p.m.

DISCUSSION AND DECISION:

Application #7444 David & Kathy Blersch/owners, Sara Blersch/applicant – After some discussion it was determined the application would not comply with State Statutes if amended to add Section A-8.

The intent of the application does not seem to have any adverse effects on neighboring properties; a substantial hardship would incur with the moving of the farm stand to another location on the property seriously jeopardizing the historic petrified wood deposits within the soil.

With regard to Section A-9.1 Mr. Massoud added the sales of products could be implied as part of the commercial farming business.

On a motion by Commissioner Lieber as modified by Commissioner Bucciarelli and seconded by Commissioner Breakstone, Application #7444 (David and Kathy Blersch/owners, Sara Blersch/applicant) was approved for variance to permit an existing building (farm stand) in connection with a commercial nursery to be located 11 feet from the property line (as shown on the site plan within the 50 foot setback distance). The granting of the waiver was based on the grounds that the strict interpretation of the zoning regulations would result in undue hardship, particularly affecting the property, that the granting of the waiver would be in harmony with the general purpose and intent of the zoning regulations and would not adversely affect generally the district or area in which it is located.

NEW APPLICATION:

Application #7470 Melvin & Mary Tomlinson/owners, and Attorney Robert J. Uskevich/applicant - applying for a variance of Section 8.8.4 (Processing) of the Zoning Regulations, relating to setback requirements so as to permit the use of processing equipment during the site development of the property. Property located on Southford Road at the Intersections of Routes 67 and 188, Zone B-1A.

The above application was received and a public hearing date was set for June 2, 2009.

MINUTES:

Approval of Minutes - April 7, 2009

On a motion by Commissioner Lieber and seconded by Commissioner Sullivan the minutes of the April 7, 2009 meeting were unanimously approved.

CORRESPONDENCE:

There was no correspondence.

BILLS:

There were no bills.

ANY OTHER BUSINESS THAT MAY PROPERLY COME BEFORE THE BOARD:

There was no other business noted.

ADJOURNMENT:

On a motion by Commissioner Breakstone and seconded by Commissioner Sullivan the meeting was adjourned at 8:25 p.m.

Respectfully submitted,

Deborah Zachariewicz
Secretary