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TOWN OF CARLISLE
OFFICE OF
Zoning Board of Appeals

66 Westford Street
Carlisle, MA 01741
978-369-5326

Minutes: Board of Appeals, May 4, 2020

Call to Order

The meeting was called to order at 7:30 p.m. Pursuant to the Governor's Executive Order Concerning Open Meetings during the COVID-19 crisis there was no in-person attendance participation was entirely remote utilizing the teleconference application Zoom Meeting.

Roll Call and Declaration of Quorum

Chair Snell recognized the required quorum of Members. Present were Members Travis Snell (Chair), Manuel Crespo (Clerk), Steven Hinton and Associate Member Eric Adams. Absent were Associate Members Lisa Davis Lewis and Gretchen Anderegg.

Statement of Compliance

The issue of compliance regarding posting of the hearing was confirmed by the Chair. According to Secretary Wang, the Meeting Notice was posted in Town Hall on April 29, 2020.

Public Comment – Approval of Agenda

Chair Snell asked those present if there were any matters other than those listed on the agenda which the public would like to add to the agenda. When none were offered, the agenda was accepted.

Approval of prior minutes

The Board voted to accept the minutes from March 2, 2020 as amended.

Old Business – Case 2002

Chair Snell reopened the public hearing continued on March 2, 2020 for Case 2002, the application of Scott Jenney requesting a Special Permit under Section 3.2.2.9, for the continued operation of a landscape business. The property is located within the Residence B District at 302 Brook Street.

Present were Mosquito report Helen Lyons, Secretary Peggy Wang and members of the public. Secretary Wang reported that no correspondence had been received since the March 2, 2020 meeting.

Board's comments:

Chair Snell recapped the March 2, 2020 hearing and noted that the voting Board Members attended the March 6, 2020 site visit at which they were able to obtain a better understanding of the business and objections of the abutters. Member Adams visited the site on a separate date. The Board noted that during the site visit beeping of trucks could be heard but the sound was not coming from one of the Applicant's vehicles. In addition the Board reported looking at the following:

- 1) A view of the property from Brook Street.
- 2) Evaluation of Jenney property including the location of the two (2) driveways, one (1) for residential and commercial use and one (1) for use by the landscape business, location of the barn and house, storage location of equipment near the house and the open field.
- 3) Reviewed the backward view of the Jenny property from East Riding Drive.

The Board noted the following:

- 1) The tarp should be replaced with a gate to be esthetically consistent with a residential neighborhood.
- 2) The landscaping on the berm needs to be replaced to provide more visual protection for the neighbors.
- 3) The landscaping screening along the abutter's property located on East Riding Drive completely covers any view of the Jenney equipment storage area for the property.

Applicant's comments

When Scott Jenney was asked by the Chair if he had any comments, the Applicant said that he had none.

Public comments

Chair Snell said that the Board has heard from those present at this meeting on March 2, 2020 and requested that public comments focus on new issues only.

Frank Golis, abutter at 282 Brook Street, stated that the business is operating beyond a nuisance in his opinion and has concerns for his quality of life as a result. He repeated the same concerns he expressed in the prior meeting, screening and beeping noise. Mr. Golis stated that Mr. Jenney had driven on the grass of his property today. Cheryl Cosby who also lives at 282 Brook Street expressed concerns regarding the noise during the day.

Ted Ford Webb, abutter at 422 East Riding Drive, said that the Special Permit should never have been given to the Applicant because in his interpretation of the Zoning Bylaw the business violates the law. He suggested that the business store equipment off site and suggested that if the Board does decide to grant the Special Permit to the Applicant that it would be limited to a period of 18 months.

Applicant's response

Mr. Jenney when asked by the Board if there was any substance to Mr. Golis claim that he had driven on the Golis property today responded that he had by about six (6) inches. Mr. Jenney noted that he has operated his business for thirty three (33) years and never had an accident when entering or leaving the property. When asked by the Board about the violation of condition 18 in the 2015 decision "no backing out on to the street" the Applicant said that because of the 45 degree angle of the driveway to Brook Street the vehicles have to back out. Member Hinton noted based on his experience with driving trucks the size of the business vehicles, backing out on to the street is the only option.

Deliberation and Decision

The Board deliberated the case and discussed the length of time the permit should be granted and additional conditions that should be included. The Board determined it appropriate to grant the Special Permit and vote 3-0 in favor of the Special Permit for a period of two (2) years to expire on April 1, 2022 with a one (1) year check-in to verify compliance, Hinton (aye), Snell (aye) and Crespo (aye).

The decision was based in part on the same finding from the 2015 decision and the following additional findings;

- 1) The Applicant is a resident of the premises as required under Zoning Bylaw Section 3.2.2.9.
- 2) The Applicant's vehicles are not the only source of beeping heard by the neighbors.
- 3) The business vehicle cannot safely turn around in the driveway and backing out on to the street is necessary.
- 4) The view of the abutters at 422 East Riding Drive is adequately screened.
- 5) A tarp is not an appropriate screening material.
- 6) The vegetation that provided screening along Brook Street had died and was not removed and replaced.
- 7) There was no correspondence submitted regarding the application. There were two (2) abutters present at the hearing who supported the business and four (4) abutters who expressed concern about the business.

The decision is subject to the all the of the conditions from the 2015 expect number 18 "no backing out on to the street" and the additional new conditions;

- 1) The permit is granted for a period of two (2) years to expire on April 1, 2022. There shall be a one (1) year check-in with the Board to verify compliance.
- 3) Additions to condition number 15; Commercial vehicles, trailers and snow plowing equipment, if parked/stored outside, must be appropriately screened from view by abutters and all roadways. The two (2) driveway entrances shall

- be improved and maintained to provide visual screening with the northern most driveway (commercial entrance) having a permanent gate that screens the driveway. Such gate shall be remained closed except for when moving vehicles with the intention to screen vehicles and equipment from the neighborhood virtually all of the time. Any vegetation planted on the "berm" must be maintained in a living-state and replaced as necessary during the effective period of the permit.
- 4) Tarps used for screening are not acceptable under any circumstance. The gate referred to in condition 15 must be installed and in use by September 1, 2020 for the permit to remain valid.
 - 5) The Applicant shall not store any equipment in the open field located to the north and east of the primary residence (excluding equipment stored completely inside the barn in the field).

Appeals

The Applicant was advised that the written Decision would be prepared and signed within fourteen (14) days. A copy of the signed Decision will be mailed to the Applicant and abutters at which time the twenty (20) day appeal period begins. At the end of the appeal period, if no appeal is filed, the Applicant shall pick up the Decision along with the Town Clerk certified Grant of Special Permit which must be recorded with the Register of Deeds in Lowell, MA and filed with the Building Commissioner before becoming final.

Adjournment

Chair Snell asked those present if there were any additional issues to discuss. When none were offered the meeting adjourned at 9:00 pm.

Respectfully submitted
Peggy Wang