



Town of Troy
Zoning Board of Adjustments
Meeting Minutes

Tuesday, August 10, 2021

Members Present: Courtney Davis (Chair), Justin Jones (Vice Chair), Curtis Hopkins (Select Board Representative), Kyle Smith (Planning Board Rep.), Matt Meacham, Lexi Hopkins, Tyler Bagster, Steve Obert, Wayne Cullen

Members of the Public: Herb Drugg, (Applicant), Francis Fournier (Abutter), Jacob Landry

Courtney Davis, Acting Chair, called the meeting to order at **6:34 p.m.**

Mr. Davis stated that they received an appeal from Daniel & Breda Lang and their Attorneys Davis & Hockensmith, PC. This is an appeal to the Board of Selectmen's decision to issue two building permits to Fougere Homes, LLC on Tolman Road for Map 24 Lot 5 and Map 23 Lot 1. The Lang's, who are located on 140 Tolman Road, claim that these lots are not lots of record.

The Lang's requested a continuance and Fougere Homes, LLC approved the request. The meeting is scheduled for Tuesday, August 17th at 7:00 p.m.

Carol Ogilvie, the Land Use Consultant for the Planning Board, provided the Board members with a written memorandum that states the lots in question were lots of record prior to the adoption of the Zoning Ordinances.

The Board of Selectmen received the appeal request from the Lang's Attorneys on June 8th, 2021. Mr. Hopkins stated that an individual has 30-days to overturn a decision made by the Board of Selectmen. The Building Permits were issued on April 15th, 2021 and expire April 15th, 2022. The 30-day timeframe has passed.

Mr. Davis referred to the April 15th Board of Selectmen meeting minutes on page 5, line 30. Line 30 states "Dick Thackston abstained from the vote of issuance of the permit on April 15, 2021". Mr. Thackston recused himself from the vote of issuance of the permit because he was the Realtor that sold the property.

The Select Board saw no reason or justification for taking back the Building Permits. The Lang's wanted to reserve their right to appeal to the ZBA.

Mr. Jones does not see a legal reasoning as to why the applicants on Tolman Road are not permitted to do what they're doing.

Mr. Davis noted that he did not see anything substantial in the Lang's appeal as to why the permit should be revoked.

Mr. Obert commented that he does not see the hardship from the Lang's Appeal and does not feel that they can substantiate a hardship.

There was discussion on the parcels being vacant lots. The town's Zoning Ordinance does not have a definition of a vacant lot.

According to Mr. Hopkins, the applicants are allowed to build, and they are in accordance with Town rules.

Mr. Davis noticed a typo in the appeal regarding the dates of the Select Board Meeting and initiation of the Building Permits.

Mr. Jones and Mr. Smith agreed that if the setbacks and town's requirements are met, the applicant should be able to build.

A non-conforming lot, that was a lot of record prior to the adoption of the Ordinances can be built on and is considered Grandfathered in. The lots are not too far from conforming. One parcel was 12' short on Road Frontage, the other parcel was under the acreage. It was grandfathered in.

MOTION to close the hearing, Mr. Davis, **SECOND** by Mr. Hopkins. **VOTES: 9-0-0**

Hearing closed at **6:57 p.m.**

Courtney Davis, Acting Chair, called the meeting to order at **7:00 p.m.**

Herb Drugg presented his application for a variance. The application is to install a small self-storage facility from Article VI, Section A of the Zoning Ordinance. The property is located on Dort Street (Map 11, Lot 3A), and is zoned as Residential and is next to the Highway Department.

The lot abuts the Light Industrial District where self-storage facility is permitted use. The use is very low impact in terms of activity traffic, noise, public requirements, etc. This request is within harmony with the purpose and intent of the Zoning described in Article I, Section A of the Zoning Ordinance.

The parcel is a 1.2-acre lot located on Dort Street, on the left-hand side between the Mobile Home Park and the Highway Barn. Mr. Drugg would like to place two storage facility buildings (35'x150', and 30'x200'). Approximately 10,000 thousand square feet. The lot abuts the two Mobile Home Parks and Highway Department.

The subject property had a gas spill on it in 2002. It had the Monitoring Well and Test Wells for about 10 years due to the gas spill from the Highway Department. The EPA was monitoring the site. It is cleaned up, the Test Wells are gone, and everything is below the Action Limits. Mr. Drugg explained that the Environmental items recorded is not on the Deed but is provided at the Registry. Mr. Jones stated that the seller would be required to disclose it if there was a time of sale. It is essentially a clean piece of land at this point but for housing, it's hard to get away from that stigma.

This particular use of the property is really its highest and best use.

Mr. Drugg stated that there are storage needs for most of the tenants in the Mobile Home Parks. There would be no impact on the Highway Department. The lot is vacant right now and certainly would not diminish the surrounding properties. Mr. Drugg explained that this would be a benefit to my tenants. Mr. Drugg is aware his tenants rent storage units elsewhere. There's a tree buffer between the lot and the Mobile Home Park and it abuts up to the Highway Department and continues in the Light Industrial Use. Mr. Drugg went on to say that if a house was placed there, it probably would seem a little out of place.

Mr. Drugg stated that the Light Industrial Use, especially one that's super low impact on the area. Is a very reasonable use.

Kyle Smith inquired as to the Town of Troy's Easement. Mr. Drugg said that there was an initial Easement that was done when the Water Treatment Facility went in on the road. The road subsequently got put, not on that original Easement, and went across your property along with others, so there was a Subsequent Easement. The second Easement that was done in 2002 reflect what was put in.

The original Easement that's there was where the road is supposed to go, but it was not placed there, it was placed in a different location. A second Easement was granted to the Town for where the road currently is.

Francis Fournier located on 35 Dort Street (Map 12, Lot 1) explained that the Town bought the property from him but never registered it at the Registry, and it is still registered as an Easement.

Mr. Fournier's only concerns are how many units are in there, because for every unit is going to be somebody traveling up and down road. Mr. Fournier explained that when he was on the Planning Board, they worked on the Master Plan. Mr. Fournier stated that prior to the Board considering Industrial in that area, information was received from the Southwest Regional Planning Commission siting that the houses are too close to the road. The more traffic down that road and the Town will start having trouble with the houses.

Mr. Fournier is concerned that if you start doing truck traffic and you put storage units in, everybody's going to be going down through there with the U-Haul trucks, and I don't know how many units are in there, but that size building has quite a few units, and every unit is going to have a person so it's going to have a higher impact of traffic. With higher impact of traffic, you've got people watching everything that's going on, we've already got problems with things getting stolen and heavier traffic down to a residential area that technically should be residential right to the end of road.

Mr. Jones explained that as far as trucks traveling up and down the road, we already have super duty trucks traveling that road all day long from the Water Department, but you're concerned of all these trucks traveling on the road. People are not allowed to live, resume residency in the storage units, they are not going to be going there every day. There is limited traffic to that section of that road because there's nowhere to go.

Mr. Jones does see a benefit to the neighborhood and having that there. It is going to help people have places to store items, they're not allowed to store stuff outside, it's going to clean up the neighborhood.

Jacob Landry is located on 15 Thayer Avenue (Map18, Lot 167) and currently owns both sides of the road. Mr. Landry stated that prior to his family purchasing the property someone had a proposal to put in mini storage in the Light Industrial District, and it was shot down because of the traffic on road. This was prior to 2011.

Mr. Landry wanted to get approval to build a house on a parcel that abuts the upper Mobile Home Park and stated at that time they would only give us a Warranty Deed for four house lots on 50 acres. Mr. Landry spends a lot of time down there and has noticed that there is a lot of traffic. Mr. Landry states that he has had items stolen.

Mr. Davis asked Mr. Drugg if his biggest reason for this was trying to clean up the parks more. Mr. Drugg suspects that he will fill these units with his own tenants. Mr. Davis noted that the property is located on that road, and additional traffic would be cut down.

Mr. Drugg has tenants that have campers, and boats. It's hard to have those items in the park. Mr. Drugg has tried to accommodate his tenants as best as he can. Mr. Drugg explained that he may have storage in

the back, but it would depend on how much space he has. Mr. Drugg envisions a small area in the back. He went on to say that he would only do it for his own tenants.

Mr. Jones said that would have to be beyond the buildings. Mr. Drugg said that he was right up to 35 feet. Mr. Smith stated that if the setback requirements were met it would avoid issues for the Building Permit process.

Mr. Drugg added that an additional six to eight thousand would be added to tax dollars at no cost to the Town for the proposed units.

Mr. Jones stated that it is not Residential, it is not adding any burden to the School District, or any burden to the Town for the School District, it would be tax dollars. Mr. Fournier thinks that the proposal fits, however, would prefer to see a house there. Mr. Fournier's property is on a hill that would overlook the area.

MOTION to approve the Application for a Variance of Herb Drugg, Mr. Jones, **SECOND** by Mr. Smith
VOTES: 8-0-1. Mr. Davis abstained.


Hearing closed at **7:27 p.m.**

Reviewed meeting minutes for Tuesday May 4, 2021 with corrections; Kyle Smith was not listed under "member present".

MOTION to approve May 4th, 2021 minutes, Mr. Davis, **SECOND** by Mr. Hopkins
VOTES: 9-0-0

MOTION to close meeting, Mr. Davis, **SECOND** by Mr. Jones
VOTES: 9-0-0

Meeting closed at **7:35 p.m.**



Courtney Davis, Acting Chair

10/5/21