



TOWN OF FRANKLIN
ZONING BOARD OF APPEALS (ZBA)
7 Meetinghouse Hill Rd.
Franklin, CT 06254

MINUTES
REGULAR MEETING
Tuesday, November 23, 2021
7:30 P.M.

(These Minutes are "Unapproved". Formal "Approval" takes place at the next Board meeting held. Minutes of that meeting will show changes or corrections if any)

1. Call to Order: Chairman Dougherty called the meeting to order at 7:34 p.m.

Members Present: Chairman Bruce Dougherty, Thomas Craney, Secretary Alden Miner, Traci Hastings, Henry Konow Jr.

Alternates Absent: Jeremy Beisiegel, Kelsey Malik

Also Present: Zoning Enforcement Officer Ron Chalecki and Town Planner Carly Holzschuh

2. Recognition of Visitors: Visitors were provided a sign in sheet.
3. Election of Officers: Chairman Bruce Dougherty opened the floor for nominations:

Thomas Craney nominated Bruce Dougherty for Chairman. There were no other nominations.

MOTION #1 (11.23.21): made by Thomas Craney **SECONDED BY** Alden Miner, that the Zoning Board of Appeals approve Bruce Dougherty for *Chairman*

VOICE VOTE: UNANIMOUS;

MOTION CARRIES

Bruce Dougherty nominated Alden Miner for Secretary. There were no other nominations.

MOTION #2 (11.23.21): made by Bruce Dougherty **SECONDED BY** Thomas Craney that the Zoning Board of Appeals approve Alden Miner for *Secretary*

VOICE VOTE: UNANIMOUS;

MOTION CARRIES

4. Public Hearing: Chairman Dougherty opened the public hearing at 7:45 p.m.
 - a. **ZBA #21-04 ZONING ENFORCEMENT APPEAL/DAVID BOYLE:** For property located at Route 32; Assessor's Map 9, Lot 21, Zoned R-120; Requesting zoning enforcement appeal to notice of violation issued by Town Zoning Enforcement Officer

APPLICANT / PRESENTATION: David Held, Engineer, Provost & Rovero, Inc., was present to represent Mr. Boyle. Mr. Boyle was present via ZOOM connection. A full application and associated materials were submitted into the record.

Mr. Held wrote and submitted a letter addressed to the Zoning Board of Appeals, on behalf of Mr. Boyle, dated October 14, 2021, outlining grounds for Mr. Boyle's appeal position.

The letter refers to violations noted in Mr. Chalecki's violation letter dated October 12, 2021:

- Regulations 3.2. No building shall be erected, moved, structurally enlarged or changed to another use without a zoning permit from the Town of Franklin
- Regulation 9.19. A residential unit used to occupy on a temporary basis is only permitted for a one-year time period and must be approved by the Town of Franklin

It was noted in the letter that "while the owner intends to construct a permanent residence on subject property with the next two years, we do not believe the current use of this property constitutes "occupying" the property as outlined in Section 9.19. The property owner has parked a recreational vehicle on the property. The property owner does not currently reside in the U.S. and utilizes the recreational vehicle for several weeks per year when visiting the U.S. While the owner intends to construct a permanent residence on subject property within the next two years, we do not believe there has been a violation of Section 9.19 and we don't believe the RV constitutes a "building" any more than countless other recreational vehicles parked on other properties throughout Franklin.

Exhibit A – Mr. Held submitted into the record a photo depicting the recreational vehicle and an accessory structure currently on the property.

ZONING ENFORCEMENT OFFICER COMMENTS: Ron Chalecki provided his violation letter, dated October 12, 2021. Mr. Chalecki noted proper approvals have not been granted by the Town of Franklin for the residential unit and accessory units that have been placed on this site. This unit and other accessory units must be removed from property within seven (7) days from the date of this notice or appropriate documents (zoning permit application, application fee, site plan, etc) must be submitted to the Zoning Enforcement Officer. Mr. Chalecki noted, it is his interpretation the Town's definition of a mobile home could include a RV unit. Whether Mr. Boyle occupies the unit for 2 weeks or a full year, a Town approval is required. Mr. Chalecki referenced Section 3.2 and 9.19.

TOWN PLANNER COMMENTS: Carly Holzschuh noted, in her opinion, the use of a recreational vehicle constitutes a campground. Additionally, if the recreational vehicle is not considered a residence and Mr. Boyle's unit is considered a recreational vehicle, then he is also in violation of the R-120 Residential District section 5.2.5 Permitted uses: "Parks, playgrounds and other recreational or conservation areas except recreational campgrounds or other facilities providing overnight accommodations." The Town of Franklin expressly do not allow campgrounds in this zone.

COMMISSION / COMMENTS: ZBA members discussed Section 3.2, Section 9.19, Section 5.25. There was discussion on what specifically defines mobile home, camper unit, recreational vehicle, registered vehicle, and motor vehicle.

Exhibit B - Bruce read a letter submitted by Henry Konow into the record. The letter generally referred to Zoning Regulation definitions associated to camper unit, mobile home, recreational vehicle, and motor vehicle. Additionally, Mr. Konow noted he cannot find a violation to referenced sections 3.2 and 9.19 and therefore noted the Town of Franklin should immediately withdraw any action against Mr. Boyle.

ZBA then discussed Section 3.5 a., in that, a variance to permit a use not expressly allowed by these regulations may not be granted by the Zoning Board of Appeals. There was discussion on what level can ZBA interpret zoning regulations.

Chairman Dougherty closed the public hearing at 7:58 PM.

5. Additions to the Agenda: None

6. Approval of Minutes:

a. July 27, 2021:

MOTION #3 (11-23-21): made by Henry Konow Jr. SECONDED BY Traci Hastings that the Zoning Board of Appeals approve Meeting Minutes of July 27, 2021- as presented

VOICE VOTE: UNANIMOUS;

MOTION CARRIES

7. Unfinished Business:

a. **ZBA #21-04 ZONING ENFORCEMENT APPEAL/DAVID BOYLE:** For property located at Route 32; Assessor's Map 9, Lot 21, Zoned R-120; Requesting zoning enforcement appeal to notice of violation issued by Town Zoning Enforcement Officer.

MOTION #4 (11-23-21): made by Thomas Craney SECONDED BY Traci Hastings that the Zoning Board of Appeals obtain legal advice from Town of Franklin Legal Counsel in defining whether Mr. Boyle can legally occupy his residential unit in the Town of Franklin with or without Franklin Zoning Approval, and, that the application be continued to the next regularly scheduled meeting of December 28, 2021, 7:30p.m.

VOICE VOTE: 4:1:0 Henry Konow - Opposed

MOTION CARRIES

8. New Business:

a. Approval 2022 Meeting Calendar:

MOTION #5 (11-23-21): made by Thomas Craney SECONDED BY Henry Konow that the Zoning Board of Appeals approve the 2022 Meeting Schedule as presented

VOICE VOTE: Henry Konow - Opposed

MOTION CARRIES

9. Public Comments:

10. Adjournment:

MOTION #6 (11-23-21): made by Thomas Craney SECONDED BY Alden Miner that the Zoning Board of Appeals adjourn the meeting at 8:17 p.m.

VOICE VOTE: Henry Konow - Opposed

MOTION CARRIES

Respectfully submitted,

Sherry Pollard

ZBA Board Secretary