

EDINBURG ZONING BOARD OF APPEALS

December 3, 2020

Date of Meeting

Regular Meeting
Public Hearing

Kind of Meeting

Christopher Waite, Joe Crean, Robert Hartman
Sharon Leighton and Judy Sterling

Members Presents

None

Members Absent

Mary Beth Walsh, Town Attorney
Terrence Anthony, Code Enforcement Officer
Thomas DeOrio, Applicant

Others*

Regular Meeting:

Chairman Waite opened the meeting at 7 p.m.

Approval of Minutes:

Board Member Sterling made the following motion:

BE IT RESOLVED the minutes for the November 5, 2020 meeting are approved.
Board Member Crean seconded the motion. All in favor, none opposed. Carried: 5-0.

Public Hearing:

Application No. Z01-20

Thomas DeOrio

Tax Map No. 80.8-1-53

Area Variances

Board Member Hartman made the following motion:

BE IT RESOLVED the Public Hearing in the matter of Application No. Z01-20, Thomas DeOrio, Tax Map No. 80.8-1-53, area variances is opened at 7:05 p.m. Board Member Leighton seconded the motion. All in favor, none opposed. Carried: 5-0.

Town Attorney Walsh inquired what distances the requested area variances represent. The Secretary stated she was uncertain of the exact distances in regard to this 50-foot wide parcel. It is located in the Low Intensity District where 25-foot side yard setbacks are required.

Code Enforcement Officer Anthony stated the area variances are 16 feet and 9 feet for each side yard setback.

In the review of the criteria by Board Members, the following was discussed:

- All Board Members agreed the area variances are substantial.
- The parcel would require two side yard area variances of 8 feet (17 feet from the side yard) and 16 feet (9 feet from the opposite side yard) as submitted on the Application sketch.
- There were two different determinations that this alleged difficulty was self-created:
 1. Chairman Waite stated it was not self-created but created by the Planning Board by its regulation.
 2. Board Members Leighton and Sterling stated it was created by the Applicant by his intention to construct a garage.Town Attorney Walsh stated while she could understand the two opposing interpretations, the applicant did apply for the area variances prior to commencing any construction. Code Enforcement Officer Anthony stated these legally non-conforming lots were created prior to zoning. He stated the Low Intensity District on North Shore Road should have had 10-foot side yard setbacks requirements. Board Member Sterling stated what would prevent the lots on either of the Applicant from building structures on their lots with the same area variances. She felt this would increase the density in this area and replicate an urban area rather than the rural area that now exists. Code Enforcement Officer Anthony stated the adjoining lots are both used for driveways. Board Member Sterling stated this Board does not know what could happen in the future. Chairman Waite agreed with Board Member Sterling.
- Chairman Waite stated the granting of these area variances would result an undesirable change in this neighborhood. He further stated while Code Enforcement Officer Anthony believes this area on North Shore Road should have ten-foot side yard setbacks, that is not the purview of this Board; would be a step in the wrong direction; and, would allow other 50-foot wide lots in the Low-Intensity District to apply for the same area variances. Town Attorney Walsh agreed stating if this were the only 50-foot wide parcel in the Town, it may have been a reasonable application.
- Board Member Sterling stated the benefit sought by the applicant can be achieved by some method other than the area variances if he tried to purchase one of the lots on either side of his parcel.

Discussion ensued regarding how the criteria is reviewed according to the Land Ordinance; how other non-conforming lots in the Town were combined to form larger lots; previous area variances which were granted and the percentages involved in those decisions; Code Enforcement Officer Anthony's position in reducing setback requirement in this district; that this Application may be a good turning point for future discussion by the Town Board to make this change and reduce the number of area variance applications in this district; etc.

Town Attorney Walsh addressed the Applicant stating the Land Ordinance is in review and there could be changes made which may change setback requirements and permit the Applicant to proceed with building plans. However, as the Land Ordinance stands today, 25-foot side yard

setbacks are required and his application is been determined to be substantial by the Board. The Applicant acquired the parcel in 2007 and the Land Ordinance has been in effect with these setback requirements since 1996. Code Enforcement Officer Anthony stated real estate firms are not making potential buyers aware of this requirement.

Board Member Hartman made the following motion:

BE IT RESOLVED Application No. Z01-20, Thomas DeOrio, Tax Map No. 80.8-1-53, area variances are denied due to being substantial. Board Member Sterling seconded the motion. All in favor, none opposed. Carried: 5-0.

Old Business:

None.

New Business:

None.

Board Member Sterling made a motion to adjourn the meeting at 7:35 p.m. Board Member Leighton seconded the motion. All in favor, none opposed. Carried: 5-0.

Respectfully submitted,

Diane Byrne
Secretary

*Note: Prior to the opening of the meeting, Dennis Driscoll (son of adjoining property owner Aimee Driscoll) requested the Secretary make the Board aware he has no opposition to the Application.