

TOWN OF GREENFIELD
ZONING BOARD OF APPEALS

May 7, 2024

REGULAR MEETING

A regular meeting of the Town of Greenfield Zoning Board of Appeals is called to order by D. Eskoff, Chair, at 7:00 p.m. On roll call the following members are present: D. Eskoff, T. Flynn, S. MacDonald, and B. Etson. K. Taub is absent. J. Reckner is present.

Minutes

April 2, 2024

MOTION: T. Flynn

SECOND: B. Etson

RESOLVED, that the Zoning Board of Appeals waives the reading of, and accept the corrected Minutes.

VOTE: Ayes: D. Eskoff, T. Flynn, S. MacDonald, and B. Etson

Noes: Noes

Abstain: None

Absent: K. Taub

Old Business & Public Hearing

Serfis Realty Holdings Case #1070

TM# 138.1-1-25, 27, & 62

Interpretation

3100 Rt. 9N

Gerard McKenna (Agent) is present for the Applicant. D. Eskoff states that this is not a violation, it is an Interpretation of J. Recker's determination. This project is for the Greenfield Animal Hospital. D. Eskoff opens the Public Hearing at 7:02 p.m. G. McKenna states that he has a new survey other than that nothing has changed. D. Eskoff asks if there is any other way to get to the rear lot to put the septic system on. G. McKenna states that the septic system is going to straddle the lots. D. Eskoff states that there being no one else present to speak about this project and no correspondence, she closes the Public Hearing at 7:08 p.m. G. McKenna states that the well for the house is in the basement. T. Flynn asks if the house is two-story. G. McKenna states yes, and they are looking to combine all three lots. D. Eskoff asks there are two principal uses here. G. McKenna states that he read the definition and nowhere in it states a single-family-residence. He states that the house is rented and the lease is for a year. D. Eskoff suggests that maybe they can have an employee rent or stay there or some other connection to the Veterinary Hospital. It is not unusual for veterinary hospitals to want staff to be on site or nearby for the animals. S. MacDonald states something needs to be done. D. Eskoff states it seems to circumvent the use. She states that the word "place" in the definition of Veterinary Hospital in Code is vague. T. Flynn reads the Code for a Special Use Permit. S. MacDonald states that the vet is a unique situation. D. Eskoff states she does not see how to get around it. The Board could be setting a precedent. G. McKenna states this is a non-conforming lot, so we can't make it anymore non-conforming it is in the Town Center District

with 2 acre lots minimum. G. McKenna states that they are small lots even the vacant lot is. We can't make it smaller. D. Eskoff states it could go from three to two lots. G McKenna states J. Reckner is not saying that it is an accessory use. He asks how can one be and not the other. Eventually they will need to put the parking at the house. S. MacDonald states that which is the dominate one. She feels it is the Vet. B. Etson states that he does not see a big deal carving up a lot. T. Flynn states that he does not feel that the Vet is the primary principal use. G. McKenna states that this is a timing issue. She needs to get the septic system taken care of as soon as possible. D. Eskoff states she feels that the Vet Hospital is an important part of the Town used by a lot of clients on a busy road/intersection. B. Etson states this could be done with a lot line adjustment. S. MacDonald states don't rent it out once the lease is up. G. McKenna states that he would hate for Dr. Serfis to pay for another one they just had one done. S. MacDonald asks how often is this presented to the ZBA. D. Eskoff explains that this is in front of the Board for an Interpretation. G. McKenna did not agree with J. Reckner's determination so that is why they are here tonight. T. Flynn agrees with J. Reckner. S. MacDonald states that she can see both sides. Both are primary principal uses. T. Flynn states that it would help if it was in the uses in the Code. B. Etson asks if they are using the barn for storage. G. McKenna states yes. B. Etson states this needs to be done right away or the Vet Clinic could close. T. Flynn states even if the septic is put in a different area it is still a primary principal use. D. Eskoff states that this is not a cut and dry case, because of the tenant. T. Flynn agrees and the buildings are not connected in use. D. Eskoff states this is a serious situation but feels that there should be a way to work this out. B. Etson states they could re-write the lease.

MOTION: T. Flynn

SECOND: B. Etson

RESOLVED, the Zoning Board of Appeals hereby makes the following decision regarding the Request for Interpretation by Serfis Realty Holdings, for properties located at 3100 NYS Route 9N, 9 South Greenfield Road and 3106 NYS Route 9N Rear, Tax Map #'s 138.1-2-25., 138.1-2-27 & 138.1-2-62 (TC), Case #1070, as follows:

We agree with the Town of Greenfield Code Enforcement Officer's (CEO) determination dated February 29, 2024 regarding whether the Single-Family Dwelling located at 9 South Greenfield Road, TM# 138.1-2-62, can be classified as an accessory use or as an accessory building to the Veterinary Hospital located at 3100 NYS Route 9N, TM# 138.1-2-25, if the properties were to be combined. The Single-Family Dwelling involved in this case is presently leased for residential use with no definite time frame by the Applicant for type of use. The CEO's determination states that, at the time of his determination, "a dwelling cannot be classified as incidental or subordinate to the Veterinary hospital" based on the following definitions from the Code of the Town of Greenfield § 105-7 Definitions for Accessory Building/Structure, Accessory Use, Dwelling and Veterinary Hospital:

ACCESSORY BUILDING/STRUCTURE

A detached subordinate building, the use of which is customarily incidental to that of a principal building, which is located on the same lot with such principal building.

ACCESSORY USE

A use customarily incidental and subordinate to the principal use or building and located on the same lot with such principal use or building or on an adjacent lot, if in the same ownership and a

part of the same establishment and contributing to the comfort, convenience or necessity of occupants of the principal building or principal use.

DWELLING

Any stationary building or portion thereof designed and used exclusively as a residence or sleeping place of one or more persons, including modular, panelized or sectional housing, but not including hotels, boardinghouses or bed-and-breakfasts.

VETERINARY HOSPITAL

A structure or place for the medical care and treatment of animals.

In reviewing this Interpretation request, the Zoning Board of Appeals agrees that the above definitions are supported under:

- 1) The Code of the Town of Greenfield § 105-22 (D) General Provisions which states “Principal buildings per lot. Unless otherwise specified, there shall be only one principal use and building per lot.”
- 2) § 105 Attachment 4, Town of Greenfield Table 1, Use Regulations which states that a Single-Family Dwelling is a Principal Permitted Use (PP) and a Veterinary Hospital is a use permitted subject to site plan review (SPR).

And further supported by the following Code of the Town of Greenfield § 105-7 Definitions for Principal Building and Principal Use:

PRINCIPAL BUILDING

The building in which the primary use or function of the lot is conducted.

PRINCIPAL USE

The use which is primary and dominant to the lot.

VOTE: Ayes: D. Eskoff, S. MacDonald, T. Flynn and B. Etson

Noes: None

Abstain: None

Absent: K. Taub

New Business

Faiola K. Case #1071
TM# 153.13-1-1

Area Variance
15 Brower Road

Kim Faiola is present. D. Eskoff states that this is in front of the Board, because of a violation. K. Faiola has withdrawn her pending incomplete Use Variance Application and is now seeking an area variance for subdivision instead. They have a small building on the property that was approved for office/storage in 2006. Since then, it has been listed on Airbnb. K. Faiola states that she spoke to Justin Grassi, Esq., who suggested that she subdivide this building to correct the situation. He is not representing her. She is unsure if this is a lot line adjustment or

subdivision. D. Eskoff explains that a lot line adjustment is done through the Planning Board. A subdivision is also done at through the Planning Board. Any application for an area variance in connection with a subdivision that comes in front of the ZBA is referred to the Planning Board for their Advisory Opinion. The subdivision is up the Planning Board, not the ZBA. K. Faiola states she has filled out the application to the Planning Board. K. Faiola states that in 2006 she came to the Building Department with all their plans for the building and the Building Department was fine with everything at that time. They are trying to figure this out for her elderly mother. D. Eskoff states that, under Code, there are two options for apartment use, an in-law apartment which must flow within the main home or a garage apartment. K. Faiola states that she does not have a garage. K. Faiola asks what if they put a carport there. D. Eskoff states a garage, per Code, may be possible, dependent. T. Flynn asks K. Faiola in 2006 she was told that she couldn't do this. K. Faiola states that the Building Department said that this was fine in 2008. She states that nothing has changed. D. Eskoff states that she would like pictures taken from the road looking towards their neighbors. The Board is referring this to the Planning Board for an Advisory Opinion. B. Etson asks how many bedrooms K. Faiola states two. She asks if there is any other way forward. D. Eskoff states a Use Variance but they are very hard to get approved.

MOTION: T. Flynn

SECOND: S. MacDonald

RESOLVED, that an appeal Application for Area Variance has been submitted to the Town of Greenfield Zoning Board of Appeals by K. Faiola for property located at 15 Brower Road (OR), TM# 153.13-1-1, Case #1071. This proposed project requires Subdivision approval by the Town of Greenfield Planning Board under Greenfield Town Code. The Zoning Board of Appeals hereby refers this Application to the Town of Greenfield Planning Board for an Advisory Opinion under Greenfield Town Code §105-84 (C)(1) requesting the Planning Board's opinion on the potential for Subdivision of this property.

BE IT FUTHER RESOLVED, that the Town of Greenfield Zoning Board of Appeals hereby tables this Application for Area Variance pending the receipt of the Advisory Opinion by the Town of Greenfield Planning Board for this Application, and

BE IT FURHTER RESOLVED, that the Applicant shall submit the following information to the Zoning Board of Appeals prior to any further review of this Application by the Zoning Board of Appeals:

Seven (7) Copies of:

- 11" x 17" Format Scalable Site Plan showing:
 - The location of the detached office/storage building that is the subject of this application
 - The location of the principal dwelling and any other existing buildings on the current lot
 - The location of the existing and proposed wells for each proposed lot
 - The location of the existing and proposed septic for each proposed lot
 - All existing and proposed setbacks for each proposed lot
- Photos of the property including views of the property to and from neighboring lots and from the roadways (Brower Road and North Broadway)

- Any additional information that may be requested and submitted to the Town of Greenfield Planning Board during their Advisory Opinion review of this proposed project.

VOTE: Ayes: D. Eskoff, S. MacDonald, T. Flynn and B. Etson
Noes: None
Abstain: None
Absent: K. Taub

Correspondence

D. Eskoff states that the ZBA has received correspondence from D. Rojek withdrawing his Application for Area Variance, Case #1069.

Other Business

The next meeting of the ZBA will be held on Monday, June 3, 2024 at 7 p.m. instead of meeting on Tuesday, June 4, 2024.

Meeting adjourned at 8:07 p.m. All members in favor.

Respectfully submitted by,

Kimberley McMahon
Executive Secretary
Zoning Board of Appeals