

**TOWN OF BROOKLYN  
ZONING BOARD OF APPEALS  
SPECIAL MEETING MINUTES**

The Zoning Board of Appeals held a public hearing on Thursday, October 20, 2016 at 6:30 p.m. at the Clifford B. Green Memorial Meeting Center at 69 South Main Street, Brooklyn, CT on the following:

**Present:** Dan Ross, Bruce Parsons, Bill Macnamara, Mark Benard

**Staff Present:** Martha Fraenkel, Zoning Enforcement Officer, Audrey Cross-Lussier, Recording Secretary.

**Also Present:** Clifton and Heather McCollum, Teresa Smith.

**Absent:** Brien Kroeger with notice, Stephen Mylly without notice.

**Call to Order:** The meeting was called to order at 6:34 p.m.

**Seating of Alternates:** None.

**Approval of Minutes:** Special Meeting Minutes September 22, 2016.

A motion was made by Bruce Parsons to approve the special meeting minutes of September 22, 2016 as submitted. Bill Macnamara seconds this motion. No discussion held. All in favor. The motion passes unanimously.

**Public Hearing:**

**Reading of Legal Notice:** Chairman Ross reads the legal notice into the record.

1. ZBA16-001 Clifton H. McCollum, Jr., 589 Wauregan Road, Map 30, Lot 70, R-30 Zone, 1.2 acres – Appeal ruling of the Zoning Enforcement Officer and request variance of Zoning Regulations Sections 3.4.3.2 and/or Section 2.1 to allow the expansion of living space an existing accessory apartment in a free-standing building.

Ms. Fraenkel gives a summarized history of the property. A lot of the history comes from old assessor field cards as there are not building/zoning department records to go back to the origin of the building. The request is to expand an existing legal accessory apartment in an outbuilding.

Mr. Macnamara asks if the accessory apartment is the same thing as a dwelling. Ms. Fraenkel stated that it is a kind of a dwelling.

Ms. Fraenkel stated there is an existing dwelling unit which she has classified as an accessory apartment. The request is to expand to make it more livable and allow the family to move in there. The problem that presented Ms. Fraenkel, is the accessory apartment is now only 760 sq. ft. The principal house that has been there since 1930's is about 1550 sq. ft. The accessory apartment is in an outbuilding and has been inhabited since sometime 1975-1985. The building is much older than that. The original field card calls this building an old barn. Ms. Fraenkel feels this predates the field card.

The proposal is to increase the height of the exterior walls so the roof can be raised and finish the upstairs above the existing unit which would add 777 sq. ft. of space. They would like to bump out the front wall to add 228 sq. ft. so they have a sit down eating area. The unit was built originally as something other than a living unit, however, this would be a big improvement. Ms. Fraenkel considers it to be a legal accessory dwelling unit. Accessory implies "that which is subordinate and customarily incidental to the main building and use on a lot." Ms. Fraenkel came into the problem because the accessory apartment wouldn't be accessory if it is this big (bigger than the house), therefore the zoning permit was denied.

There are provisions for accessory apartments. The accessory uses, accessory dwelling units are not specifically dated in the regulations. This became a problem for Ms. Fraenkel, who asked PZC for a ruling on if it is legal for her to approve accessory apartments since it is not specifically stated. The PZC ruled in favor. Ms. Fraenkel states it is the size that is the problem, not the use. Ms. Fraenkel did not know how to approve this, so it was sent to the Zoning Board of Appeals.

Mr. Clifton McCollum, Jr., would like to make it so they can have a family home. At present, it is so small there is not room for a dining room table. The bedrooms are very small with a half bedroom on one side and another bedroom on the other side. They would like to bring the bedrooms upstairs to have normal size bedrooms. Mrs. Heather McCollum stated they wish to be there so they are close to her husband's parents who are getting older with health issues.

Mr. Benard stated he just recently sold a property down the road on the side of the firehouse where there are two separate houses on the same lot. Mr. Benard thinks they are equal size. It is a much smaller lot than the McCollum's. There are two separate dwellings, the back one has a garage, the front one does not.

Ms. Fraenkel stated that this is a difficult case because what is being pointed out is there are no numbers associated with this regulation for accessory units. Most regulations provide specific square footage for the number of square feet relative to the principal unit. Here we don't have anything. Ms. Fraenkel is called upon to exercise judgement.

Are there examples of two dwellings on a lot that are the same size or something that isn't accessory, incidental/lesser? Ms. Fraenkel said we cannot comprehensively search the assessor records which was tried. Ms. Fraenkel came up with one where there were two houses on a lot.

There are many accessory apartments, including detached in barns and garages. When Ms. Fraenkel looked at the numbers, one is the principal (the original) and the other one is smaller (typically about half).

Ms. Fraenkel has spent a lot of time with the applicants discussing what is accessory. Ms. Fraenkel commented that when it says subordinate and customarily incidental Ms. Fraenkel takes it to mean no bigger than the same or slightly smaller.

Mr. Macnamara commented on making this into another single-family dwellings or multi-family dwellings. What is the challenge other than basically renaming it from an accessory dwelling to something else that is permitted in the zone – multifamily dwellings or two single family dwellings?

Ms. Fraenkel stated it is not multifamily because that is anything with 3 or more units. What about a second house on the lot? Ms. Fraenkel's interpretation of the regulations is one per lot. Since 1972 every use given in the regulations was stated in plural. Because there is an "s" on the end in the list of permitted uses, does that mean plural of all those uses is allowed? This is where judgement was made by Ms. Fraenkel.

Mr. Benard commented that there is a house on Route 6 that has a chicken coop in the back that was converted into an apartment. The apartment is approximately 4,000 sq. ft. which is clearly bigger than the original house which is approximately 1,700 sq. ft.

Mr. Parsons questions Ms. Fraenkel referring to this as an accessory dwelling unit. Mr. Parsons says that there is nothing in the regulations defining it as an accessory dwelling unit or accessory structure. There is nothing illegal in the Town of Brooklyn to construct two homes on one piece of property long as there is square footage of the lot to build on. Ms. Fraenkel does not agree. Mr. Parsons stated there are a few of them. There is one on South Street, Mr. Regis has a big house and a smaller house. There is another on Barrett Hill, Mr. Curtis, two houses and a commercial building on the property. Recently one house was subdivided from it.

Mr. Parsons has a problem with Ms. Fraenkel referring to it as an accessory dwelling unit. Mr. Parsons addresses the two field cards, two single family homes which they have been paying taxes on, not an apartment. It is completely independent of the house. Mr. Parsons cannot say this house is incidental to the other house, they are both single family homes with people living in them. What happened back in 1970 we have no power over and cannot go back that far. They have a C/O for both houses because people are living in them. For the Commission to say it is an apartment, which it is not, this is a completely independent living facility, it is a home. These people are paying taxes on a home, not paying taxes on an apartment. Mr. Parsons states again, it is not illegal in the Town of Brooklyn to build two houses on one lot if you have the area to do it. Ms. Fraenkel does not know where this comes from in the regulations. Mr. Parsons asked what grounds does she have to deny this. Ms. Fraenkel does not believe that the regulations support more than one house on a lot. Mr. Parsons stated it is plural in the regulations. Ms. Fraenkel is saying since 1972 and again in 1977 every single use has an "s" on the end.

Chairman Ross questioned the varying of the two articles that the Commission feels are not in violation.

Ms. Fraenkel discusses the appeal and variance process. The appeal is always heard first because the variance is not necessary if the appeal is upheld, ZEO is overturned. Discussion ensued.

**Public Hearing Closes:**

A motion was made by Bruce Parsons to close the public hearing at 6:55 p.m. Mark Benard seconded this motion. No discussion held. All in favor. The motion passes unanimously.

A motion was made by Bill Macnamara to deny the appeal in that it is a permitted use.

Bruce Parsons agrees and does not feel that the regulations 3.4.3.2 and section 2.1 applies to this application. Mr. Parson's opinion is that there are two single family homes on the same piece of property and one is not an accessory building, it is a single-family home. As far as Mr. Parsons knows in the regulations, a single-family home can be increased as big as you want.

Ms. Fraenkel asked Chairman Ross, do you mean that you agree with the point of view that her opinion is wrong? Mr. Macnamara stated yes. Ms. Fraenkel asked that the motion be reworded.

Mr. Macnamara withdrew his prior motion.

A motion was made by Bill Macnamara to grant/approve the appeal of ZBA16-001 Clifton H. McCollum, Jr., 589 Wauregan Road, Map 30, Lot 70, R-30 Zone; that it does not violate the permitted use in the R-30 Zone of Regulations Sections 3.4.3.2 because the Commission believes they are allowed to have multiple single family dwellings in the zone. Mark Benard seconds this motion.

Vote was taken: All in Favor: Dan Ross, Bruce Parsons, Bill Macnamara and Mark Benard. The motion passes unanimously 4-0.

**Unfinished Business:**

1. ZBA16-001 Clifton H. McCollum, Jr., 589 Wauregan Road, Map 30, Lot 70, R-30 Zone, 1.2 acres – Appeal ruling of the Zoning Enforcement Officer and request variance of Zoning Regulations Sections 3.4.3.2 and/or Section 2.1 to allow the expansion of living space an existing accessory apartment in a free-standing building.

Applicant in agreement. No variance requested. No discussion held by Commission.

**Adjourn:** A motion was made by Mark Benard to adjourn the meeting at 6:55 p.m. Bruce Parsons seconds this motion. No discussion held. All in favor. The motion passes unanimously.

---

Audrey Cross-Lussier  
Recording Secretary