

ZONING BOARD OF APPEALS
September 2, 2008 Meeting Minutes

Board Members Present: Shane O'Connor, Howard Aspinwall, Ray Williams, Curtis Ruckey and Joseph Lawsing

Town Staff Present: none

Chairman O'Connor called the meeting to order at 7:05 pm.

Board roll call was taken.

Chairman O'Connor referred to the August 4, 2008 meeting minutes and asked for any corrections or changes. There were none. He then asked for a motion regarding the minutes. Mr. Aspinwall moved to accept the August 4, 2008 meeting minutes, as published. Mr. Williams seconded the motion. All were in favor. The vote was 5 – 0, the motion was approved.

BILLS & CORRESPONDENCE:

None

OLD BUSINESS:

None

NEW BUSINESS:

- a. Public hearing on Application #FY08-09-03, Owner/Applicant: Mark Brengi for a variance for the property located at 32 South Center Street to reduce the side yard setback to 6 feet, where 12 feet are required.**

Mr. Ruckey asked what was adjoining the property in question. Mark Brengi addressed the Board and replied that it was a field with some outbuildings on it. He went on to say that it used to be a horse stable. Mr. Brengi then reiterated that no one lived on that property. Chairman O'Connor asked if there was a brook on the other side. Mr. Brengi replied that there was.

Mr. Williams asked what was currently on the property where the new building was being proposed. Mr. Brengi replied that there was currently just the slab from the old barn. He went on to say that he had removed the barn and would also be removing the slab.

Mr. Brengi explained that his house was built in 1897 and that he had redone the whole thing over and added a 1,700 square foot addition on to it over the past four years. He went on to say that he had not put a basement under the addition. Mr. Brengi stated that initially he was going to restore the old barn, but he had an accident on April 22, 2007 and had lost his arm. He noted that his grandfather had built the old barn and, therefore, it had been a difficult decision to tear it down.

Mr. Brengi stated that in the proposed new structure there would be a second floor for storage. It would not be a full second floor; it would only have 4 foot walls. He went on to say that the building would have air lines in the walls so that he could use his nomadic tools to work on his trucks and mowers, etc. Mr. Brengi stated that the floor would be brought up 18 inches so that he could put a garage door in and park his truck in there. He then explained that the proposed building would have three garage doors; one for his wife's car, one for his truck and one to store his mowers and other items.

Mr. Brengi pointed out that on one side of the barn was a horseshoe shaped flower box that he had built for his wife. He noted that it would be impossible to move the flower box. Mr. Williams asked if the flower box was between the house and the barn. Mr. Brengi replied that it was and that it was 13 feet long, 8 feet long on each end and 4 feet wide total with a tree in the middle.

Mr. Ruckey clarified that Mr. Brengi was proposing to have three garage doors in the new building. Mr. Brengi replied that that was correct; an 8 foot door for his wife's car, a 10 foot door for his truck, and another 8 foot door for storing various pieces of equipment.

Mr. Ruckey asked how big the building footprint would be. Mr. Brengi replied that it would be about 26 feet by 46 feet. Chairman O'Connor pointed out that it would still be 2 feet lower than the house. Mr. Brengi stated that the house was 29 feet high and the new building would be 27 feet high. He went on to say that the barn on the adjoining property was 30 feet high.

Mr. Brengi commented that he did not have too many people who abutted his property. He went on to say that most could not even see the barn. Mr. Brengi stated that he had talked to all of his neighbors, even the one across the street, and everyone was fine with what he was proposing. He then noted that he wanted to make the new building look as much like a barn as he could.

Mr. Ruckey clarified that the old barn was being torn down and that he would be leaving the slab. Mr. Brengi replied that that was incorrect; the slab would also be removed. Mr. Ruckey commented that it would be new construction. Chairman O'Connor stated that the only thing that was before the Board for consideration was the 6 foot side yard variance. He went on to say that he had spoken with Ms. Rodriguez, Planning Coordinator and Assistant Zoning and Wetlands Officer, and that she had had no problem with the application.

Mr. Brengi submitted a letter from his neighbor, Wayne Jutras. He then commented that he kept everything orderly and neat during his construction projects.

Mr. Aspinwall asked if there was any way he could move the proposed building farther from the property line. Mr. Brengi replied that because of the flower box and tree he could not move if any further away from the property line. He then noted that the proposed building would be about 300 plus feet away from the barn that was north of his property.

Mr. Williams stated that he had the following two concerns:

- 1 – If five years down the line someone bought the abutting property and wanted to put something in that area, they would want to know why and how Mr. Brengi was able to put a building 6 feet from the property line.
- 2 – As an Appeals Board, the Board needed to look at whether there was something unique about the property to prevent the property owner from following the set regulations.

Mr. Williams commented that he really did not see anything unique about the property; it was the flower box and the size of the garage doors being proposed that made it necessary to have the variance.

Mr. Ruckey asked Mr. Brengi if he had considered turning the building and maintaining the required buffer. Mr. Brengi replied that that was where some very old large maple trees were located and that he did not want to take those trees down.

Mr. Williams commented that it seemed to be a matter of convenience and that he had some concerns about the resident who might come before the Board in the future and want a variance simply for convenience.

Chairman O'Connor asked how big the flower box was. Mr. Brengi replied that it was 8 feet, then 13 or 15 feet, and another 8 feet (shaped like a horseshoe). He went on to say that there was a cherry tree in the middle of the horseshoe. He explained that the flower box was built about 4 feet high to accommodate his wife who had a

bad back. Mr. O'Connor asked if the flower box could be moved. Mr. Brengi replied that it could not be moved; it would have to be destroyed and the tree would have to be removed.

Mr. Williams asked if it would be possible to move the new building. Mr. Brengi replied that there was no other place to move it to be a garage. Mr. Williams then suggested that maybe Mr. Brengi could buy an easement from his neighbor for \$1. Mr. Brengi stated that he could look into it. He went on to say that when South Center Street had been moved several years prior the turn was squared, but that it was not square on the deeds, therefore he probably owned some of that property. Mr. Brengi pointed out that he probably owned 2 or 3 feet of his neighbor's property.

Mr. Ruckey asked if Mr. Brengi had brought any photos of the property. Mr. Brengi replied that he had not.

Mr. Brengi asked how the Board's voting process worked. Chairman O'Connor replied that he would need a 3 out of 5 vote in favor of his application for approval.

Chairman O'Connor asked how big the original barn footprint was. Mr. Brengi replied that it was 20 feet by 35 feet. Mr. O'Connor then clarified that the new building was going to be 46 feet by 26 feet. Mr. Brengi stated that that was correct. Mr. Ruckey commented that normally the Board would have a layout of what was being proposed on the property. Mr. O'Connor stated that the new building was basically going on the old barn footprint, just a little larger.

Mr. Ruckey reiterated that there was no where else to move the proposed building to. Mr. Brengi replied that there was no where else to put it to make it a garage based on where the driveway was located. He went on to say that he was willing to check on the easement.

Mr. Williams commented that he would be much happier if the applicant could get a 6 foot by 26 foot easement from his neighbor. Chairman O'Connor noted that an easement would carry over forever, even if the property were sold.

Mr. Ruckey commented that the Board had gotten a lot closer to the property line with other applications and that Ms. Rodriguez had had no issue with Mr. Brengi's application at all. He went on to say that Mr. Brengi's neighbor also did not have any issues with what was being proposed. Mr. Ruckey then commented that he was not sure that having Mr. Brengi leave that evening to seek an easement from his neighbor

was necessary, although he did understand where Mr. Williams was coming from with his concerns. Mr. Williams reiterated that the proposed building was more than just a garage; it was for convenience and could be questioned in the future.

Chairman O'Connor asked Mr. Brengi if he would be using the garage for work purposes or just for personal use. Mr. Brengi replied that it would be for personal use only. He went on to explain that he currently had a white tent set up on his property that held his mower, thatcher, and other equipment which he felt was an eyesore. Mr. Brengi stated that his intent was to build the new garage, put all of his equipment in the garage and remove the tent from his property.

Chairman O'Connor asked the Board members for any further questions or comments. They had none.

Chairman O'Connor asked for any public comments either in favor or in opposition to the application. There were none.

Mr. Lawsing asked if they could continue the hearing. Chairman O'Connor replied that if Mr. Brengi wanted to continue the hearing he could ask the Board for a continuance. Mr. Brengi commented that if he could get the necessary votes that evening he would like to move forward. Mr. O'Connor noted that if the hearing were continued Mr. Brengi would have to wait until the following month's meeting or he could go ahead with the vote that evening. Mr. Brengi stated that he wanted to go ahead with the vote that evening.

Chairman O'Connor asked for a motion regarding Application #FY08-09-03. Mr. Aspinwall moved to approve Application #FY08-09-93, Owner/Applicant: Mark Brengi for a variance for the property located at 32 South Center Street to reduce the side yard setback to 6 feet, where 12 feet are required. He then noted that the hardship was that the flower box area and tree would be too difficult to move. Mr. Williams seconded the motion. All were in favor. The vote was 5 – 0, the motion was approved.

Chairman O'Connor asked for a motion to adjourn. Mr. Aspinwall moved to adjourn the meeting. Mr. Ruckey seconded the motion. All were in favor. The vote was 5 – 0, the meeting was adjourned at 7:45 pm.

Respectfully submitted,

Diane Ferrari
Recording Secretary

THIS A DRAFT - PLEASE CHECK THE FOLLOWING MONTH'S MEETING MINUTES FOR OFFICIAL APPROVAL OF THESE MINUTES AND ANY AMENDMENTS OR CORRECTIONS THAT WERE MADE.