Decision of the Newbury Zoning Board of Appeals

Under the Zoning Bylaw (s)

Upon petition of William DiFrancesco

The Zoning Board of Appeals (ZBA) held a public hearing Thursday, August 22, 2019 at 7:30 p.m. in the Newbury Municipal Offices, 12 Kent Way, Byfield, MA on the petition of William DiFrancesco, 11 Fatherland Drive, Byfield, MA 01922, in conformity with the provisions of the Massachusetts Zoning Act, Chapter 40 A, as amended, and the Zoning Bylaws of the Town of Newbury. ZBA members present were Chairman Howard Traister, Eric Svahn and Elaine Baker.

Applicant petitioned the ZBA for a VARIANCE for relief from Section 97-8 of the Newbury Zoning Bylaws as the proposed/installed signage (12’x8’) at the property Stowaway Storage Newbury LLC located at 131 Newburyport Tpke, Newbury, MA (Assessors Map R36-0-23) exceeds the General Requirements as outlined in Section 97-8 (E). The hearing was opened and Mr. DiFrancesco, owner of Newbury Self Storage hired a company to create and erect signage at this business. During the process, he learned that the sign company did not pull a permit. He spoke with the Building Commissioner who said the sign exceeded the Sign Regulations (Section 97-8) and he is now before the ZBA to get relief in the form of a Variance as indicated by the Building Commissioners denial letter. The size of the sign is 12-feet long by 4-feet high, has a setback of 15-feet and indicated that this property is located in the Business Light Industrial District. Mr. DiFrancesco showed a photo of the sign with said dimensions and also presented examples of both permitted and unpermitted signage around town, that were within or exceeded the town’s general requirements.

Chairman Traister announced that after review of the Sign Regulations, it was his opinion that this application fell within Section 97-8.M, Exceptions – only by Special Permit. They closed the hearing for discussion on Variance versus Special Permit. The hearing was reopened and both Mr. Svahn and Ms. Baker shared that they were in agreement of this application meeting the criteria of a Special Permit and approved the change of the application from a Variance to a Special Permit. At this time, a letter of non-support from Richard & Paula Piccolo of 92 Caldwell Farm Road, Byfield was read for the record. Further, three letters of support from Gary Machiros, 128 Newburyport Tpke, T.W. Excavating of 108 Newburyport Tpke and Five Amigos Realty LLC/Capolupo Family of 166 Boston Road were also read for the record. Chairman Traister asked if anyone wished to speak in favor of or in opposition; appearing in favor of the applicant was William DiFrancesco of 11 Fatherland Drive, there was no one present in opposition. Resident Leslie Matthews of 111 Main Street was interested in what the bylaw allowed and whether the applicant needed to remove the sign until a decision was made, which the Board indicated could be a condition of the decision. Mr. Svahn moved on to read Section 97-8.M Exceptions, where they agreed that this application fell into the Permitted Size Special Permit, under section M, Exceptions. Chairman Traister verbalized that he was of the opinion that it is not more detrimental to the area, as there are similar signs in this district, the sign doesn’t block site line. Mr. Svahn furthered that saying there does not appear to be a threat to public health and safety and the proposed sign complies with the other sections of this bylaw.

Chairman Traister closed the public hearing and asked for a motion; Eric Svahn made a motion to GRANT the SPECIAL PERMIT under section 97-8.M (Exceptions – only by Special Permit) as it meets the purpose of the Sign Regulations.

This Special Permit is granted with the understanding that this decision will be recorded at the Registry of Deeds in Salem, MA and that the Zoning Board of Appeals and the Building Inspector shall receive copies of the recorded documents showing Book and Page of the recording prior to issuance of a building permit.

This Special Permit is not to be construed as a sanction of the Town of any encroachments nor does it relieve the burden of the owner to obtain proper permits and approvals from all pertinent boards. A Special Permit/Finding will lapse after two years, unless a shorter time period is specified in the zoning bylaw or ordinance, if a substantial use has not commenced except for good cause or, in the case of a permit for construction, if construction has not commenced except for good cause. Excluded from any lapse period is the time required to pursue or await the determination of any appeal taken pursuant to M.G.L., Chapter 40A, Section 17.

Notification is hereby given that appeals, if any, shall be made pursuant to G.L. Chapter 40A §17, as amended by Chapter 808 of the Acts of 1975, within twenty days after which this decision is filed with the Newbury Town Clerk.

NEWBURY ZONING BOARD OF APPEALS

Howard Traister, Chairman

Eric Svahn, Member

Elaine Baker, Member