

Zoning Board of Appeals – Public Hearing

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Tuesday March 23rd, 2021 7:00 p.m.

Members Present: Chair David Lavenburg, Jane Mantolesky, Steve Bennett, Mike Michon, Marissa Komack, Jerry Plumb, Ellen Freyman.

Members Absent: Suzanne White, Jim Tourtelotte.

Applicants Present: Allison Kone, Kevin Morin, Alison McDonough, Britt Van Valkenburg, Candy Glazer, Shannon Bloom, Dave Marinelli, Carole & Michael Hirshberg, Patrick Murphy.

The **ZBA Hearing** was called to order at 7:03 p.m. by Chair David Lavenburg, who reminded the public of the reasons for virtual meeting settings as well as the protocols to follow during this hearing.

Petition #2021-2 – Appeal of Building Commissioner’s Decision for 144 Lawnwood Ave., Jeffrey Guerra.

Mr. Guerra was not present at the hearing but had sent a written request to withdraw his application in prior days. Chair Lavenburg made a motion, and was seconded by Ms. Freyman, that Mr. Guerra’s appeal be considered withdrawn with prejudice by the board. Roll call vote - Mr. Lavenburg: yes; Ms. Freyman: yes; Mr. Bennet: yes; Ms. Komack: yes; Ms. Mantolesky: yes. All in favor, motion passed 5-0. As clarification, Mr. Lavenburg noted that the Cease & Desist order issued by the town’s Building Commissioner remains standing and, while the vehicle is allowed to enter the Town of Longmeadow, it continues to be banned from overnight parking unless a garage is used; any bylaw violations must be reported to the Building Commissioner as the appropriate enforcement agent.

Petition #2021-4 – Parking Finding for 801 Williams Street, Longmeadow Mall LP / Hazel Mathletes LLC:

The applicant has been before the Planning Board and received from said board a favorable decision to waive the Site & Design Review process and request a change of use from “Retail” to “Business” pending a favorable decision from the ZBA. Mr. Morin and Ms. McDonough presented the following project details:

1. The new business will occupy a portion of the retail space formerly known as Kiddly Winks.
2. The occupancy expectation is to have three to four employees with children spending one hour to obtain math tutoring services during weekday afternoon hours (3pm to 7pm) and a few hours on Sundays.
3. The business’ parking demands are estimated to be low since the parents would occupy parking spaces for a brief amount of time at pickup and drop off.
4. The parking requirements for this new space’s old “retail” use are the same for the new “business” use.
5. Despite the fact that in the last year the parking demand has decreased due to the pandemic, an overall parking assessment for the entire business complex was presented:
 - a. Total required parking capacity of the retail complex is 270 based on current uses.
 - b. Actual parking capacity of the site is 221; the property owner was granted a variance based on actual vehicular traffic use in the past.
 - c. At its peak demand, the site’s parking lot was able to accommodate all employees and visitors and still provided an average of 157 available parking spaces.

Comments from the public in favor of or against the petition:

- None.

Steve Bennett made a motion, which was seconded by Mr. Lavenburg, to accept the following findings: (1) the bylaw requires the site to provide 270 parking spaces based on current uses of all retail spaces and 221 are currently available, thus creating a deficit of 49 parking spaces; (2) the business hours for this space will be Monday-Thursday from 3pm to 7pm and Sunday from 12pm to 4pm during the school year and Monday-Friday from 12pm to 4pm during the summer; (3) while the peak hours from the majority of the tenants are similar, the granting of a variance would not create unreasonable traffic and parking congestion in the area at any one time, therefore a variance would not deviate from the purpose of the by-law, which is to ensure sufficient parking accommodations on site at all times; and (4) pursuant to the Zoning By-law’s Article XII, Section G, the board has the discretion to modify the parking requirements in order to allow a reduction in parking space availability to a number no less than 75% of the total requirement. Roll call vote - Mr. Lavenburg: yes; Ms. Freyman: yes; Mr. Bennet: yes; Ms. Komack: yes; Ms. Mantolesky: yes. All in favor, motion passed 5-0.

Mr. Bennett made a second motion, and was seconded by Mr. Lavenburg, to invoke Article XII, Section B – 3 and therefore grant a variance for the site to allow a reduction in the parking spaces availability from 270 to 221, which allows the site to still provide nearly 82% of the total required parking spaces. Roll call vote - Mr. Lavenburg: yes; Ms. Freyman: yes; Mr. Bennet: yes; Ms. Komack: yes; Ms. Mantolesky: yes. All in favor, motion passed 5-0.

Mr. Bennett made a third and final motion, and was seconded by Mr. Lavenburg, that the board make a finding of adequate off-street parking under the Zoning By-law's Article IV, Section D – 3 for this case. Roll call vote - Mr. Lavenburg: yes; Ms. Freyman: yes; Mr. Bennet: yes; Ms. Komack: yes; Ms. Mantolesky: yes. All in favor, motion passed 5-0.

Documents presented: Colebrook / Longmeadow Mall LP Parking Analysis for 801 Williams Street.

Petition #2021-3 – Special Permit (Keeping of Domestic Fowl) for 71 Knollwood Circle, Brit Van Valkenburg:

Mrs. Van Valkenburg has been in communications with the Kattan family, the recipients of a favorable decision on their request for keeping of domestic fowl at 59 Prynwood Road back in 2020, to obtain further education on the topic of hen handling. She provided the following details:

1. The intent is to keep up to three hens (no roosters) in a 6' x 6' x 6' chicken coop with an impenetrable predator apron to be located under the trees in her backyard, which has a fence on the east property line but none on either the north or south sides of the property.
2. The coop dimensions are based on a newer model she has found that differs from the specifications originally submitted in her application; in her opinion the predator apron is made of a sturdy wire although no specifications were provided for this element.
3. She has communicated with the town's DPW to obtain containers that will allow for the proper handling of compost with minimal to none odor.
4. She has read the MDAR biosecurity documents provided by the ZBA ahead of the hearing and affirms her commitment to compliance with them and of being a responsible keeper, including periodic checkups for the hens by a qualified veterinarian.
5. She has no knowledge of menacing predators in the area, such as fisher cats or bobcats.
6. Her application includes letters from three neighbors in support of her desire to keep domestic fowl.
7. There a number of large recreational items, such as a small boat, that are stored in the rear of the property along the back fence, but there is no history of animals using these items as safe havens. Should the application be approved, Ms. Van Valkenburg stated the family would relocated many of the large items.

Comments from the public in favor of or against the petition:

- Candy Glazer (68 Knollwood Circle) spoke favorably of the Van Valkenburg family but is concerned over the presence of poultry in the neighborhood and its impact on a nearby vegetated area where occasionally animals are spotted; she also expressed concern over any health issues that could be associated with domestic fowl.
- Shannon Bloom (81 Knollwood Circle) is a direct abutter to the applicant and stated there are no physical boundaries between their properties. She is concerned over any health issues that could be connected to keeping of domestic fowl (i.e., pests or aerosolized bacteria) and potentially compromise the health of her growing family.
- Carole & Michael Hirshberg (166 Brookwood Drive) expressed concern over the lack of a fully enclosed fence on this case that could deter predators and pests from roaming through adjacent neighbors' properties as they pursue the scent of the hens, thus creating a health and safety concern for others. They also pointed to the petition for keeping of domestic fowl that was denied in 2020 for 397 Williams Street as an example to follow in this case.
- David Marinelli (9 Overbrook Lane) is a town resident not connected to the neighborhood in question but with exposure to a neighbor's domestic fowl in East Longmeadow. His experience has been positive and encourages all hearing participants to consider the documented health and nuisance issues that humans are routinely exposed to when cohabiting with other domesticated animals such as cats and dogs.

Chair Dave Lavenburg proceeded to inform the public of the specific protocols that the board has followed thru the years when reviewing petitions related to domestic fowl, including the imposition of MDAR biosecurity measures as provided by the Longmeadow Board of Health on all applications and considerations of specific environmental and health issues as found in each case, thus creating a history of board decisions that have allowed or denied the keeping of domestic fowl over time that is in line with the by-law's intent of handling these matters on a case-by-case basis; he described some petitions (such as the cases of 397 Williams Street, 59 Prynwood Drive and 53 Nevins Avenue) and the reasoning behind each of those decisions. To date, the board has not received complaints or request for special permit modifications from town residents over inadequate hen handlings or adverse impact of domestic fowl keeping after a decision has been granted by the board.

Among the board members most notable comments were the presence of a number of animals that historically have been a part of the Longmeadow environment, the lack of substantial evidence supporting the general health concerns raised during this hearing and the benefits of having a fully-fenced backyard in some of the cases that have been reviewed in the past. Due to the size of the lot, the density of the neighborhood and the presence of a nearby wooded area, the board discussed fencing alternatives for this case that ranged from enclosing the chicken coop with a solid 4'-to-5' high fence in a portion of the backyard or providing fencing on the remaining sides of the backyard to maximize the backyard's use. The applicant was encouraged, and ultimately agreed, to explore cost-effective fence design layouts that would address the comments raised throughout the hearing and provide the documents by April 10th, 2021.

Chair Dave Lavenburg made a motion, and was seconded by Ms. Mantolesky, to continue the hearing on this petition to April 22nd, 2021 to allow the applicant to explore fencing alternatives. Roll call vote - Mr. Lavenburg: yes; Ms. Freyman: yes; Mr. Bennet: yes; Ms. Komack: yes; Ms. Mantolesky: yes. All in favor, motion passed 5-0.

Documents presented: pictures of the backyard at 71 Knollwood Circle.

Meeting Minutes Review:

1. February 23rd, 2021 Public Hearing: Mr. Lavenburg made a motion, and was seconded by Mr. Bennett, to approve the minutes as presented. Roll call vote - Mr. Lavenburg: yes; Ms. Freyman: yes; Mr. Bennet: yes; Mr. Plumb: yes; Ms. Komack: yes.

The meeting was adjourned at 8:48 pm.

Respectfully submitted,

Bianca Damiano