Preston Zoning Board of Appeals
Regular Meeting
Monday, June 8, 2020
Teleconference Call
6:00 pm

1. Call to Order
Chairman Moulson called the meeting to order at 6:15 pm

2. Roll Call
Regular Members
John Moulson – Chairman
Jerry Morales – Vice Chairman
Gregory S. Moran Sr. – absent
Roberta Charpentier
Merrill Gerber - absent

Also Present
Millie Peringer – Zoning Enforcement Officer

Alternates
Gary Cardot - seated
John Sacrey - seated

Chairman Moulson seated Gary Cardot and John Sacrey

Roberta Charpentier (recorder) stated Per Lamont’s Executive Order 7b, Participants are reminded to state your name and title before speaking. Please help us make this conference call as useful as possible by keeping your phone on mute when not speaking. We are keeping the line open to all participants by default, but if background noise becomes a problem, we will mute all participants and ask participants to use “chat” to be selectively unmuted. Also note that we will be recording this meeting to comply with open meeting requirements.

3. Approval of Regular Meeting minutes of April 13, 2019.
A motion was made by J. Morales and seconded by G. Cardot to approve the Regular Meeting minutes of April 13, 2020 as presented.
All in favor. Motion carries.

4. Communications
None

5. Public Hearing: ZBA-2020-0001- Long Tidal River Lands, LLC, 80 Roosevelt Ave Ext, appeal of Zoning Enforcement Officer decision for renovations. Sec. 22.2 of the Preston Zoning Regulations. See Public Hearing Minutes

The Regular Meeting was recessed at 6:17 pm for a Public Hearing
The Regular Meeting reconvened at 6:54 pm
6. **Old Business:** ZBA-2020-0001-Long Tidal River Lands, LLC, 26 M Bushnell Hollow Road, Baltic, CT for 80 Roosevelt Ave Ext, Preston, CT. Applicant requests an appeal of a decision of the Zoning Enforcement Officer of the Town of Preston purportedly denying a zoning permit in conjunction with an application to perform renovations to a two family dwelling house effectively determining that the two family use of the property at 80 Roosevelt Ave Ext is not a legally non-conforming use protected pursuant to the provisions of Sec. 22.2 of the Preston Zoning Regulations.

The Public Hearing was recessed in order to search for the building permit before a decision is made on ZBA Application 2020-0001.

A motion was made by J. Morales and seconded by G. Cardot to schedule a site visit to 80 Roosevelt Avenue Extension on Saturday June 13th at 10:00 am.
All in favor. Motion carries.

7. **Other Matters:**
None

8. **Public Comment**
None

9. **Adjournment**
A motion was made by G. Cardot and seconded by J. Morales to adjourn the meeting at 6:55 pm.
All in favor. Motion carries.

Respectfully submitted,

Roberta Charpentier
Preston Zoning Board of Appeals
Public Hearing
Monday, June 8, 2020
Teleconference Call
6:00 pm

1. Call to Order
Chairman Moulson called the Public Hearing to order at 6:17 pm

2. Roll Call
Regular Members
John Moulson – Chairman
Jerry Morales – Vice Chairman
Gregory S. Moran Sr. – absent
Roberta Charpentier
Merrill Gerber - absent
Also Present
Millie Peringer – Zoning Enforcement Officer

Chairman Moulson seated Gary Cardot and John Sacrey

Public Hearing: ZBA-2020-0001- Long Tidal River Lands, LLC, 80 Roosevelt Ave Ext, appeal of Zoning Enforcement Officer decision for renovations. Sec. 22.2 of the Preston Zoning Regulations.

Attorney Harry Heller stated that he is representing the Appellate Long Tidal River Lands, LLC. This matter concerns an appeal of a decision made by Preston's Zoning Enforcement Officer. It is not regarding a variance, so there is no issue of hardship to be determined in this matter.

This concerns whether or not the property at 80 Roosevelt Avenue Extension is a legally existing non conforming use as a two family home.

Attorney Heller explained that the building permit application is to do renovations in a second floor apartment in an existing two family house.
The issue is whether or not the property at 80 Roosevelt Avenue extension is a legally existing non conforming use.

Attorney Heller asked Chairman Mouslon if he received the Proof of Notification he emailed this afternoon.
Chairman Mouslon answered that he has not read his email in the past couple of hours.
Attorney Heller noted that it will need to be entered into the record.

Attorney Heller explained the appellate has to prove to this Board that the non conforming use existed on the date of enactment of Preston's zoning regulations which in Preston was April 1964 and that use has continued over time.
Letters have been submitted into evidence indication that the house was built in 1954 as a two family dwelling and had several tenants living in the apartment over the years. The layout of the apartment today is exactly as it was in 1954.

Attorney Heller explained that this a factual determination which needs to be made by the Board as to whether or not the facts substantiate that this house was built as a two family dwelling with a first floor living unit and a second floor living unit. That the use existed in 1964 when Preston's zoning regulations were adopted, and that use has continued over time preserving the non conforming status of the use.

Attorney Heller stated there is question about the fact that the Assessor's records do not reflect that this property was a two family dwelling house. An error in assessment is not binding on the Zoning Board of Appeals. Assessment is a process engaged in by the Municipality in order to form a basis for taxation and is a separate and distinct discipline from the zoning function which is to enforce zoning regulations of the municipality.

Attorney Heller suggested the Board conduct a site visit to the property.

Jerry Morales asked if there is a separate entry to the apartment. Attorney Heller answered yes the front door opens to a common entry way and the 1st floor apartment is locked off with a keyed entry, then the common entry way goes up the stairs to the 2nd floor apartment that is also locked off from that entry way.

John Sacrey asked if the 2nd floor has a second exit. Attorney Heller answered that this is an appeal of a decision of the zoning official concerning the non conforming use status of the property. It's a zoning matter not a building matter. You have to remember this was built in 1954 so the building code in 1954 is the code that is applicable to the construction of the dwelling house at that time. Whether or not is has a 2nd means of ingress and egress is irrelevant to the zoning determination.

Chairman Moulson noted that it was stated this house was built as a two family and asked where that information came from. Attorney Heller answered that information came from the seven letters that were submitted into the record as testimony on behalf of the appellant.

Chairman Moulson stated that does not prove it was built as a two family, it proves it was used as a two family. Do the plans or the permit show it was a two family house when it was built? Attorney Heller answered unfortunately, none of that information is available at Town Hall. There are no records of the construction of the house.

Susan Mattern explained that she was not born when the house was built, however her aunt told her the plans used were the same plans utilized for a home on Lexington Avenue in Norwich. The open stairway was closed off with a separate keyed entry for Mary Perdergle and her husband to live in. S. Mattern noted that they have been assessed for a second kitchen and there are gas lines to the 2nd
floor for a stove.

Millie Peringer, Zoning Enforcement Officer stated that she never said it didn't have a kitchen in it, but we don't have two family per say in the Town. The zoning usually says, with an extra kitchen.

Chairman Moulson asked Attorney Heller if he has researched the building permit at the Town Hall. Attorney Heller answered he has not. His understanding is that his client has and was unable to locate anything.
Chairman Moulson stated that he would like to recess this Public Hearing until the next meeting because he would like to see if the building permit can be found.

Chairman Moulson asked members if they would like to have a site visit to 80 Roosevelt Avenue Extension.
All members indicated that they would.

*The Public Hearing was recessed at 6:17 pm*

Respectfully submitted

Roberta Charpentier