



BOARD OF APPEALS
TOWN OF FOXBOROUGH
40 SOUTH STREET
MASSACHUSETTS
02035

**Foxborough Zoning Board of Appeals Minutes
May 16, 2019**

Members present: Members Barney Ovrut, Kim Mellen and David Brown, Associate Member Lorraine Brue, Kurt Yeghian

Chairman Ovrut opened the meeting at 7:00 p.m. in the Gala Meeting Room of the Foxboro Town Hall, 40 South Street.

7:00 p.m. County Mortgage LLC seeks a Variance from Section 4.0, Table 4-1 of the Code of the Town of Foxborough Chapter 275 - Zoning Bylaws to allow 114.66± feet of frontage where 200 feet is required for Lot A (Assessors Map 051 Parcel 006) and 25± feet of frontage where 200 feet is required for Lot B (Assessors Map 051 Parcel 005). The property is located at 256 Main Street in the R-40 Zoning District and a Zone II Water Resource Protection District. David Azanow COO of County Mortgage was present and represented himself. He would like to subdivide the property at 256 Main Street into two lots, each of the proposed lots has the required area, but the pre-existing non-conformity is the lack of frontage. Mr. Azanow noted that there are currently two curb cuts on Main Street for the property. He feels that this will not be a more intensive use, there are currently three structures on the property including a house, a barn and a chalet. Mr. Azanow stated that this would result in the completion of a long stalled project and improve appearance to the neighborhood and from the roadway. Mr. Azanow feels the benefit to the town is the removal of one of the structures (the chalet) in the rear of the property from the wetland buffer zone.

The current frontage of the property is approximately 175 feet where 200 feet is required. This proposal would change the frontages for the two proposed lots to 150 feet and 25 feet respectively; the current driveway would become the frontage for the new lot, it will run straight back to the rear house lot.

The property has been vacant for a few years; County Mortgage foreclosed on the property about a year ago after a long eviction process. Mr. Azanow stated that he has interest from two Foxboro families in purchasing the two lots.

The Board noted that the applicant is seeking two frontage variances. The criteria for variances state that a unique feature to the land in regards to soil, shape or topography and a literal enforcement of the bylaw would cause a substantial hardship. No detrimental impact to the town by granting this relief is also a requirement.

Mr. Azanow feels that the Board should consider the financial impacts of the funds spent as a hardship. Mr. Azanow states that there are two tax bills assessed on the property. It was noted that assessing is not based on zoning.

The location of existing driveway is the only way to access the proposed lot in the rear.

The Board stated that financial impacts are not under the variance criteria. There is no relationship between the financial hardship and the land criteria.

There were no abutters present.

A motion to close the public hearing was made by Ms. Mellen and seconded by Mr. Brown. The motion carried 3-0-0.

The Board immediately moved into deliberations.

Ms. Brue asked if the lot shape of this property could be taken into consideration. It was noted that the existing lot is a non-confirming lot, due to insufficient frontage. Nothing supports creation of two lots with insufficient frontage. After discussion it was determined that the petition doesn't meet the legal criteria for granting of a variance. The moving a structure from the wetlands doesn't satisfy the variance criteria. It was also noted that granting a variance would increase the non-conformity and set precedent for future petitions.

A motion to not approve the Variances requested for 256 Main Street was made by Mr. Brown and seconded by Ms. Mellen. The motion carried 3-0-0.

7:10 p.m. Hughes Entertainment Inc. dba XtremeCraze seeks a modification a Special Permit 2018-03 to increase and expand the size of the proposed facility to add an additional 3,010± square feet of adjacent space to the subject premises, increasing the total footprint for the facility from 21,940± square feet to 24,950± square feet. The property is located at 30 Commercial Street in the Highway Business District and is not located in any restrictive overlay district. Applicant Greg Hughes was present as well as his attorney, Brian Vaughn. Atty. Vaughn explained that the applicant is looking to expand the footprint of his facility by taking over an adjoining area. Atty. Vaughn feels that this would be a minor modification to the original decision. The adjoining space was most recently used as warehouse space for the former Chic to Chic store and would otherwise be vacant.

Initially there was a mezzanine in the original floorplan that was going to be used as part of the entertainment complex, now they would like to move the lasertag area from the mezzanine to the additional area. Mr. Hughes stated that there will be changes to the original setup of the floorplan; the mezzanine will still exist but will not be used in the floorplan.

There will be no increases to the occupancy permit.

The original permit limited the arcade games area to 650 sq. ft. of the floorplan; there are no changes proposed to the arcade game area. The original use is not changing.

There were not abutters present.

A motion to close the Public Hearing was made by Mr. Brown and seconded by Ms. Mellen. The motion carried 3-0-0.

The Board immediately moved into deliberations. This petition is a modification to the original permit granted in 2018. No changes are proposed to the use, just to the floorplan by utilizing the additional space.

A motion to approve the modification to 30 Commercial Street to expand and increase the size of the XtremeCraze location with a condition that the applicant submit a final floor plan; all other conditions remain the same as decision 2018-03 was made by Mr. Brown and seconded by Ms. Mellen. The motion carried 3-0-0.

Minutes

The Board reviewed the minutes of April 18, 2019.

A motion to approve the minutes of April 18, 2019 as amended was made by Ms. Mellen and seconded by Mr. Brown. The motion carried 5-0-0.

The meeting was adjourned at 7:45 p.m.

Respectfully Submitted,

Diana Gray

Signed on behalf of the Board

Kim Mellen, Clerk