

# LIVINGSTON ZONING BOARD

**February 13, 2024**

The regular meeting of the Livingston Zoning Board was held 13 Feb 2024 and opened at 7:00pm with the Pledge of Allegiance.

## **In Attendance:**

Thomas Alvarez (Zoning Board Chair)  
Charles Schneider (Zoning Board Vice Chair)  
Charles Dickens  
Sara Price  
David Kimball  
Jason Munz (Alternate)  
Jeremy Steuhl (Zoning Board Secretary)  
Andrew Howard (Zoning Board Attorney)

## **Absent:**

None

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## **Correspondence:**

None

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## **Participants**

- Ablen Amrod
  - Attorney Carl Whitbeck
  - Brandon Mullins (Deputy Building Inspector)
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## **Minutes**

Meeting started with the Pledge of Allegiance at 7:00pm. Roll call at 7:01pm.

Reading of the 09 Jan 2024 meeting minutes by Jeremy Steuhl. Motion to accept minutes from Charles Schneider, 2nd by David Kimball. All in favor. Motion approved.

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## Public Hearing

ZB-10 Variance application for building height changed from 30' to 37' 9" , per § 3.3 of the town zoning code at 1637 Blue Hill Rd 170.-1-17.111

Motion to resume public hearing was made by Sarah Price, 2nd by Charles Schneider. All in favor. Motion approved. Public hearing resumed at 7:05pm.

- Mr. Amrod is trying to get a CO for house he built. Applied for a building permit for about 36'. They came in above the plan at 37' 9".
- Official photos of the building were presented to the board. Photos were taken by the Deputy CEO.
- Thomas Alvarez asked Deputy CEO if there are any present violations with the build? Deputy CEO said no, only the height. Deputy CEO did final inspection on this, there were a few issues, but those are all resolved.
- Jason Munz commented on the height of the building. Height was not addressed at the beginning. Should have been. Sarah Price agreed. Mr. Amrod said that he did not know he could only have 30' height. David Kimball said that we can't be ignorant of the law and is not a justification. Both agreed.
- Carl Whitbeck commented on representing his client Mr. Amrod. Mr. Amrod is a Professional Engineer and prepared/brought plans to CEO and reviewed them all. CEO issued the building permit. Building permit indicates the size of the structure, but the height of the structure was left blank. Stated there is a 3rd floor on the property. There's nothing to use up there, there's no bedrooms or bathrooms. Looking for area variance and the variance states you have to show a hardship in order to get that variance. They did an estimate on what it might cost to make the building in compliance. Estimated cost is >\$87,000, which he thinks would be substantial penalty. Would accept condition that the 3rd floor would not be occupied.
- Charles Schneider asked about basement height. Mr. Amrod said it was 8' ceiling. Though, not 8' out of the ground.
- Thomas Alvarez asked if 4' out and 4' in. Asked about entrance, which there is a regular door as seen in the pictures.
- David Kimball said that state law would say this basement is the first floor, because a portion of the basement is out of the ground. Deputy CEO agreed. That would make it a 4 story building and then it would require a sprinkler system.
- Mr. Amrod asked if that's how it works for everyone. Deputy CEO said, not in this case. He explained how it works with the state code.
- Attorney Howard reminded the board that the issue before the board is for a height variance.

- Carl Whitbeck stated that the former CEO reviewed the plans and did inspections while it was being built. The former CEO passed away. Charles Schneider stated that the current CEO only inspected once.
- Carl Whitbeck on 21 Dec 2023 , final framing inspection was done by current CEO and he did not bring it up, nor did he put it in the building permit. Mr. Amrod stated that if the the CEO would bring it up then, it could have been potentially resolved then. This would be a hardship.
- Carl Whitbeck said this is the only district in town where restriction is 30', where all others are 35'. He's sure that there's other buildings in the town in C-1 that are higher than 30'. No one has come to any of the meetings to oppose the variance. Just think about the hardship of having to redo this structure. No one in neighborhood has come to oppose the house.
- Thomas Alvarez asked if basement is finished. Mr. Amrod said no. There are some partitions for a maintenance room and storage closet.
- Carl Whitbeck also said he would accept condition that basement can't be lived in.
- Attorney Howard asked about basement plan. Permit plans were reviewed and it shows the foundation is above grade.
- When the inspections are done, at some point is there an inspection done on the basic framing. Deputy CEO answered yes. Framing inspection was done by current CEO in December 2021.
- Thomas Alvarez stated that conditions that the basement and attic should never be living space, should be under consideration.
- Deputy CEO confirms that the basement and attic are both unfinished.
- David Kimball asked about stairway, there is stairway, not continuous.
- Thomas Alvarez asked if board in agreement about the conditions?
- Sarah Price asked if that's our responsibility, since they are only here for height. Thomas Alvarez said yes. Carl Whitbeck also stated that ZBA can put on reasonable conditions on the resolution to approve the variance.
- Thomas Alvarez said that in the CO, the CEO would have to put those conditions in and that the lower level and upper level not be habitable space.
- Deputy CEO asked about raising the surface up, to reduce the height, but applicant did not want to do that.
- Deputy CEO is concerned that the building is still technically 4 floors and would require sprinkler.
- Attorney Howard said that sprinkler system is not under ZBA authority and CEO has to deal with that. We are here to deal with a variance to the zoning code for the height of the building, not the building code in regards to sprinkling.
- Deputy CEO does not want ZBA to determine sprinkler system, but is afraid that the applicant would be right back to ZBA with another variance application.
- Motion to close the public hearing was made by Sarah Price, 2nd by David Kimball. All in favor, motion approved.
- Public hearing closed at 7:30pm.
- Attorney Howard read proposed resolution.

- Conditions will be added to state that the basement and attic (top floor) will be non-habitable space.
- Address will be updated from applicants home address, to the actual physical address of the property.
- Motion to accept the resolution for 7' 9" height variance was made by Sarah Price, Charles Dickens 2nd.
- Roll Call vote

<b>Vote as follows:</b>	
Thomas Alvarez	Aye
Charles Schneider	Aye
Charles Dickens	Aye
Sarah Price	Aye
David Kimball	Aye
Jason Munz (alternate)	n/a, did not vote

- All in favor. Motion approved.

[Amrod Resolution 20240213](#)

- Thomas Alvarez advised applicant that his next step is to see the building department.

There being no further business, a motion to adjourn was made by Charles Schneider, 2nd by Charles Dickens. All present voted AYE. Motion passed.

Next scheduled meeting will be held 12 Mar 2024.

Meeting closed at 7:37pm.

Respectfully submitted,

Jeremy Steuhl  
Secretary Livingston Zoning Board