



## Zoning Board of Appeals Minutes - October 20, 2021

A meeting of the Town of Freetown Zoning Board of Appeals was held on **October 20, 2021 at 6:00 pm** at the Freetown Town Hall First Floor Hallway. **Zoning Board of Appeals Members Present:** Chairman Nicolas Velozo, Robert Jose, James Frates, Swede Magnett

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### Case #592 - Continued Public Hearing

**Chairman Velozo** called the public hearing back to order.

Jeffrey Chandler, Building Inspector and Zoning Enforcement Official, said he does not have any documentation from the previous building inspector, Scott Barabato, that designates the lot as buildable.

Mr. Chandler read from building permit for a garage that was located in the 63 Chipaway Road file. Mr. Chandler said that the building permit has a section where it asks if the structure is a dwelling and the response given was that the structure was not a dwelling. Mr. Chandler added that the permit gives the address as 63 Chipaway Road. **Mr. Jose** said the permit says its 80' x 145' which means it's the garage on the front lot.

Mr. Chandler also referenced a piece of paper (see attached) from the 63 Chipaway Road file dated May 24, 1990 which had a comment that that the parcel in question is not a buildable lot. Mr. Chandler added that the piece of paper also says that Donald Bullock was notified of this.

Attorney Patrick Matthews, representing the petitioner, asked who Donald Bullock is. Mr. Chandler asked if he was the owner. Mark Bullock, owner and petitioner, said he is not the owner and that he owns a small strip of property next to both lots. Mr. Matthews asked what the relevance of the piece of paper is and added that we don't know why it is in the file. Mr. Chandler said that he found it in the file and he thought it may be relevant to the discussion. Mr. Matthews asked if it's possible that it was misfiled or in the wrong Bullock file and that we don't know why that is in the file or what it means.

Mr. Chandler read a deed that was written on June 16, 2021 (see attached). Mr. Matthews told Mr. Chandler that he was reading the deed incorrectly. **Mr. Jose** explained that the deed has to describe where the lot is and that is why there are extra measurements on the deed.

**Mr. Jose** asked who drew up the deed. Mr. Matthews said he did because Mr. Chandler told Mr. Bullock that if Mr. Bullock added his son to his deed he would be able to build on it. **Mr. Frates** asked if deeds usually include acreage. Mr. Matthews said yes, but it's not required. **Chairman Velozo** asked what property the deed refers to. Mr. Matthews said lot 85. **Chairman Velozo** asked why it describes the lot as vacant land when there's a building on the property. Mr. Matthews said that it was described that way because that is how it was described on a previous deed. **Chairman Velozo** said the lots were separate until they were combined under the July 2002 deed. Mr. Matthews said that deed was written when Ruth Bullock was ill but that the inclusion of both lots on the same deed means nothing and that both are buildable. Mr. Bullock said he received a call from Mr. Chandler who said that the solution to the common ownership problem was to add one of his sons names to the deed and that he would be able to grant him a building permit. Mr. Bullock said that after he

jumped through hoops to get a new deed written up he received a call from Mr. Chandler on June 22, 2021 saying he had changed his mind.

**Chairman Velozo** asked Mr. Chandler if he had anything else to add. Mr. Chandler said no except for the fact that the lots are joined under common ownership.

**Chairman Velozo** said he does not believe Chapter 40a Section 6 applies because it is not vacant land.

**Chairman Velozo** asked if a survey has been done on the property. Mr. Matthews said not recently but there are stakes in the ground. **Chairman Velozo** said that he is not sure how accurate the Town's GIS is but that there appears to be a structure over the property line of both lots. Mr. Bullock said it's a movable shed that has been there for 30 years.

**Mr. Jose** made a motion to close the public hearing. **Mr. Frates** seconded. The motion passed unanimously.

**Mr. Jose** made a motion to grant the appeal, that 63 Chipaway Road and 0 Chipaway Lane are 2 separate lots and are not under common ownership. **Mr. Frates** seconded. The motion passed unanimously.

## 2. Discussion with Jeffrey Chandler, Freetown Building Inspector and Zoning Enforcement Official, regarding the Town of Freetown General and Zoning By-laws, Article 11.2 "Definitions"

Mr. Chandler read the definition for "building, principal", "use, principal", and "accessory, building". Mr. Chandler said that if someone only wants to build a garage in residential area he does not think they should be able to. **Mr. Jose** said occupation is just one of the options and that the definition does not say that principal has to be a residence. **Mr. Frates** asked if someone can build a garage on a lot and run a business out of it. **Mr. Jose** said if they collect cars that they don't sell, isn't that a residential use. Mr. Chandler said his issue is someone building a garage first means that the garage is a principal building and if they build a house they would have 2 principals which is not allowed. **Mr. Jose** asked if a principal structure/use can become an accessory structure.

**Mr. Frates** said what is the difference between a residential garage and a commercial garage. **Mr. Frates** said he would think that a residential garage would be built differently than a commercial garage and a residential car would be stored there, not something like woodcutting equipment.

**Chairman Velozo** said unless you're using the woodcutting equipment on your property. **Chairman Velozo** added that he parks a company car in his garage and asked if that is a commercial use.

**Mr. Jose** said it comes down to is the use illicit or not, which is different than saying you cannot have garages because someone may use it illicitly.

**Chairman Velozo** he thinks a garage can go on a residential lot without a primary structure

Mr. Chandler asked if he should allow someone to put a garage on an empty residential lot. **Mr. Jose** said yes as long as the use is in line with the zoning.

**Mr. Jose** said at the next meeting the agenda can include an item to take a vote and write a letter on this matter.

## 3. Receive and Approve Meeting Minutes from September 22, 2021

**Mr. Jose** made a motion approve to accept as written with a correction on page 4 from "she would like the board to deliberate" to "deliberate". **Mr. Frates** seconded. The motion passed unanimously.

**Mr. Jose** made a motion to adjourn. **Mr. Frates** seconded. The motion passed unanimously.

Respectfully Submitted,

C. Nils McKay

Zoning Board of Appeals Clerk

