

**TOWN OF STERLING
ZONING BOARD OF APPEALS
Minutes of Meeting**

DATE: December 21st, 2004
TIME: 6:30 pm
LOCATION: Butterick Municipal Building

Board Members Present:

Robert Lanciani, Russell Philpot, John Bouvier, William Brassard,

Alternate Board Members Present:

Daniel Donovan, Donald Abare

Agenda:

- 6:30 pm Case #532 Bruce Hyche-*Special Permit*
- 7:00 pm Continuation Case #531 Chris & Angie Roering-*Variance*
- 7:30 pm Case # 533 Arthur & Anita Brodie-*Special Permit*
- 8:00 pm ZBA Business

Proceedings:

- 6:35 pm Chairman opened the meeting with the hearing for the Bruce Hyche case and read the published legal advertisement. Chairman then opened the floor for the applicant to present his case. Mr. George Pape mentioned a point of order that Mr. Hyche should apply for a variance first for the auto body shop.
- Chairman explained that Mr. Hyche has already been granted a variance for the auto body shop.
- Mr. Bruce Hyche said that all he wanted was to ask for permission to continue selling used cars after Mr. Kilcoyne leaves that business.
- Chairman asked Mr. Hyche how many cars would have for sale?
- Mr. Hyche replied that in any case he couldn't have more than 18 cars on site as per the variance he has.
- Mr. William Brassard noted to the applicant that the place looks great and is very organized.
- Mr. George Pape said that he has no problem with the application of Mr. Hyche, however, his concern was about the cars that were parked on State property, and he presented some pictures showing that.
- Mr. Philpot commented that he does not know how the ZBA could force the applicant to keep vehicles off State property.
- Mr. Brassard added that he knew that the Sterling Police inform people if they were infringing upon town highways or roads for safety hazards.
- Mr. Philpot explained that he does not know what that the ZBA could address that matter, except that it is in the hands of the Police if they saw a traffic/safety hazard.
- Mr. Hyche added that they do not own any of the parked cars-they were owned by private citizens.
- Mr. Pape read points from the minutes of September 2003 meeting about the ZBA not allowing any encroachment on town property.
- Chairman noted that he remembered that those notes were meant about any encroachment on town property on DPW property lines.
- Mr. Philpot commented that in those minutes the ZBA was concerned about the side lot lines of the DPW. However, Mr. Pape's present concern is with State property not town property. Mr. Philpot

asked Mr. Pape if he had contacted the State DPW or Mass Highway. Mr. Pape has not. Mr. Philpot suggested he do so since it is State property and our town has no jurisdiction.

- Mr. Pape noted that the Building Inspector has Mr. Hyche in court because of the sign on the road.
- Mr. Hyche said that he could move the cars back but the sign has been there for many years.
- Mr. Donald Abare thought that the sign has been there since 1969.
- Chairman believed the sign was not an issue back then.
- Mr. Hyche asked if the special permit is linked to the person or the property?
- Chairman explained that a variance goes with the property-the special permit goes with the person at that property.
- Mr. Bouvier said that it seemed that if there was an issue with the sale of used cars, then the Board of Selectmen would have to deal with that.
- Chairman asked if there were further questions from the Board or from the audience.
- 6:54pm *Mr. John Bouvier* made a motion to close public testimony on the hearing. Motion seconded by *Mr. Russell Philpot*. Motion passed. Yeas: 5 (*Robert Lanciani, Russell Philpot, William, Brassard, John Bouvier, Donald Abare*), Nays: 0.
- Mr. Bouvier recommended that if the Board would grant the requested special permit that it be linked to the previously granted variance.
- 6:56pm *Mr. William Brassard* made a motion to approve the requested special permit with the same stipulations from the previously granted variance. Motion seconded by *Mr. John Bouvier*. Motion passed. Yeas: 5 (*Robert Lanciani, Russell Philpot, William, Brassard, John Bouvier, Donald Abare*), Nays: 0.
- 7:05pm Chairman opened the continuation for the Chris and Angie Roering case. Chairman asked if there was anyone in the audience to represent the applicant.
- 7:07pm seeing none, *Mr. Donald Abare* made a motion to table the hearing till the end of the meeting. Motion seconded by *Mr. Russell Philpot*. Motion passed. Yeas: 5 (*Robert Lanciani, Russell Philpot, William, Brassard, John Bouvier, Donald Abare*), Nays: 0.

ZBA Business:

- Board members reviewed the submitted minutes from November 16th meeting.
- 7:17pm *Mr. John Bouvier* made a motion to approve the minutes as corrected. Motion seconded by *Mr. Donald Abare*. Motion passed. Yeas: 5 (*Robert Lanciani, Russell Philpot, William, Brassard, John Bouvier, Donald Abare*), Nays: 0.
- Mr. Bouvier reviewed the updated and approved instruction document with the new filing process and fee structure. Mr. Bouvier noted that these changes would be effective for any cases received after January 1st.
- 7:28pm *Mr. William Brassard* made a motion to accept this new filing process document. Motion seconded by *Mr. Russell Philpot*. Motion passed. Yeas: 5 (*Robert Lanciani, Russell Philpot, William, Brassard, John Bouvier, Donald Abare*), Nays: 0.
- Mr. Bouvier noted that he would give a copy to the ZBA Administrative Assistant for circulation.

Proceedings:

- 7:30pm seeing none present for the Brodie Case, *Mr. Donald Abare* moved to put the Brodie case on the table till the end of the meeting. Motion seconded by *Mr. William Brassard*. Motion passed. Yeas: 5 (*Robert Lanciani, Russell Philpot, William, Brassard, John Bouvier, Donald Abare*), Nays: 0.
- 7:31pm Chairman opened the case for Chris and Angie Roering and asked Mr. Chris Roering about the reasons why they requested a variance.
- Mr. Roering replied that their builder has asked them to apply for a variance. He continued that the Building Inspector disapproved the builder's request for a permit and that is why he was told to apply for a variance.
- Chairman asked Mr. Roering for a copy of the letter from the Building Inspector.

- Mr. Roering replied that he has seen none.
- Chairman explained to Mr. Roering that the required side set back is 20 feet, however, the required rear set back was 25 feet. That is why it was apparent that Mr. Roering does not have to have a variance. The Board cannot grant him a variance nor deny one (which will not be a good option). That is why it was suggested that the applicant could withdraw without prejudice in case the applicant wants to come back he can.
- 7:45pm Mr. Roering commented that he did not know that he was not required to get a variance.
- 7:46pm *Mr. Russell Philpot* made a motion to allow the applicant to withdraw without prejudice. Motion seconded by *Mr. Daniel Donovan*. Motion passed. Yeas: 5 (*Robert Lanciani, Russell Philpot, William, Brassard, John Bouvier, Daniel Donovan*), Nays: 0.
- 7:52pm, seeing that it was after 7:30pm, Chairman opened the case for Arthur and Anita Brodie by reading the published legal advertisement.
- Chairman asked if there were anyone from the audience to represent the applicant.
- Seeing none, Mr. Donald Abare said that they might not have known that they have to attend the hearing.
- Chairman noted that this applicant has spoken with him several times and they called up several people and asked about help with filing the application.
- Mr. Philpot added that Mr. Rossi called him last night and indicated that he does not own the property anymore, however, this establishment was a barn and has only a toilet and a sink, and they wanted him to write it as an accessory apartment in the Purchase and Sale agreement. However he told them that he will only indicate what it is and it was not an accessory apartment.
- Chairman noted that since the applicant was not present at the meeting, he would entertain a motion to continue the hearing.
- 8:01pm *Mr. William Brassard* made a motion to continue the case to January 18th, 2005 at 7:00 pm and to notify the applicant by a letter. Motion seconded by *Mr. Russell Philpot*. Motion passed. Yeas: 5 (*Robert Lanciani, Russell Philpot, William, Brassard, John Bouvier, Daniel Donovan*), Nays: 0.
- Mr. Philpot commented that Mr. Rossi said he did not understand why the mother would be staying at a different house since that house they were moving into had several bedrooms.
- Mr. Brassard said that maybe the mother wanted privacy.
- 8:03pm *Mr. John Bouvier* made a motion to adjourn. Motion seconded by *Mr. William Brassard*. Motion passed. Yeas: 5 (*Robert Lanciani, Russell Philpot, William, Brassard, John Bouvier, Daniel Donovan*), Nays: 0.