

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

DATE: December 19<sup>th</sup>, 2006  
TIME: 6:30 pm  
LOCATION: Butterick Municipal Building

**Board Members Present:**

William Brassard, Donald Abare, Richard Hautaneimi,

**Alternates Present:**

Deanna Batstone, William Bird, Joseph Curtin, Renee Finn

**Agenda:**

- 6:30 pm Case # 559 Sterling National Country Club-Special Permit
- 7:00 pm Stonegate Village (lottery units)-Comprehensive Permit
- 7:30 ZBA Business
  1. Questions from the public
  2. Suggestion to change meeting date
  3. Minutes of November 21<sup>st</sup>, 2006

**Proceedings:**

- 6:30 pm Mr. Donald Abare opened the meeting for Sterling National Country Club special permit request by reading the published notice and opened the floor for the applicant.
- Mr. Brian Milisci, Whitman & Bingham, representing the applicant, explained the history of the application and the case. They have been in front of the Conservation Commission and they will also be in front of them again later that night. Mr. Milisci presented their revised plan and explained where the pool house would be, the parking spaces, the driving range, and the buffer zone. In addition, Mr. Milisci explained that the pool would be seasonal and will not be open all year long; there will also be food preparation on site. They are located in a rural residential area and their request is an approved activity for this zone. Also, the ZBA has an approved site plan before them so they can act based on it.
- Mr. Donald Abare noted to the Board that they have to act upon it within 90days.
- Mr. Ken Williams, Planning Board asked if the applicant can extend the clock a little bit to give the Board time to make its decision.
- Mr. Abare replied affirmatively.
- Ms. Jennifer Mcgrath, abutter, 7 Sandy Ridge Road, said that the abutters had some concerns but they have been working with the applicant and they were planning to meet with them to discuss the concerns involved.
- Mr. Abare commented that the Board is still going to meet again to discuss that case and they are not ready to make a decision yet so there will be plenty of time for the abutter to voice their opinion and concerns
- Ms. Mcgrath stated that they have more questions for the Planning Board and the applicant has been very accommodating to the abutters. She also asked about the type of the fence.

- Mr. Milisci noted that they are working by the building codes and whatever they would be required to do would be done.
- Mr. Curtin asked also about the type of the fence that they are going to need.
- Mr. Milisci replied that they have not yet chosen the material.
- Mr. Williams commented that probably the Planning Board would want to know that beforehand.
- Mr. Tony Zahariadas added that the pool should have some kind of a barrier around it so it can be up to the building code. Mr. Zahariadas also asked if alcohol would be served.
- Mr. Michale Migelli, the general manager, replied that they are still going to apply for an extension of the current license to the Selectmen.
- Mr. Curtin asked if they know if there will be an increase in traffic due to the club's new project.
- Mr. Milisci replied that there will not be a significant change in traffic because the pool will only be open to members.
- Mr. Curtin also asked about parking spaces.
- Mr. Milisci replied that there will be a net increase in parking spaces equal to seven new spaces added.
- Ms. Batstone asked if the pool house would be rented out to functions.
- The applicant replied that it will not be rented out.
- Mr. Milisci also commented that they have tried to enhance the parking spaces in their revised plans.
- Mr. Abare asked if the facility would be using town water.
- Mr. Milisci replied affirmatively.
- Bernadette Mazzoli Abutter, 8 Sandy Ridge Road asked about the hours of operation?
- Mr. Paul Cherubini, 5 Sandy Ridge Road, abutter, also asked if the town can limit the hours of operation.
- Mr. Abare replied that it will probably be up to the Board after consultation with the Selectmen to decide on the hours of operation. Mr. Abare also added that he personally will be following up.
- Mr. Abare commented that the town does not have a similar facility so we can compare hours of operation.
- Abutters noted that it is a family neighborhood and certainly they will be concerned about the noise.
- Mr. Curtin asked how the bylaws address the noise issue.
- Mr. Norman Clemence, 17 John Dee Road, replied that the Selectmen when they will hold their public hearing would be discussing hours of operation and the liquor license.
- Mrs. Mazzoli asked if there would be a life guard on duty.
- Mr. Migelli replied that they are planning to have it staffed at all times.
- Mr. Williams commented that the planning Board was scheduled to meet on December 27<sup>th</sup>.
- Mr. William Bird noted his concern about the 90 days limit to make a decision.
- Mr. Milisci asked if they could continue the hearing till next month.
- 7:18pm *Mr. William Bird* moved to continue the hearing to January 16<sup>th</sup> at 6:30pm. Motion seconded by *Mr. Richard Hautaneimi*. Motion carries. Yeas: 5 (*Richard Hautaneimi, Donald Abare, Renee Finn, Joseph Curtin, Deanna Batstone*) Nays: 0.

## ZBA Business

- 7:22pm Mr. Donald Abare opened the floor for Mr. Neil Fossile Stonegate Village to speak about his request.
- Mr. Fossile stated that he would like to be granted a building permit and the Building Inspector could not issue that to Mr. Fossile until he receives a letter from the ZBA authorizing him to do that. The other issue was the lottery for the 4 units and asked if he can use the services of his broker Colleen Cappucci who has done lottery work for him before. It would be cheaper for him to hire her then to hire an agency.
- Mr. Brassard noted that a licensed agency needed to conduct the lottery.
- Ms. Cappucci replied that she was a licensed broker to do that and she has taken all the classes of CHAPA etc. She has working knowledge of the guidelines. She also helped Mr. Fossile with another project like that in Hudson.
- Mr. Brassard stated that he will check with Mr. Bobrowski (town counsel) on this matter.
- Ms. Cappucci noted that she does not know of any law to prevent her from doing the lottery but she will also check into it.
- Mr. Zahariadas asked about how many units will be in the lottery.
- Mr. Abare replied that they are four units.
- Mr. Fossile noted that he needed a reply on the lottery issue because time was running for him and the holidays were approaching. He also asked the Board to approve issuing Building permits for him because he was losing money and really needed to get the project going.
- Mr. Brassard commented that in order for the Board to issue him that Building Permit, Mr. Fossile would have to provide the Board with the appropriate funds to get the peer review done as per the comprehensive permit decision. Mr. Brassard noted that the account was under funded and there were several unpaid bills that the town could not pay due to the lack of funds.
- Mr. Fossile stated that he already paid a lot of money so far and he was not able to pay any more.
- Mr. Brassard explained to him that the town cannot pay for the peer review and Mr. Fossile would have to fund those expenses if he wanted his project to get going. Mr. Brassard also added that the ZBA does not want to have another shortfall and have to go to town meeting to request additional funds to pay for all the outstanding bills pertaining to Stonegate Village project.
- Mr. Zahariadas asked if all the lottery units would be done at the same time.
- Ms. Cappucci replied that there are several steps to be taken depending on the number of people applying and the number of units available (also the local preference).
- Mr. Brassard noted that he has sent Mr. Burgerone a detailed email with explanation of the bills paid and how the account came to be so under-funded.
- Mr. Fossile asked about Mr. Bobrowski.
- Mr. Brassard replied that he represented the town in three affordable housing projects but he does not work for the town. Mr. Weinberg is the attorney who works for the town.
- Mr. Brassard also noted that if there were any extra funds remain in the account then they will be returned to the Mr. Fossile. The town has to get professional opinion to evaluate the final plans and any other required studies.
- Mr. Fossile asked about what he needed to do to get the Building Permit.
- Mr. Brassard reviewed the decision.

- Mr. Fossile commented that he is under a deadline and he has poured the foundation already. He did not want to lose his money and asked that the Board grant him the Building Permit.
  - Mr. Brassard replied that there is a certain procedure followed to issue the Building Permit which is clearly explained in the decision. The Board does not have final plans according to the decisions.
  - Mr. Fossile argued that he has spent a lot of time and money in this and really wanted to get his Building Permit.
  - Mr. Bird noted to him that the ZBA has to follow procedure and cannot just issue the permits without the requirements being fulfilled.
  - Mr. Brassard also added that he will be hesitant to move forward until the peer review fund is replenished. Moreover, according to the decision, there is a set of plans that need to be submitted before the Board can issue the permit and until now they were not submitted.
  - Mr. Fossile noted that he submitted the plans to the Building Inspector and the Town Clerk.
  - Mr. Brassard replied that he has not submitted any of the required plans to the ZBA.
  - Mr. Fossile expressed his frustration with the ZBA procedures.
  - Mr. Brassard replied that he communicated with Mr. Fossile's counsel on the requirements.
  - Mr. Fossile added that the ZBA was still confusing him and that he was very frustrated with the timing, and the requirements.
  - Board members explained to Mr. Fossile that it is all a matter of procedure and they would really like to help him move forward but they still have to meet the procedures.
  - Ms. Cappucci asked if Mr. Fossile met the requirements, then he would be issued the permit.
  - Mr. Brassard replied that according to the decision, the ZBA would be issuing the building permits accordingly.
  - Mr. Brassard commented that he will be sending a letter to Mr. Bobrowski asking him for his opinion in that case.
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- Mr. Don Abare asked if Mr. Ron Picherie was present in the audience.
  - Mr. Picherie asked the Board about a project he intends to submit for office and retail space in the center of the town commercial area.
  - Board members noted they cannot give any opinion about the project until he applies and it is discussed in a public hearing.
  - Another issue Mr. Abare mentioned to the Board was Mr. Frank Heinemann's dilemma about his special permit. He noted that town counsel stated that the Board cannot change the decision according to what Mr. Heinemann is requesting because it would be a substantial change. Thus, he will put that memo in file. However, the Town Clerk can correct the certificate of no appeal.
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- Another issue that the Board members discussed was the meeting date which was conflicting with Mr. Joseph Curtin's meetings with the Conservation Commission.
  - Board members expressed their willingness to change the meeting date to accommodate Mr. Curtin.
  - 9:15pm *Mr. Joseph Curtin* made a motion to change the ZBA meeting date to the second Tuesday of the month starting April 1<sup>st</sup> 2007. Motion seconded by *Ms. Deanna Batstone*. Motion carries. Yeas: 4 (*William Bird, William Brassard, Joseph Curtin, Deanna Batstone*) Nays: 1. (*Donald Abare*).
  - Board members discussed the minutes of November meeting.

- 9:20pm *Mr. William Brassard* moved to approve the minutes as corrected. Motion seconded by *Mrs. Renee Finn*. Motion carries. Yeas: 5 (*Richard Hautaneimi, Donald Abare, William Brassard, Joseph Curtin, Deanna Batstone*) Nays: 0.
- 9:26 *Mr. William Brassard* moved to adjourn. Motion seconded by *Mrs. Renee Finn*. Motion carries. Yeas: 5 (*Richard Hautaneimi, Donald Abare, William Brassard, Joseph Curtin, Deanna Batstone*) Nays: 0.