

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

DATE: March 11th, 2008
TIME: 6:30 pm
LOCATION: Butterick Municipal Building

Board Members Present:

Richard Hautaniemi, Joseph Curtin, Deanna Batstone, Renee Perry, Bill Bird

Alternates Present:

Jeffrey Donaldson

Agenda:

- 6:30 pm ZBA Business Discussion of Minutes
- 6:35pm Continuation Case # 571 Geosearch Inc.-*Appeal*
- 7:05pm Case #572 Fiber Tower Corp-*Special Permit*
- 7:35pm Case # 573 Julie Persson Trustee of the Camire Family Irrevocable Trust-*Special Permit*
- 8:05 ZBA Business

Proceedings:

- Mr. Bill Bird opened the meeting for Geosearch Inc. and talked about their request to withdraw without prejudice. From the last meeting the applicant talked about their agreement with the town that was on its way.
- 6:35pm *Mrs. Renee Perry* moved to allow the applicant to withdraw without prejudice. Motion seconded by *Mr. Richard Hautaniemi*. Motion carried. All in favor, Yeas: 5 (*Richard Hautaniemi, William Bird, Joseph Curtin, Deanna Batstone, and Renee Finn*) Nays: 0.
- Board members discussed submitted minutes of February.
- 6:37pm *Mr. Joseph Curtin* moved to approve the submitted minutes with correction. Motion seconded by *Mrs. Deanna Batstone*. Motion carried. All in favor, Yeas: 5 (*Richard Hautaniemi, William Bird, Joseph Curtin, Deanna Batstone, and Renee Finn*) Nays: 0.
- Mr. William Bird opened the discussion on the accessory apartment issues that the ZBA has been involved with. The Board discussed a draft for the suggested law.
- Mr. Ken Williams, Planning Board, talked about adding variance requirements to the by laws concerning the accessory apartments. The way it is done is that laws are submitted to the Board of Selectmen and then it and then it gets resubmitted to the Planning Board to be on a public hearing and then the input is taken into consideration by the Board of Selectmen.
- Mr. Jeffrey Donaldson asked how that process was started and how did the ZBA participate in it.

- Mr. Bill Bird and Mr. Ken Williams responded by explaining that discussion was started several months ago but they had to submit a draft due to time constraints. The ZBA and the Planning Board both want to clean up the by laws.
- Mr. Jeffrey Donaldson asked about the regulations and the background of the ZBA issues.
- Mrs. Renee Perry stated that the ZBA had issues about accessory apartments being “subordinate” and the ZBA members had different interpretations to the issue. The ZBA members all wanted to clean up the by laws that they can follow.
- Mr. Tony Zahariadas, Building Inspector, mentioned the issue that the garage is considered an accessory apartment.

- 7:05m Mr. Bill Bird opened the hearing for case #572 Fibertower Inc and read the published legal advertisement.
- Ms. Jennifer Lougee representing the applicant explained that the applicant is looking to put a dish on top of the antenna.
- Mr. Donaldson asked if the dish is going to be low with small servicing cabinet.
- Mr. Lougee replied affirmatively.
- Mr. Joseph Curtin said that our by laws promote that dishes be low.
- Mr. Ken Williams noted that we have determined that they don’t have a site plan review which is required if they have over 500sq feet, and now they have 600 square feet.
- Mr. George Pape, Redemption Rock Trail, neighbor, voiced his rejection of the proposed application because it is a residential neighborhood.
- Ms. Lougee said that she pulled a permit given to them which said that they have to have at least 3 carriers before adding on to it.
- Mr. Pape noted that it is really cluttered.
- Mr. Bird asked if there was any discussion from the Board or the audience.
- There were no questions.
- 7:18pm *Mr. Joseph Curtin* moved to grant the Special Permit as presented. Motion seconded by *Mrs. Renee Perry*. Motion carried. All in favor, Yeas:5 (*Richard Hautaniemi, William Bird, Joseph Curtin, Deanna Batstone, Renee Perry,*) Nays: 0
- The ZBA members took 10 minutes recess.

- 7:35pm Mr. Bill Bird opened the hearing for case #573 Julie Persson F/K/A Julie White for a special permit and read the published legal advertisement.
- Mrs. Renee Perry excused herself from hearing the case as she is an abutter. Mr. Jeffrey Donaldson stepped up to the hearing.
- The applicant’s attorney Ms. Christine M. Tree said that the accessory apartment has been present at the lot since 1988. There is no change in the structure or anything else.
- Mr. Donaldson asked about when the concept of an “in law” apartment was changed in the protective bylaws.
- Mr. Ken Williams replied that it was probably by the end of 1990s.
- Mrs. Tree said that the apartment is 1 bedroom with 3 rooms.
- Mr. Bird asked if there were questions from the Board.
- Mr. Donaldson just wanted to see when there was a change in the “in law” and when it ceased to be conforming.
- Ms. Tree said that Mrs. Camire had a hard time, twice divorced, and her daughter now is her guardian. Mrs. Camire did not keep up with conforming to the bylaws.
- Ms. Tree believed that granting of the special permit is within the Board’s discretion.
- Mr. Bird asked if there were any questions from the audience.

- Mr. Wayne Le Blanc, Esquire, representing abutters Mrs. Lisa and Bruce Packard submitted their complaints.
- The Board reviewed the information.
- Mr. Donaldson asked if there were any more abutters in the audience.
- Mr. Curtin asked if the garage was part of the original building.
- Ms. Tree replied affirmatively that it was interior.
- Mr. Zahariadas said that the accessor had it listed as a single family home with an in law apartment.
- Mr. Curtin asked the applicant to the best of his knowledge that there was no change done to the structure.
- Ms. Tree replied affirmatively to the best of her knowledge as well.
- Mr. Zahariadas added that when Mr. Norman Clemence was the Building Inspector he made them add a breezeway with the foundation.
- Attorney LeBlanc noted that the property was in a partial Commercial and Rural Residential zone, which meant that they had to meet both zoning requirements. It is important that they abide by the current by laws. It is a preexisting non conforming structure that cannot be grandfathered because it was not even conforming to the laws between 1988 and 1998.
- Ms. Tree replied that they are already dealing with a non conforming structure-changing the identity of the person living in it. In addition, they are requesting a change of use from in law to accessory apartment which Mrs. Persson stated has been used as an accessory apartment since 10 years.
- Mr. Donaldson asked if she is requesting to correct a mistake in use.
- Mr. Le Blanc said that the house was up for sale since last year and it was listed as a multi-family home 5 bedroom home. It had failed septic tank requirements.
- Ms. Tree replied that the septic tank is a Board of Health issue and they are already going to fix it and make it conforming for the new prospective purchaser.
- Mr. LeBlanc said that exhibit C noted that the main house has 4 bedrooms.
- Mr. Hautaniemi asked about the life of a special permit.
- Mr. LeBlanc noted that it meant that the owner is going to be selling the house as a 5 bedroom multi family home and leave the whole area.
- Mr. Zahariadas said that he agreed with Mr. LeBlanc as he has been getting calls about it being multi-family and he has told realtors that it was a single family with in law. The Packards brought it to life so everybody now knows about it.
- Mr. LeBlanc mentioned that the Board has to consider that it is a special permit to a substandard lot.
- Ms. Tree said it was undersized lot and that there is no impact on the neighborhood. They are not talking about detrimental change but only in the use change. The owner is facing foreclosure by March 31st and they have a prospective buyer.
- Mr. LeBlanc said that the issue with the neighborhood is that his clients did not know that it was not an in-law until they had the house up for sale. They will have a 2 family home in a single family home neighborhood.
- Ms. Tree noted that they have a permit that says that it was built correctly.
- Mr. Zahariadas added that Mr. Norman Clemence gave them a Building Permit.
- Mrs. Renee Perry asked if the Building Permit ceases to be effective.
- Mr. Donaldson added that the apartment did not meet the definition of an “in law” apartment when the bylaws were changed which meant that it was not grandfathered.

- Ms. Tree noted to Mr. LeBlanc that his clients did not even notice an impact on the neighborhood until the property was up for sale and then they started having an issue with it.
- Mr. Curtin stated that he has a struggle that it has been used as such for over 20 years. The issue is that when it got changed from in- law use to another use for 20 years.
- Mr. Donaldson thought that they need to carry that for the next meeting so they can ask the town counsel.
- 9:00pm *Mr. Jeffrey Donaldson* moved to continue the hearing to next meeting April 8th at 6:35pm. Motion seconded by *Mr. Richard Hautaniemi*. All in favor, Yeas:5 (*Richard Hautaniemi, William Bird, Jeffrey Donaldson, Deanna Batstone, Joseph Curtin,*) Nays: 0

ZBA Business

- Mr. Joseph Curtin brought up the issue raised on the role of the Building Inspector by the Board of Selectmen.
- Mr. Curtin said that Mr. Zahariadas has a certification and he has been a great support for the ZBA work. He proposed to draft a letter to the Selectmen to explain to them that the ZBA supports the efforts of the Building Inspector position.
- Mr. Zahariadas expressed his concern that the Town Administrator and the Secretary have asked him to cover the Building Inspector office only and limit time he gives for the ZBA meetings. He noted that they need to know that his job is essential to the work of the ZBA and he volunteers to attend ZBA meetings.
- Mr. Ken Williams added that the Planning Board also is in agreement with the ZBA position in this subject. It is a giant step backward.
- 9:15pm *Mr. Joseph Curtin* moved to turn into executive session. Motion seconded by Mrs. Renee Perry. All in favor, Yeas:5 (*Richard Hautaniemi, William Bird, Renee Perry, Deanna Batstone, Joseph Curtin,*) Nays: 0
- 9:50pm The ZBA moved back to public session.
- 9:55pm Meeting adjourned.