

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

DATE: November 18th, 2008
TIME: 6:30 pm
LOCATION: Butterick Municipal Building

Board Members Present:

Mr. William Bird, Richard Hautaniemi, Joseph Curtin

Alternate Members Present:

Mr. Jeffrey Donaldson

Agenda:

- 6:30pm Discussion of Minutes
- 6:35pm Meeting with Mr. Keith Dinant
- 6:55pm Meeting with Mr. Richard McPhee
- 7:10pm Meeting with Mrs. Carol Rossi
- 7:40pm ZBA Business

Proceedings:

- 6:30pm Mr. William Bird opened the meeting with a discussion of the minutes from October meeting. Mr. Bird noted that Mrs. Renee Perry, ZBA member, has informed him that she will not be attending this meeting.
- 6:34pm *Mr. Joseph Curtin* moved to accept the minutes with corrections. Motion seconded by *Mr. Richard Hautaniemi*. Motion carried. All in favor, Yeas: 4 (*Richard Hautaniemi, Joseph Curtin, William Bird, Jeffrey Donaldson*) Nays: 0.
- Mr. William Bird opened the floor for Mr. Keith Dinant.
- Mr. Dinant said that he lived on 127 Beaman Road and wanted to divide the land and get a variance to establish two lots. One lot would be about 1.92 acres and the other one would be 2acres in size. The one which is non-conforming is the one which has the house on. They have about 560ft of frontage.
- Mr. Bird asked about the hardship reason for the variance.
- Mr. Dinant said that he does not understand the hardship concept.
- Mr. Bird explained to him that the Board needs a hardship situation in order to grant the variance as explained in the town bylaws.
- Mr. Ken Williams, Planning Board, suggested that Mr. Dinant get legal counsel to help him.
- Mr. Richard Hautaniemi suggested that he may also get the land surveyed.
- Mr. Dinant asked about the size requirements if it was 2acres or 40,000sqft.
- Mr. Ken Williams said that he believed it was 40,000sqft.in the bylaws.
- Mr. Hautaniemi added that it is almost 43,580sqft.
- Mr. Richard Sheppard said that it is about 44,000sqft.
- Mr. Dinant replied that if it was 43,580sqft than he would be within the requirements.

ZBA Business

- Mr. Bird talked about a workshop he attended about 40B projects and got some very useful information which the Board needed to be acquainted with.
- Mr. Curtin added that Mr. Jim Whitney called him to ask about whom was the town counsel because he was ready to submit again for his 40B.
- Mr. William Bird asked if Mr. McPhee was present. Seeing that he was not present, Mr. Bird suggested the Board members discuss membership of Mr. Jeffrey Donaldson.
- 7:54pm *Mr. Joseph Curtin* moved to change the appointment of Mr. Jeffrey Donaldson from alternate member to a full member to the ZBA. Motion seconded by *Mr. Richard Hautaniemi*. Motion carried. All in favor, Yeas: 3 (*Richard Hautaniemi, Joseph Curtin, William Bird*) Nays: 0.
- Mr. Bird asked if Mr. Donaldson would be the legal expert for the Board with regards to 40Bs.

- Mr. William Bird opened the floor for Mrs. Carol Rossi 53 Lakeshore Drive and noted that the Board needed a week notice before getting on the agenda.
- Mrs. Rossi said that she has a copy of the petition that Mr. Edward McNamara submitted and noted that the petition did not have explanations of the problems with the foundation. In addition, what the Board approved was not what was there and that the neighbors were concerned.
- Mr. Bird replied that when the ZBA received this petition, notices were sent to all abutters and no one attended the public hearing of the case and the appeal period passed without any objections. The Board looked at the submitted plans and visited the site several times and found no issues. Later on, the Board of Health and the Conservation Commission changed the plans and they were not passed by the ZBA.
- Mrs. Rossi argued that the ZBA record said that the ZBA approved the building but the modifications changed the project.
- Mr. Donaldson asked about who is supposed to monitor the execution of the project after the special permit is granted.
- Mr. Bird replied that the Building Inspector is supposed to do that.
- Mr. Rossi acknowledged that he previously came before to the ZBA and was impressed with the credibility of the ZBA process.
- Mr. Donaldson explained to Mrs. Rossi that the ZBA needed to see if the issue at hand is a matter of public remedy or private lawsuit.
- Mrs. Rossi argued if he was asking them to have a lawsuit.
- Mr. Donaldson rebutted that he was just asking a question so they can work out an answer to find out what can be done.
- Mr. Bird said that the ZBA has followed the process and have done its job when it comes to the case. The ZBA has to wait for the Board of Health' approval so we can determine the roots of the septic tank issue.
- Mr. Rossi said the septic tank could be on the front.
- Mr. Daniel Kloczkovski, 55 north Cove Drive, said that this might not be a Board of Health problem. He thought that Mr. McNamara came to the Board maybe last November and then came back to the Board in January to maybe make modification and it was not public hearing.
- Mr. Curtin noted the ZBA approved plan.
- ZBA members noted that all the meetings were public and done according to the bylaws.

- Mr. Hautaniemi added that what the ZBA wanted to clear up was that this was the approved plan and this is what came to the ZBA and was agreed upon.
- Mrs. Rossi said that the approved “structure” was not built on the “existing structure” so now the Town needed to step in.
- Mr. Curtin noted that it was all discussed in the January public hearing and the ZBA spent a lot of time discussing the foundation changes.
- Mr. Bird explained to Mrs. Rossi the reason why the Board has public hearings and open meetings to have the neighbors come in and talk, but for that case no one showed up. That is why the Board has open meetings for people to come in and present their opinions.
- Mr. Hautaniemi said that there was another discussion with some people who came to one meeting but it had been declared that there was no quorum present and no decision would be made.
- Mr. Curtin asked about how the Building Inspector can determine if the topography is right.
- Mr. Kloczkowski showed the Board some pictures of the project.
- Mrs. Barbara Roberti said that she suggested to Mr. Hautaniemi a cease and desist be implemented saying the foundation was not as submitted.
- Mr. Bird said the ZBA looked at the case and it was determined that it was as presented.
- Mr. Curtin said that the “as built” plan of the septic tank is different that what was approved and asked if the Board of Health was supposed to inform the ZBA.
- Mr. Bird replied that he can ask town counsel those questions.
- Mrs. Rossi asked the ZBA to issues a cease and desist through the Building Inspector.
- Mr. Donaldson noted that enforcement is the responsibility of the building Inspector.
- Mrs. Rossi asked about whom he reports to.
- Mr. Richard Sheppard, Selectman, replied that he reports to the Board of Selectmen.
- Mr. Rossi noted that the Board of Health changed the plans.
- Mr. Bird said that the Board of Health can change the plans.
- Mr. Sheppard stated that clearly the Building Inspector is responsible for the enforcement and the application of the town by laws and he does not have to come before the Selectmen.
- The Corbits, neighbors on Lakeshore Drive, showed some pictures of the wall.
- Mr. Bird noted that the will ask town counsel.
- Mrs. Rossi said that she would like a copy of the meeting recording.

ZBA Business-Continued

- Board members discussed accessory apartment and the need for a consistency.
- Mr. Donaldson submitted a working draft including questions and thought to the ZBA and the Planning Board that could be discussed in the next meeting.
- 8:47pm *Mr. Jeffrey Donaldson* moved to adjourn. Motion seconded by *Mr. Joseph Curtin*. Motion carried. All in favor, Yeas: 4 (*Richard Hautaniemi, Joseph Curtin, William Bird, Jeffrey Donaldson*) Nays: 0.