

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

DATE: August 11th, 2009
TIME: 6:30 pm
LOCATION: Butterick Municipal Building

Board Members Present:

Richard Hautaniemi, Joe Curtin, Jeffrey Donaldson, William Bird, David Lozier

Alternates Present:

Jerry Siver

Agenda:

- 6:30pm Discussion of Minutes
- 6:35pm Continuation Case # 585 Timothy Regan and Judith Regan-*Special Permit*
- 7:05pm Continuation Case # 586 Henry F. Hulick and Marion J Hulick-*Special Permit*
- 7:35pm Case # 587 Atlanta H Gadoua- *Special Permit*
- 8:05pm Case # 588 Robert Protano-*Variance*
- 8:35pm ZBA Business
 - 53 Lakeshore Drive-non compliance

Proceedings:

- 6:30 Mr. William Bird opened the meeting with a discussion of the presented minutes of July 14th.
- Board members discussed the submitted minutes.
- 6:34pm *Mr. Joseph Curtin* moved to accept the minutes as amended. Motion seconded by *Mr. Richard Hautaniemi*. Motion carried. All in favor, Yeas: 5 (*Richard Hautaniemi, Joseph Curtin, Jeffrey Donaldson, William Bird and David Lozier*) Nays: 0.
- 6:35pm Mr. William Bird opened the continuation for case # 585 Timothy and Judith Regan.
- Mr. Brian Foley representing the applicants explained that the current house sits on a lot at a slight angle with a 15 foot side yard that would be reduced to 14 feet with about 7 inches to increase the non conformity. The addition will give them a working kitchen since the house was built in the 1850s. It has six doors, a fireplace, and no cabinets or countertops. The applicants are seeking a special permit to yield them a working kitchen, amenities, additional bedroom and bathroom, so that at the end they would have 3 bedrooms. According to section 2.2.4 section 5 and 3 from the bylaws allow them to be granted a special permit as long as the changes would not be detrimental to the neighborhood. The rear addition is close to the Favreau's and they have no objection to the project or the set back.
- Mr. Foley asked the Board respectfully to issue the applicants the requested special permit.
- Mr. William Bird asked if there were any further questions from the Board.
- Mr. Richard Hautaniemi asked about if their neighbors the Favreaus were in favor of the project.

- Mr. Brian Foley relied affirmatively.
- Mr. Bird asked if the Planning Board has any issues with the case.
- Mr. Ken Williams, Planning Board, said that the Planning Board did not discuss the case but he personally does not have any objections.
- Mr. Joseph Curtin asked if there were any changes to the topography.
- Mr. Brian Foley said that there would not be any.
- Mr. Hautaniemi asked if the Board has any definitive plans.
- Mr. David Lozier asked if the Board would want it for specific dimensions.
- Mr. Curtin said that there are pictures for the proposed second story in the application but was not very clear.
- Mr. Hautaniemi said that maybe the Board would need more plans.
- Mr. Curtin replied that the application has sufficient plans and the applicants have submitted a complete application.
- 6:50pm *Mr. Jeffrey Donaldson* moved to grant the special permit. Motion seconded by *Mr. Richard Hautaniemi*. Motion carried. All in favor, Yeas: 5 (*Richard Hautaniemi, Joseph Curtin, Jeffrey Donaldson, William Bird and David Lozier*) Nays: 0.
- Mr. Jerry Siver talked about a meeting he attended with regards to public records.
- Board members discuss the records they have to keep and costs of information requests.
- 7:05pm Mr. William Bird opened the continuation of case 586 Henry F. Hulick and Marion J Hulick for a Special Permit.
- Attorney Rebecca Connor, representing the applicants, said that Mr. and Mrs. Hulick have a hobby of breeding French Bulldogs for shows. Mrs. Hulick respectfully requests a special permit for a kennel license. They actually own the lot across the street and they could split the dogs and would not require a kennel license at that time. However, it is to the benefit of the town to have them all at the same house for better inspection. The Hulicks never had any complaints from the neighbors on both sides. They are very responsible dog owners and there is a letter from the Animal Advisory Board which supports their request.
- Mr. Bird asked if the change in the bylaws was the reason for their application.
- Mrs. Connor replied affirmatively.
- Mr. Curtin asked about the animal control bylaws in concern.
- Mr. Lozier also asked if their license would be a one time thing or to be renewed.
- Mrs. Connor stated that she would be applying for a license.
- Mr. Doug Davis, Animal Advisory Board, said that they support the request and that their records contain no complaints against them.
- Mr. Curtin asked if the Board has to put a stipulation on the number of dogs etc.
- Mr. Davis commented that the Board could put a stipulation on the number of dogs based on the type of license.
- Mr. Donaldson asked about the types of licenses.
- Mr. David replied that there were two types of licenses such as “commercial kennels” and “kennels”. This new kennel inspection process comes in three steps. However, it is important if there were moving to a new location for example.
- Mr. Donaldson asked if the Planning Board has any concerns in this case.
- Mr. Ken Williams replied that this is a zoning issue.
- Mr. Curtin said he has no issues with the application, and he does not want to be too restrictive as well.
- Mr. Williams, speaking personally and not as a member of the Planning Board, said that maybe the Board could put a restriction on overnight boarding of other dogs for example.

- 7:22pm *Mr. Jeffrey Donaldson* moved to grant the special permit as submitted. Motion seconded by *Mr. David Lozier*.
- Mr. Curtin thought they Board could put a stipulation on the expiration and the number of dogs.
- Mrs. Connors replied that the Hulicks have any friends with dogs over then that would not be a problem because those dogs will be their owners' responsibility.
- Mr. Davis also added that this would be a personal license and not the property.
- Mr. Jerry Siver asked if the town bylaws changed what would be the result in this case.
- Mr. Curtin said that the Board maybe could make it expire upon the sale of the property.
- Mr. Donaldson said that they could amend the motion.
- 7:27pm *Mr. Jeffrey Donaldson* moved to grant the special permit with condition to expire with the change of ownership to the property.. Motion seconded by *Mr. Joseph Curtin*. Motion carried. All in favor, Yeas: 5 (*Richard Hautaniemi, Joseph Curtin, Jeffrey Donaldson, William Bird and David Lozier*) Nays: 0.
- 7:35pm Mr. William Bird opened the hearing for case 587 Atlanta H Gadoua for a Special Permit and read the published legal notice.
- Mr. Dan Wolfe, Dave Ross Associates, representing the applicant said that the current structure is a cottage built in 1945 and it is a non confirming lot. The proposal is to remove the current house and garage and build a new house and garage. They provided the requested justification but basically there will be no detrimental consequences to the neighbors, but there will be an increase in property values. This project comes on the heels of another similar one on Lakeshore Drive that was controversial. In this case, the applicants have taken precautions to avoid a similar situation by providing detailed plans. The house fits in topography and they want to take advantage of that for a walk out basement. The elevations work really well. The family was approved in 2005 for a Title V septic system and the property has a new septic system hat will not change the elevations. They would have a retaining wall to improve the esthetic appearance by covering a high foundation. Mr. Wolfe added that a lot of planning went into this project, and what they have on the plans is what they intend to build.
- Mr. Wolfe also added that they have worked on many other homes and the end result was always as planned.
- Mr. Hautaniemi asked if Mr. Wolfe could show on the original plan the current house.
- Mr. Wolfe highlighted on the may the original structure and how it would change to the new structure.
- Mr. Hautaniemi asked Mr. Wolfe to comment on his statement that he has addressed issues that can affect he neighbors.
- Mr. Wolfe said that they wanted to build a new house and remove the old one. The septic system was already new and installed and Title V compliant. The other issues were with grading on both sides of the property. On the southerly side they have a walkway to upper property line to take any precipitation, and on the other side they have minor grading changes and would make a swale to take the water away. The applicants wanted to address any issues or any concerns and this was a fully explained situation.
- Mr. Curtin thought that the old house had about 8.9% lots coverage versus the new house which will be about 17.9%, the new garage would be about 13.7% coverage. The total coverage for the two lots would be about 21.8% coverage.
- Mr. Hautaniemi asked about the street side.
- Mr. Wolfe replied that they have moved back to the road and the reason for that was to abide by Board of Health guidelines.
- Mr. Wolfe also added that in terms of other concerns, they have shared the plans with neighbors prior to this meeting.

- Mr. Donaldson said that they understood the matter that they are moving closer to the set backs or lines-just in one instance they were moving closer to what was allowed.
- Mr. Wolfe said that on the left side line for example they would not be taking the view away from the neighbors because it is a garage which has very small windows.
- Mr. Hautaniemi stated that Mr. Wolfe indicated that they were not encroaching on the neighbor with the garage and asked about the other side.
- Mr. Wolfe replied that they just compromised to a small degree.
- Mr. Bird asked Mr. Mark Brodeur, Building Inspector, for questions.
- Mr. Brodeur said that he has no questions for them except for the garage which requires a variance and not a special permit, since it is not a residence.
- Mr. Bird asked for questions from the floor.
- Mrs. Doris Bennett, 179 Upper North Row Road, asked if the Sterling bylaws allow for those changes.
- Mr. Bird replied that they consider this “modifications”.
- Mr. Tim Corbett, 57 Lakeshore Drive, showed the Board some picture views of what they will take away. Mr. Corbett added that with regards to the septic tank on the front, they said it will not affect him but now they were up to 2 feet. Everything presented would be changed and now they mentioned the swale which will be affecting him. Also, the new house would take away about 20% of his view.
- Mr. Dan Wolfe added that the swale was for the protection of the neighbor to avoid water run off.
- Mr., Corbett rebutted that with the case for 55 Lakeshore Drive, they were told that there would be no changes.
- Mr. Wolfe replied that they were trying their best in this case to come clear about their plans and they do not anticipate any changes but to go as planned.
- Mr. Hautaniemi asked if they could go back to the original house.
- Mr. Wolfe said that they could do that but not without compromising all the house plans and the thought that went into this project.
- Mr. Curtin noted that he was struggling with a structure that is growing from the original size-the special permit could be granted if it would not create a detrimental change to the area.
- Mr. Robert Kody, Envision Homes, said that they designed the house to accommodate their client’s requests, for example the first floor was designed with handicapped accessibility, and that is why it was wider in size.
- Mr. Wolfe noted that section (4) 2.2.4 explains that reconstruction of a non residential structure would need a variance so he agreed with Mr. Mark Brodeur with regards to that the garage needed a variance. However, they were accurate in their request for a special permit for the house.
- Mr. Bird asked if there were any questions from the audience.
- Mrs. Carol Rossi, 53 Lakeshore Drive, said that this was a seasonal residence and asked about how far the house was from the Lake, especially the seasonal porch.
- Mr. Wolfe replied that from the actual enclosed structure with roof is about 63 feet.
- Mrs. Rossi stated that her cottage sits between the Corbett’s and the McNamara’s if that house sits forward, her view would be compromised. She has to see through the McNamara’s house-she was at awe at the McNamara’s house and she was happy for them but it was detrimental to her view and to the value of other homes.
- Mr. Fred Beauregard, 61 Lakeshore Drive, said that this will compromise his land.
- Mr. Wolfe replied that he was confident that the swale would work well.
- Mr. Daniel Klotchkowski, North Cove Road, asked if this is a modification.
- Mr. Bird said that his was a modification..
- 8:30pm the meeting went into a 5 minute recess.

- 8:35pm Meeting came to order.
- Mr. Bird noted that they resolved the question about “modification”, and asked if there were any further questions.
- Mr. Wolfe said that based on the Building Inspector’s information that night, he wanted to take the garage off the table and if they wanted to pursue that again, they could apply for a variance. He also said that he was not concerned about the run off, and there is room to work it out to make the project a success.
- Mr. Bird asked if there were any further questions from the Board.
- Mr. Hautaniemi said that he thought that this layout could be modified to answer some of the concerns that were discussed in the meeting. He understood about the handicapped accessibility but the project could address those concerns. Mr. Hautaniemi asked Mr. Wolfe if he thought that he answered all the concerns.
- Mr. Kody thought that they did that-they wanted to be very conscious of neighbors.
- Mr. Hautaniemi commented that there were some other concerns that came up in this meeting and asked if they would take them into consideration.
- Mr. Kody said they tried very hard to do that.
- Mr. Wolfe said that they have heard those issues before and worked to do what they can to address them, but still in the eyes of the abutters they have not satisfied them. Mr. Wolfe said that they have addressed them.
- Mr. Hautaniemi asked if they could go back and make some changes.
- Mr. Donaldson asked if pulling the garage out of the equation might affect the situation. He added that the wanted to get a better handle of the impact on the view and how that might be detrimental to some neighbors. He however, does not want to tell the applicant what to do.
- Mr. Wolfe said that he had his clients’ best interest in mind and asked the Board to be able to continue the hearing.
- Mr. Corbett asked if there were any concerns about the set backs.
- Mr. Wolfe replied that they are moving it away from his property, and would make it more none conforming. The lot line is angled and there is 18.1 feet from the Corbett’s and it was a pre-existing non conforming situation.
- Mr. Wolfe asked the Board to allow them to continue so that they can formally remove the garage from the plan.
- 8:56pm *Mr. Joseph Curtin* moved to continue the hearing for next meeting September 8th at applicant’s request. Motion seconded by *Mr. Jeffrey Donaldson*. Motion carried. All in favor, Yeas: 5 (*Richard Hautaniemi, Joseph Curtin, Jeffrey Donaldson, William Bird and David Lozier*) Nays: 0.
- 8:57pm Mr. William Bird opened the hearing for case # 588 Mr. Robert Portano for a variance.
- Mr. Protano said that he was looking for a variance since the house was abandoned since 1999 and wanted to tear it down. It is a non-conforming lot and was going to make it less non-conforming by seeking a relief from the set back 40 to 25 feet. The hardship is that, and the soil tested for septic was not very well so it will require a bigger system. The property is currently owned by The Town of Sterling and he was the winning bidder in 2007, but they have not yet closed on it for that long because of title discrepancy.
- Mr. Hautaniemi asked about how abandoned the house was.
- Mr. Portano replied that the town wanted to auction the house so it benefits from taxes.
- Mr. Hautaniemi said that the relief should be broader than that.
- Mr. Protano replied that he could amend that on the floor.
- Mr. Curtin asked if most of the surrounding lots were also non conforming.
- Mrs. Susan Steinbrecher, 1 Gates Terrace, said that she has ½ an acre.

- Mr. Lozier asked about how the Board could acquire standing since the property was not owned by Mr. Protano.
- Mr. Protano replied that he thought the variance goes with the property and there was no restriction on that.
- Mr. Bird noted that he has to own the lot to be able to make any changes on it.
- Mr. Donaldson asked if they would have to re-advertise if they made any changes as it seemed that he needed more relief.
- Mr. Protano said he was willing to make any changes on the floor.
- Mr. Curtin said that he heard questions about the house.
- Mr. Donaldson asked if the house had lost its grandfathered rights.
- Mrs. Steinbrecher, 1 Gates Terrace, said they got letters from the town about the auction and said that it was an unbuildable lot. She asked about how now they would be able to build.
- Mr. Donaldson said that this was probably correct and that is why he came for a variance.
- Mr. Mark Brodeur said the house was a preexisting lot and never lost its non conforming status. A house could be built at anytime as long as the setbacks were protected.
- Mr. Lozier stated that applicant was increasing the setbacks in actuality.
- Board asked if there were any further questions from the floor.
- Mrs. Steinbrecher commented that the front of her house is facing Gates Terrace, and wondered what would happen in case the applicant never received the variance, and would the house remain abandoned. She added that they do not want it there because it is an eye sore.
- Mr. Todd Simpson, 8 Gates Terrace, asked about the septic system.
- Mr. Brodeur commented that the Town did not have clear title to this property till 3months ago, and that would be an improvement to the area.
- Mr. Simpson replied that if that was the case then he would be all for the project.
- Mr. Protano added that he is buying it from the town if it perked.
- Mrs. Doris Bennett, 179 North Row Road, said that to her understanding when the land was auctioned, the town thought it had a title, so Mr. Protano was right about asking to buy it if it perced.
- Mr. Hautaniemi said that what the Board had was the set backs.
- Mrs. Bennett commented that the Board may still have restrictions on the footprint and the set backs.
- Mr. Protano said that the footprint would be like the first floor and he would not be building on the same foundation.
- Mr. Richard Sheppard, Board of Selectmen 5 Tanglewood Road, said that the Board wanted to auction this house to get taxes on it. The house became a nuisance for Police and Safety issues. The town did not know about these issues but they now have reasonable title and they would be able to move forward. Mr. Sheppard added that Mr. Protano came to them and said that if it perced he could buy it. The town spent a lot of time and money on this property which has \$15,000 in unpaid back taxes. He assured that they do not want to influence the decision of the Board but they support using the lot in a better way.
- 9:35pm *Mr. Jeffrey Donaldson* moved to approve granting the variance. Motion seconded by *Mr. Richard Hautaniemi*. Motion carried. All in favor, Yeas: 5 (*Richard Hautaniemi, Joseph Curtin, Jeffrey Donaldson, William Bird and David Lozier*) Nays: 0.

ZBA Business

- Mr. Bird presented the issue from Stonegate Village about having a change to the Comprehensive Permit that was considered minor by Town Counsel.
- The Fossile's were asking to delete section 5c. from the permit.

- 9:37pm. *Mr. David Lozier* moved to omit section 5 c from the comprehensive permit. Motion seconded by *Mr. Jeffrey Donaldson*. Motion carried. All in favor, Yeas: 5 (*Richard Hautaniemi, Joseph Curtin, Jeffrey Donaldson, William Bird and David Lozier*) Nays: 0.
- Mrs. Linda Fossile said that they have a problem with the lottery for affordable units because they have no buyers and they have exhausted the lottery candidates. Their market units were doing well and moving but the affordable ones were not.
- Mr. Bird told her that they could put in writing what they are requesting from the Board to do and they will be able to consult town counsel on it.
- Another issue was the non-compliance of 53 Lakeshore Drive. They were requesting another Building Inspector to look at the property.
- 9:50pm *Mr. Jeffrey Donaldson* moved to adjourn, Motion seconded by *Mr. Richard Hautaniemi*. Motion carried. All in favor, Yeas: 5 (*Richard Hautaniemi, Joseph Curtin, Jeffrey Donaldson, William Bird and David Lozier*) Nays: 0.