

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

DATE: December 9<sup>th</sup>, 2009  
TIME: 6:30 pm  
LOCATION: Butterick Municipal Building

**Board Members Present:**

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

**Alternate Members Present**

Jerry Siver

**Agenda:**

- 6:30pm Discussion of Minutes
- 6:35pm Case #594 Bruce Hyche (Sterling Auto Body LLC)-*Variance*
- 7:05pm Case #595 Mathew Scannell & Katherine Fiamingo- *Special Permit*
- 7:35pm Case # 596 Cynthia and James Greve-*Special Permit*
- 8:05pm Case # 597 Cynthia and Richard Schicho- *Special Permit*
- 8:35pm ZBA Business

**Proceedings:**

- 6:30pm Mr. William Bird opened the meeting with a roll call and a discussion of the submitted minutes of November 2009.
- 6:32pm *Mr. Joseph Curtin* moved to accept the minutes of November 2009 as corrected. Motion seconded by *Mr. David Lozier*. Motion carried. All in favor, Yeas: 5 (*Richard Hautaniemi, Joseph Curtin, Jeffrey Donaldson, David Lozier, William Bird*) Nays: 0.
- 6:35 pm Mr. Bird opened the hearing for case #594 Mr. Bruce Hyche for a variance and read the published notice.
- Mr. Bruce Hyche said that he has had the auto body shop for about 5 or 6 years and would like to relocate it and transfer the used car license with him to the light industrial zoning at Chocksett road.
- Mr. Richard Hautaniemi asked about how many vehicles were allowed on the property.
- Mr. Hyche said that they were around 18 cars as allowed by the Planning Board previously. The Planning Board said that he could host as many number of cars because he was in the correct district.
- Mr. Hautaniemi asked about the number of used cars Mr. Hyche has.
- Mr. Hyche replied that they are usually about 3 cars. He also explained that the used car business is just supplemental to his auto body shop and that the cars would be parked about 200 feet from Chocksett Road.
- Mr. Joseph Curtin asked if he had a site plan, and if the Board could put a restriction on the number of cars.
- Mr. Hyche explained that on the lot there are about 17 designated parking areas, and he has about 8 parking spaces only. He also has no neighbors.
- Mr. Curtin asked about how big the building was.
- Mr. Hyche replied that it is around 9990 square feet and he has 10% of the building.
- Mr. Donaldson asked if he was looking for a use variance to an already existing building.

- Mr. Curtin added that Mr. Hyche was just using the building.
- Mr. Donaldson said that he was looking into the bylaws and how the use variance could be granted.
- Mr. Curtin noted that Mr. Hyche would need a use variance.
- Mr. Hyche said that the used car business is an addition to body repair business.
- Mr. Curtin asked if Mr. Hyche would need to get any additional licenses from other Town Boards.
- Mr. Hyche said that he does not need anything else.
- Mr. Curtin thought that this was similar to something else that the Board discussed months ago.
- Mr. Bird asked Mr. Ken Williams if the Planning Board has any comments about the case.
- Mr. Williams, Planning Board, replied that the use variance will not affect the building, and that the Selectmen have issued a license but he needed the variance to operate in that area since it is not an allowed use.
- Mr. Bird asked for comments from the floor.
- Mr. Nathaniel Grim, abutter, said that they lived in Chocksett Crossing buildings, commented that they own expensive property value in the area and they have spoken with realtors who noted to them that having a used car business in the area would lower their property value by 10%. Mr. Girmm added that this in effect would mean \$100,000 less in taxes paid to the town. He also added that he was a resident in town and one of the trustees of the Chocksett Crossing condos and he was asked to speak on their behalf.
- Mrs. Ann Desmaris, abutter, said that she hoped that the unsightliness of the back of the property could be hidden because she was planning to market the Gargulinski property.
- Mr. Bird asked about any other input from the floor.
- Mr. Hautaniemi asked about who would be responsible for putting a visual barrier.
- Mr. Hyche replied that he was just a tenant and that he thought that the landlord could do that. Mr. Hyche noted that there will be no balloons or signs about the used cars.
- Mr. Hautaniemi asked Mr. Hyche about how the used cars would be differentiated from the repair cars.
- Mr. Hyche replied that he has a "For Sale" sign on the used cars.
- Mr. Bird asked about how many cars would be for sale.
- Mr. Hyche said that they would only be 3. He explained that he has 8 parking spaces and he has 5 employees and he was really limited to only 3.
- 7:00pm *Mr. Joseph Curtin* moved to grant the variance to EBAN Realty to sell 3 used cars.
- Mr. David Lozier modified the motion to correct the name of the applicant to Bruce Hyche Sterling Auto Body.
- Members agreed on the stipulations for the variance.
- 7:05 *Mr. Joseph Curtin* moved to grant the requested variance to Mr. Bruce Hyche Sterling Auto Body shop with stipulations that the number of "For Sale" used not exceed 3 cars on the property and that he only uses a "For Sale" sign on the vehicles. Motion seconded by *Mr. Jeffrey Donaldson*. Motion carried. All in favor, Yeas: 5 (*Richard Hautaniemi, Joseph Curtin, Jeffrey Donaldson, David Lozier, William Bird*) Nays: 0.
- 7:06pm Mr. Bird opened the hearing for case # 595 Matthew Scannell and Katherine Fiamingo for a special permit.
- Mrs. Fiamingo explained that they look to make a small addition to the house kitchen.
- Mr. Bird noted that they have a problem with the side set back.
- Mrs. Fiamingo stated that the lot was very small and the house.
- Mr. Scannell said that they were not going closer to the neighbors but just making the addition longer. He added that at the time being they have a stove next to the refrigerator and it was not energy efficient that way.

- Mr. Bird asked if there were any further questions from the Board or the floor.
- Mr. Ken Williams said that it seemed that they were not making the property more non-conforming.
- 7:12pm *Mr. Jeffrey Donaldson* moved to approve the application as presented. Motion seconded by *Mr. Richard Hautaniemi*. Motion carried. All in favor, Yeas: 5 (*Richard Hautaniemi, Joseph Curtin, Jeffrey Donaldson, David Lozier, William Bird*) Nays: 0.

### **ZBA Business**

- Board members discussed budget for the new fiscal year.
- Board member discussed request from Northgate Meadows comprehensive permit for a meeting with the Board. Attorney Mark Bobrowski asked that the Board meets with him to decide on Northgate Meadows request.
- Members agreed on meeting with him on December 17<sup>th</sup> at 4:00pm.
- Mr. Ken Williams asked about the new request.
- Mr. Curtin replied that they are requesting modification to the number of units under the project.
  
- 7:25pm Mr. Bird opened the hearing for case # 596 Cynthia and James Greve.
- Mr. Alton Stone representing the applicants discussed asking the Board to waive the application fees since this was the second time to come back to the Board.
- Mr. Bird noted that Mr. Stone did a significant change from the previously proposed project.
- 7:28pm *Mr. David Lozier* moved to waive the application fees from them but applicant would be paying the advertising fees. Motion seconded by *Mr. Richard Hautaniemi*. Motion carried. All in favor, Yeas: 5 (*Richard Hautaniemi, Joseph Curtin, Jeffrey Donaldson, David Lozier, William Bird*) Nays: 0.
- Mr. Alton Stone stated that they would not be making it more non-conforming.
- Other modifications were noted that it has been reduced in size and moved to the front. There will be hardscaping, landscaping, and the septic would be Title V approved. The elevation would be decreased as well.
- Mr. Curtin asked about the size of the garage.
- Mr. Day replied that it is just single story. He also added that the applicants have run the plans by the neighbors and they said that it was more favorable to them.
- Mr. Curtin said that he appreciated the applicants' work to modify the project and to consider the concerns of the Board and the neighbors.
- Mr. Ken Williams asked if Mr. Stone has passed by the Conservation Commission and the Board of Health.
- Mr. Stone said that they have not yet but they would be because the Board of Health would check the new septic.
- An abutter expressed concern that there has been a lot of additions done over the years and asked about the hardship.
- Mr. Donaldson explained that hardships are needed for a variance approval but the case was a special permit.
- Mr. Bird asked if there were any further questions or comments from the Board of the audience.
- 7:40pm *Mr. David Lozier* moved to grant the special permit with a condition that the shed be removed after the garage is finished and referencing the submitted plans dated 9/14/09 by Rack & Ruin Design as well as Site Plan GREVE0001 by Alton Engineering dated 08/12/09 Motion seconded by *Mr. Joseph Curtin*. Motion carried. All in favor, Yeas: 4 (*Joseph Curtin, Jeffrey Donaldson, David Lozier, William Bird*) Nays: 0, Abstain: 1 (*Richard Hautaniemi*)
  
- Mr. Bird noted that the Board would wait until 8:00pm to open the next case as per the agenda.

- Mr. Kevin Shaughnessy noted that he was concerned about the application for the Millers for a special permit. He noted that he was not going to be available for the next months and wanted to provide his comments.
- Mr. Donaldson commented that he was troubled by the idea that Mr. Shaughnessy provide his comments on the case since the Millers were not in attendance and also there was no public hearing scheduled yet for a special permit.
- Mr. Bird also added that the Board has not yet received an application for a special permit and thus wondered how they could get input on it at the time being.
- Mr. Shaughnessy said that he usually goes away from January till May of every year.
- Mr. Bird suggested that he submits a written letter as an affidavit to the case.
- Mr. Shaughnessy asked if he could submit a package with photos and other documents in support of his opinion.
- Mr. Bird recommended that Mr. Shaughnessy provides the Board with his address in Florida so we can make sure that he gets a notice about the hearing. At that time he could submit all the information he needed and it will get recorded in the case.
- Mr. Shaughnessy noted that he had filed a complaint with Terri Ackerman and the town Clerk in 2008 and at the time they only had about 100 days for the Building Inspector to issue a cease and desist.
- Mr. Bird commented that at this time the Board is concerned with the application of the zoning Bylaws.
- Mr. Shaughnessy stated that the issue would not be tabled forever.
- Mr. Bird agreed that the applicants were under pressure to apply for the special permit.
- Mr. Siver thought that the discussion was about the number of dogs, commercial kennels and the noise.
- Mr. Ken Williams noted that Attorney Mark Bobrowski has copied parts of the MA General Laws to the Sterling bylaws.
- Mr. Siver added that the Board has seen the suggestions of the Animal Control Board.
- Mr. Donaldson noted that having the definitions would be helpful.
- 8:05pm Mr. Siver excused himself from the meeting since the Schichos were his clients.
- 8:10pm Mr. Bird opened the hearing for case # Cynthia and Richard Schicho for a special permit.
- Mr. Alton Stone, representing the applicants asked that the application fees be waived for them but they would be responsible for paying the advertising fees.
- 8:12pm *Mr. David Lozier* moved to waive the application fees for Cynthia and Richard Schicho and they could only pay advertising fees. Motion seconded by *Mr. Richard Hautaniemi*. Motion carried. All in favor, Yeas: 5 (*Richard Hautaniemi, Joseph Curtin, Jeffrey Donaldson, David Lozier, William Bird*) Nays: 0.
- Mr. Alton Stone, 10 Rugg Road, representing the applicants, explained the new project.
- Mrs. Cynthia Schicho noted that by looking at the pitch of the roof, they might be going up a bit in the peak.
- Mr. Hautaniemi asked if the board still felt this would be appropriate as a special permit application.
- Mr. Donaldson said that it was.
- Mr. Stone noted that this was a similar project to the previous case and they have made some additions and the changes would keep up with the neighborhood.
- Mrs. Schicho said that they have 2 bedrooms in the basement but the bank would not consider them because they are in the basement.
- Mr. Donaldson explained the bylaws.
- Mr. Curtin said that this was a preexisting non conforming lot.
- Mrs. Schicho said it is a little lake neighborhood and they are trying to make it a nicer house and not look like a camp. This would increase the property value of the area.
- Mr. Stone added that the house was in the vicinity with a lot of open space around it.
- Mr. Bird asked if the Planning board has any input.

- Mr. Daniel Kloczkowski, 55 North Cove Road, said that he likes the changes.
- Mr. Curtin noted that the changes were appreciated and that the applicant came back with the Board's concerns and the neighbors' concerns into consideration.
- Mr. Kloczkowski said that the 4 feet change would not be more detrimental to the neighborhood, but requested that Board put high restrictions.
- Mr. Hautaniemi noted that for the record he still had a hard time with considering this case a special permit versus a variance.
- 8:35pm *Mr. Joseph Curtin* moved to grant the special permit as presented on the plan dated 11/12/09 with the ability to increase the height by 4 feet but not to two-story building. Motion carried. Yeas: 4 (*Richard Hautaniemi, Joseph Curtin, Jeffrey Donaldson, David Lozier*) Nays: 1. *William Bird*

**ZBA Business-Cont.**

- Board confirmed the date and time to meet with Attorney Mark Bobrowski.
- 8:50pm *Mr. Joseph Curtin* moved to adjourn. Motion Seconded by *Mr. David Lozier*. Motion carried. All in favor, Yeas: 5 (*Richard Hautaniemi, Joseph Curtin, Jeffrey Donaldson, David Lozier, William Bird*) Nays: 0.