

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

DATE: June 25th, 2009
TIME: 6:30 pm
LOCATION: Butterick Municipal Building

Board Members Present:

Joe Curtin, Jeffrey Donaldson, William Bird, Renee Perry

Alternates Present:

David Lozier

Town Counsel:

Stanley Weinberg

Agenda:

- 6:30pm Open Meeting and Roll Call
- 6:35pm Case # 582 Edith Corbett, Barbara and Ronald Roberti, Carol and Angelo Rossi-
Administrative Appeal 55 Lakeshore Dr.

Proceedings:

- 6:35pm Mr. William Bird opened the meeting with a roll call and then opened the continuation for the deliberation on appeal on 55 Lakeshore Drive.
- Mr. Bird appreciated the audience for its participation in the meetings and acknowledged that the Board was for adjudication and would base its decision on the information presented.
- Mr. Bird asked if there were any more questions or concerns.
- Mr. Bird noted that the Board is going around the issue of the Building Inspector and his interpretation of the bylaws.
- Mr. Donaldson said that he wanted to go through the issues. He felt that there was a special permit that was issued within the confines of the bylaws. Working with the decision, the Building Inspector was involved and so were a lot of other parties such as the Conservation Commission. He puts a lot of support to the Building Inspector's testimony and deference to his experience in the field as he applied the building codes. What Mr. Donaldson struggled with the most was the ultimate height of the house although it was still lower than as permitted under the bylaws. The reason it ended before the Board is that it is a small lot and a field decision was made to have a walk out basement for example. This house is neighbored by a house that is also non-conforming and is out of proportion, and also closer to the shared boundary. That is why every issue is accentuated. Starting with the fill (which there was no testimony on and ended up raising the house) and then the wall. Any other changes except these two, he felt created few problems, and he put that responsibility on the professionals of the McNamaras. They were concerned about presenting to the McNamaras a nice house but not concerned with the other aspects of the neighborhood.

- Mr. Curtin felt that everything that we got in the application for the special permit was well thought out. We got a full package and that is what we were shown, and how we came to what we have now is what I struggle with, but I follow your logic.
- Mr. Bird added that he spoke with other two Building Inspectors about that issue and when you come back to the Zoning Board, one issue is that the Building Inspectors are paid for their expertise and if the ZBA has the expertise to make determination for example on the wall issue.
- Mrs. Renee Perry said that her biggest issue was that the Building Inspector approved the modifications and changes and did not consult the neighbors.
- Mr. Bird added that there were many issues going on simultaneously.
- Mr. David Lozier felt that in the aggregate, there was nothing done that was illegal, and the McNamaras were consulting with professionals including the Building Inspector.
- Mr. Curtin stated that he has not been questioning the Building Inspector since he was not even available at the time of the application and he came after. He looked at the plans and what was submitted and it was fine. The plans should have been the same.
- Mr. Donaldson replied that in his mind there were three issues: one: the plan that was originally submitted, second: the plan upon which the house was to be built and thirdly the house as built plan. There are fluid changes in-between the more detailed plans and the field changes at the end.
- Mr. Curtin believed that the board is ok with the structure and how the site plan is what should have been looked at.
- Mr. Donaldson asked if Mr. Curtin has issues with the building plans in the aggregate or were there key issues.
- Mr. Curtin stated that his issues were with the site plan.
- Mr. Donaldson asked if it was cumulative effect or with some things that he found different.
- Mr. Curtin replied that it was issues like adding the wall, adding the fill etc.
- Mr. Bird asked if the members were ready for a motion.
- Mr. Weinberg explained that making the motion does not construe an approval of the motion by the person making it or seconding it. The Board needed a vote 4 out of 5 to carry the motion.
- 7:00pm *Mr. Joseph Curtin* moved to uphold the appeal and overturn the decision of the Building Inspector. Motion seconded by *Mrs. Renee Perry*.
- Mr. Bird asked if there were any discussion on the motion.
- Board voted as follows with a roll call:
Nays 4: *Jeffrey Donaldson, Renee Perry, William Bird, David Lozier*
Yeas 1: *Joseph Curtin*
 Motion does not carry.
- Mr. Weinberg noted that board needed to submit their decision to the Town Clerk's office by June 30th.

7:05pm *Mr. Joseph Curtin* moved to adjourn. Motion seconded by *Mrs. Renee Perry*. Motion carries. Yeas: 5 (*William bird, Renee Perry, Jeffrey Donaldson, David Lozier, and Joseph Curtin*), Nays: 0.