

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

DATE: August 13, 2013
TIME: 6:30 pm
LOCATION: Butterick Municipal Building

Board Members Present:

Bill Bird, Richard Hautaniemi, Joseph Curtin, Jeffrey Donaldson, David Lozier

Alternate Members Present:

Matthew Campobasso

Agenda

- **6:30 pm Discussion of Minutes**
- **6:35 pm ZBA Business**
 - Complaints on 95 Chace Hill Road-Martha Hawley
 - Mr. Jeff Robinson-discussion on the Building Inspector responses/appeal of order of the Zoning Enforcement Officer.

[Also other issues to be discussed may include: Budget-Bills-Administrative Issues-Memos-Comments from the Public]

Proceedings:

- 6:45pm Mr. Bill Bird opened the meeting with a roll call attendance.
- Mr. Bird noted that with regards to the first item on the agenda, the complainants did not file a complaint at the deadline for appeals. The ZBA has been presented with two issues with regards 95 Chace Hill Road. The first issue is with regards to the grandfathered rights for the farm. The second is with the septic services on the farm. The question here becomes whether the ZBA could re-open the issue if the appeal period has been missed. This would have to be discussed with Town Counsel to render an opinion. The plan would be to send what has been presented to the Board to Town Counsel to see what is available to the Board under its jurisdiction.
- Ms. Martha Hawley, 108 Chace Hill Road, noted that although they have bought their land in 1982, she could not see how the Building Inspector could decide that the farm is grandfathered. Rocky Acres Farm was issues an LLC in 2004. The farm website advertises different kinds of services which require filing of new paperwork. The other issues is the septic services that the Favreau's have also on the same property.
- Ms. Charla Kroll 86 Chace Hill Road, noted that she did not protest the issue at the time because the Building Inspector cited the "farm exemptions".
- Mr. Curtin commented that forestry is one of the most protected rights in the "farm exemptions" as has been experienced in previous farm cases.
- Ms. Kroll showed the Board a copy of the Rocky Acres farm filing.
- Ms. Hawley explained that they have no problem with farm activities but she added that this is not what was going on there.

- Mr. Bird asserted that the Board just wanted to make sure that it is following the right procedures and doing this in the right way. The ZBA needed to make sure that it is following the right legal and administrative procedures.
- Mr. Bird added that the Board will forward this information to Town Counsel for his opinion about how to proceed. This will be left to town counsel to make his determination. Mr. Bird noted to Ms. Hawley that this is the plan of the ZBA and she will be updated on the issue.
- Mr. Curtin commented that the Town is going to bid out the legal services. It will be beneficial if the new counsel has experience in zoning issues to support the ZBA.
- 7:10pm Mr. Bird opened the discussion with Mr. Jeff Robinson with regards to his appeal to the Building Inspector's opinion on 228 Leominster Road.
- Mr. Robinson stated that he needed a clarification on the bylaws and this was not an appeal. He just needed a discussion with the ZBA and not a decision.
- Mr. Robinson asked about how could the property be grandfathered, and pointed out the table of allowed uses vs. disallowed uses in the bylaws.
- Mr. Bird replied that the ZBA interprets the bylaws and notes that if the bylaw say that it could not be done then it could not be done. However, if the bylaws do not say specifically that it could not be done then it could be done The ZBA just applies the bylaws.
- Ms. Elshamy noted that the appeal was not filed with the Town Clerk.
- Mr. Robinson pointed out that he did not file this with the Town Clerk but just sent it to the ZBA. He added that he only needed the discussion with the ZBA and not an appeal. Mr. Robinson thanked the ZBA members for their time and discussion.
- Board members discussed the decision for 150 Clinton Road. Mr. Curtin pointed out that the way the decision was drafted misrepresented the discussions and the decision made at the hearing. As such, the filed decision needed to be corrected to reflect the true essence of the vote at the hearing. The correction should clearly state all the allowed items as per the granted decision.
- Mr. Lozier commented that the Board took out limitations and gave exemptions from the prohibitions.
- Mr. Donaldson asked if the minutes would reflect the correct decision and noted all the items that were being exempted or allowed.
- Mr. Campobasso recused himself.
- 7:45pm *Mr. Jeffrey Donaldson* moved to amend the filed decision for 150 Clinton Road to reflect the correct motion made at the hearing. Motion seconded by *Mr. Richard Hautaniemi*. Motion carried. All in favor, Yeas: 5 (*Richard Hautaniemi, William Bird, Joseph Curtin, Jeffrey Donaldson, David Lozier*) Nays: 0.
- 7:50pm *Mr. Joseph Curtin* moved to adjourn. Motion seconded by *Mr. Richard Hautaniemi*. Motion carried. All in favor, Yeas: 6 (*Richard Hautaniemi, William Bird, Joseph Curtin, Jeffrey Donaldson, David Lozier, and Matthew Campobasso*) Nays: 0.