



Town of Sterling
BOARD OF APPEALS
1 Park Street
Sterling, Massachusetts 01564
TOWN OF STERLING
ZONING BOARD OF APPEALS

Final Minutes of Meeting

DATE: August 12, 2014

TIME: 6:34 pm

LOCATION: Butterick Municipal Bldg., Room 205

6:34 pm: Sterling Zoning Board of Appeals was called to order by Chairman, William Bird. Roll call was taken. Sitting as a Board: William Bird (Chairman), Richard Hautaniemi, Jeffrey Donaldson, Joseph Curtin and Jerry Siver. Alternate Present: Matthew Campobasso

6:35 pm: Discussion of Minutes: There being no discussion, Mr. Hautaniemi *moved to accept the Minutes of July 8, 2014 as written.* Mr. Siver *Seconded.* *Vote: 5-0 in favor; (W. Bird, R. Hautaniemi, J. Donaldson, J. Curtin and J. Siver)* *Motion carried.*

6:36 pm: Case #634- Joseph M. Smith-Special Permit - 4 Runaway Brook Road

Purpose: To construct an accessory apartment on property owned by Joseph M. Smith and Carrie A. Smith. Joseph Smith reviewed his request citing it meets all criteria for a Special Permit. When questioned about having constructed most of the apartment without a Special Permit, Mr. Smith stated he was not informed and did not realize one was necessary. During the design and construction of his house, all systems were oversized with the idea in mind that family would be occupying the space. The Board reviewed the plans. When asked about parking, Mr. Smith informed the Board about the three-car garage in the front of the house which would be utilized and that all parking would be done there. Mr. Smith mentioned conditional approval from the developer to put a driveway down around back if it were needed, however he has no plans of doing so at the present time. It was determined that because construction had been done without the proper permit, it would be necessary for the Building Enforcement Officer to inspect and confirm compliance with the current Building Code. Mr. Smith suggested that during the construction, all systems had been upgraded with the apartment in mind and that all systems had been signed off by the appropriate inspectors. Pictures were also taken. Discussion ensued about the definition of an accessory apartment vs a two-family dwelling. Developer, R. Gary Griffin concurred with the Board that an accessory apartment is allowed in a single family house as a one unit use.

Public hearing closed.

7:07 pm: *J. Siver moved to grant the Special Permit with the following contingencies:*

1) After inspection, a favorable determination will be made by the Building Enforcement Officer that all previously completed construction complies with the Building Code; and 2) All automobiles owned by any occupants of 4 Runaway Brook will utilize the current driveway and three-car garage in the front of the house. J. Donaldson Seconded. No further discussion. Vote: 5-0 in favor. (W. Bird, R. Hautaniemi, J. Donaldson, J. Curtin and J. Siver) *Motion carried.*

7:08 pm: Case #632 – Brian Foley, Esq- Continuance for Variances – 38 Clinton Road

Mr. Curtin reported a *Use Variance* would only be permitted if the *six conditions* of 40A.10 of the by-laws were met. Mr. Foley summarized how his application met the criteria of each of the six conditions. Mr. Foley recognized the fact that an earth removal variance was necessary before any construction could begin and the bylaws reference that a variance from ZBA is necessary before going before the Earth Removal Board. Mr. Foley also acknowledged a definitive subdivision plan would enable a hearing with the Earth Removal Board without a zoning variance. However, his are *Approval Not Required* lots which makes the ZBA variance necessary before going to the Earth Removal Board. Mr. Foley expressed the fact that the topography of the land makes the *Use Variance* necessary for the *Neighborhood Residential* zone. Regarding substantial hardship to the petitioner, Mr. Foley stated the earth removal requirement would deprive the present property owner of the practical use of their property that others generally experience in a NR area. Members of the Board, struggling with the hardship issue, suggested the by-laws, the topography of the land and the zoning have not changed since the land was purchased. Mr. Curtin reiterated his concern about the use variance and stated an unwillingness to grant a dimensional variance on a new lot. ***Mr. Foley then requested permission to withdraw the case without prejudice.***

7:44 pm: J. Curtin moves to grant the applicant's request for withdrawal without prejudice.

R. Hautaniemi seconded.

Further discussion: None

Vote: 4-0 in favor (W. Bird, R. Hautaniemi, J. Donaldson, and J. Curtin) None opposed.

Motion carried.

7:48 pm: Case #635-R. Gary Griffin-Variance-11 Runaway Brook Road

R. Gary Griffin gave an overview of his application and request for a Variance for a driveway relocation at 11 Runaway Brook Road. Mr. Griffin reported that the hardship is the extraordinarily expensive cost of constructing the driveway as currently planned. Issues are site run-off, wetland proximity, and public safety. The concerns of the DPW, Fire Dept, Conservation Commission and Bldg. Inspector have all been met. The Planning Board declined to sign the curb cut, suggesting a hearing with the ZBA. Abutter, Roger Martin, suggested the steepness of the lot would make for a very undesirable driveway if left as is now planned. Discussion among Board Members.

Review of plan showing proposed access and utilities easement.

Public hearing closed.

8:11 pm: R. Hautaniemi moves to grant the requested variance for driveway relocation.

J. Siver Seconded.

Further discussion: None

Vote: 5-0 in favor (W. Bird, R. Hautaniemi, J. Donaldson, J. Curtin and J. Siver)

Motion carried.

8:13pm – Case #636-Justin and Gwen Zilioli-Special Permit-21 Laurel Avenue

Justin Zilioli gave an overview of the project to construct a single family dwelling. The Board reviews the site plan. Possible change in setback dimensions is discussed.

8:19pm: J. Donaldson moves to grant a Special Permit for new house construction.

M. Campobasso Seconds.

Further discussion: None

Vote: 5-0 in favor (W. Bird, R. Hautaniemi, J. Donaldson, J. Curtin and J. Siver)

Motion carried.

8:20 pm: J. Curtin moves to accept the report from Massachusetts Housing and close out the 40B file for Stonegate Village.

J. Siver Seconds.

Vote: 5-0 in favor (W. Bird, R. Hautaniemi, J. Donaldson, J. Curtin and J. Siver)

Motion carried.

8:20 pm: J. Donaldson moves to adjourn.

J. Siver Seconds

Vote: 5-0 in favor (W. Bird, R. Hautaniemi, J. Donaldson, J. Curtin and J. Siver)

Adjourned.