

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

DATE: May 21<sup>st</sup>, 2013  
TIME: 6:30 pm  
LOCATION: Butterick Municipal Building

**Board Members Present:**

Richard Hautaniemi, Joe Curtin, David Lozier, Jeffrey Donaldson

**Alternates Present:**

Jerry Siver

**Agenda:**

- **6:30 pm Discussion of Minutes**
- **6:35 pm Case# 621 Nina Kaupp & Richard Simmons-Special Permit**  
[Special Permit for purposes of construction of an attached two car-garage on property 13 Squareshire Road in Sterling]
- **7:05pm Case # 622 James & Christine Innamorati-Variance**  
[Variance that the existing garage is proposed to be removed and replaced with a new detached garage on property number 62 Lakeshore Drive in Sterling]
- **7:35pm ZBA Business**
  - Discussion re-new ACAB kennel definitions approved at town meeting
  - Discuss the Burlington marijuana moratorium bylaw

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

**Proceedings:**

- 6:30 pm Mr. Joseph Curtin opened the meeting with a roll call.
- 6:32pm Mr. David Lozier moved to accept the minutes of October 9, 2012 and January 8<sup>th</sup>, 2013 as presented. Motion seconded by *Mr. Jerry Siver*. Motion carried. All in favor, Yeas: 5 (*Richard Hautaniemi, Joseph Curtin, Jerry Siver, Jeffrey Donaldson, David Lozier*) Nays: 0.
- Mr. Curtin stated that they will wait until the applicants of the first case arrive at the meeting.
- 6:45pm Mr. Curtin opened the hearing for Nina Kaupp & Richard Simmons for a special permit.
- Mr. Richard Hautaniemi recused himself from the hearing because he is an abutter to the applicants.
- Mr. Curtin informed the applicant that because there are only 4 Board members hearing the case, then they will need all four ZBA members to approve granting the application. He

- asked the applicants if they would like to proceed with the hearing or would like to postpone it.
- Mr. Simmons indicated that they would like to proceed and would not like to wait till the next ZBA meeting.
  - Mr. Simmons explained that they have been residents of Sterling for the past 6 years. The house is 25 years old and needed some work. They hired an architect because it needed a lot of updating. They would like to add that garage to the south of the yard. The garage is currently at the low level and Ms. Kaupp has a medical condition in her back which makes it very difficult for her to access the house from the garage especially if she needed to carry groceries up. Mr. Simmons added that they will only be encroaching on the 20ft lot line by just a few inches.
  - Mr. Curtin asked if there were any questions from the Board.
  - Mr. Donaldson commented that it is a request for a special permit for a pre-existing non-conforming lot.
  - Mr. Curtin asked about the size of the proposed garage.
  - Mr. Simmons replied that it is a standard 2-car garage about 22 or 24ft.
  - Mr. Curtin asked if there were any questions from the audience. There was none.
  - 6:55pm *Mr. Jerry Siver* moved to grant the requested special permit. Motion seconded by *Mr. David Lozier*. Motion carried. All in favor, Yeas: 4 ( *Joseph Curtin, Jerry Siver, Jeffrey Donaldson, David Lozier*) Nays: 0.
  - 7:05 pm Mr. Curtin opened the hearing for James and Christine Innamorati for 62 Lakeshore Drive requesting a variance. Mr. Curtin read the published legal notice and opened the floor for the applicants.
  - Mr. James Burgoyne, attorney representing the applicants, introduced himself. He explained that when they previously came to the Board they decided to take the garage project off the table and amicably resolved the concerns and requests of the neighbors. The plan shows the existing garage with about 1.5 ft from Mr. Beauregard's property. He showed the Board a picture of the garage and showed the Board the requested relief. The proposed garage is an unoccupied accessory structure. They are proposing a 10 ft side rear set back which is the essence of the variance request. The location of the proposed structure will not be blocking any views. The general topography of the property is suitable for the proposed project. Mr. Burgoyne added that the proposition is to build a garage with visual separation from the Beauregard property and there is no deviation from the appearance of the neighboring properties around it. It is a fairly nominal relief. The garage will be a nice structure to store a vehicle and a boat. The garage will enclose these stored items in a nice structure which will add to the value of the neighborhood. The house is on a lot and the garage will be on another lot. The garage will be uninhabited structure with no plumbing, septic or water source.
  - Mr. Hautaniemi commented that there might be a safety concern getting in and out of the garage on Lakeshore drive.
  - Mr. Curtin asked if the applicants could move the garage back a bit.
  - Mr. Innamorati replied that they will not be able to move it backwards.
  - Mr. Burgoyne stated that they just wanted to maintain the 10 ft. set back.
  - Mr. Donaldson asked what the concern of the neighbors was.
  - Mr. Rick Beauregard, 61 Lakeshore Drive, noted that it is the size of the garage and not the garage itself.
  - Ms. Judy Corbett, 57 Lakeshore Drive, agreed and added that they do not have an objection to a garage project but it is for the proposed size of the garage.

- Mr. Jim Corbett, 57 Lakeshore Drive, argued that it does not matter what he or other neighbors' voice for concerns because it was at the prerogative of the ZBA to make that decision.
- Mr. Curtin noted that the Building Inspector had no objections to the project.
- Mr. Dan Wolfe, David Ross Associates, noted that they have spent a lot of time thinking about the best way to design this project taking into consideration what will be best for the neighbors and the neighborhood.
- Seeing no more questions or comments, Mr. Joseph Curtin closed the public testimony in the hearing.
- Mr. Hautaniemi commented that he thought Massachusetts Courts do not support the granting of variances to odd shaped lots.
- Mr. Curtin noted that the ZBA option could be that they deny the requested variance but the applicant could still build a 500ft garage by right. The other option that the applicant could have would be to build more than the 500ft structure but still keep the 10ft set back.
- Mr. Burgoyne noted that there is nothing in the bylaws to prevent the applicant from build 2 -500ft structures.
- Mrs. Barbara Roberti interrupted and noted that the public hearing was closed and Mr. Burgoyne's comment should not be considered.
- Mr. Donaldson asked the applicant about what was similarly built in the neighborhood.
- Board noted that they needed to research other properties in the neighborhood and what was being built.
- 7:45pm *Mr. David Lozier* moved to allow a 10minute recess to reconvene at 7:55pm. Motion seconded by *Mr. Jerry Siver*. Motion carried. All in favor, Yeas: 5 (Richard Hautaniemi, *Joseph Curtin*, *Jerry Siver*, *Jeffrey Donaldson*, *David Lozier*) Nays: 0.
- Meeting re-convened at 7:55pm.
- Mr. Curtin explained that he was researching the properties at 51 and 47 Lakeshore Drive to see what kinds of set back they have. Mr. Curtin noticed that there aren't 25 feet set back. Mr. Curtin asked Mrs. Barbara Roberti about her set backs.
- Mrs. Roberti replied that she thought it was 25ft side set back and she asked Mr. Hautaniemi if he thought the same.
- Mr. Hautaniemi replied that he was not sure but it might be.
- Mr. Curtin noted that the Assessors map does not show these set backs. However, he noted that this is another resource that the ZBA could use to see what was being built in the neighborhood.
- Mr. Siver said that he thought it would be nice if the project was pushed back but he does not believe it was a public safety issue.
- Mr. Lozier stated that sometimes the strict interpretation of the bylaws does not work for lots that are non-confirming and predating the zoning by laws (such as in the CampGround area).
- Mr. Donaldson added that the nature of the odd shaped lot makes it difficult visualize the 500 ft garage as by right to build.
- Mr. Curtin asked if the applicants have some flexibility in changing the size of the building.
- Mr. Innamorati replied that the building was designed to fit a boat and a vehicle.
- Mr. Burgoyne said that the short answer would be that it is possible to reduce the size, the boat could be put at the back, and still has the size to fit 2 vehicles. There is room for change and there are other alternatives, but they really could theoretically put two-500feet structures. Also the variance could be granted with conditions on the size.
- Mr. Innamorati said that he really wanted to be able to fit in the boat so as to protect it from the elements.

- Mr. Siver said that if the ZBA turn this application down, then the applicant can, by right, build two-500 foot structures, which would not be more aesthetically liked by the neighbors.
- Mrs. Corbett commented that they would rather have that option. However, she asserted that it would not be feasible to build those two structures on that lot. She added that they are not objecting to the garage as a project but really to the size of the proposed structure. They would like it to fit the neighborhood.
- Mr. Lozier asked Mrs. Roberti how big was her garage.
- Mrs. Roberti thought that it was not larger than the 500 feet.
- Mr. Donaldson commented that he would like to see this hearing continued, so that the ZBA members can do further research on the neighborhood.
- Mr. Curtin asked the applicant if they would like to continue the hearing to the next ZBA meeting.
- Mr. Burgoyne said that they do not oppose the continuation, but they would like the same ZBA members to be present at the hearing.
- Mr. Donaldson also suggested that the applicant and the architect could have the chance to go back to the drawing table maybe they would have a change in the design.
- Mr. Innamorati asserted that they have been extensively thinking of this design and it took a long time to reach it.
- Mr. Curtin explained that the ZBA members needed to make sense of the neighborhood.
- 8:40pm *Mr. Jeffrey Donaldson* moved to continue the hearing to June 11, 2013 at 6:35pm. Motion seconded by *Mr. David Lozier*. Motion carried. All in favor, Yeas: 5 ( *Joseph Curtin, Jerry Siver, Jeffrey Donaldson, Richard Hautaniemi, David Lozier*) Nays: 0.

## **ZBA Business**

- Mr. Curtin noted the ACAB re-definition of Kennel.
- Mr. Donaldson suggested that the ZBA discuss this issue at another meeting for further research.
- Mrs. Charla Kroll suggested that the Town of Holden has issues with Kennels and maybe Sterling could benefit from their experience.
- Mr. Curtin replied that the ZBA has spent almost 2 years working on the definitions of Kennels and its issues.
- ZBA discussed the marijuana moratorium and noted that there is nothing to do at the moment.
- Mr. Curtin noted that as a Zoning Board, they do not make the laws.
- Mrs. Charla Kroll noted her complaints from 95 Chace Hill Road. She asked about the reasons why this has been grandfathered.
- Mr. Kroll said that they realize that they were late in appealing the decision to the Building Inspector and asked for the ZBA input. He wanted the ZBA to look into the matter and study the documentation for this business.
- 9:05pm *Mr. Jeffrey Donaldson* moved to adjourn. Motion seconded by *Mr. David Lozier*. All in favor, Yeas: 5 ( *Joseph Curtin, Jerry Siver, Jeffrey Donaldson, Richard Hautaniemi, David Lozier*) Nays: 0.