

TOWN OF STERLING
ZONING BOARD OF APPEALS MINUTES
Butterick Municipal Building, Room 205 6:00 p.m.
January 28, 2020

MEETING:	<p>Chairman Fox called the Zoning Board of Appeals to order at 6:00 pm. Present were members Pat Fox, Diana Baldarelli, Matt CampoBasso, Joe Curtin, Jerry Siver and associate member Charlie Conroy.</p> <p>Also present was Paul Haverty of Blatman, Bobrowski & Haverty, LLC as the technical review consultant to the Zoning Board of Appeals.</p>
Agenda	<p>6:00 pm – COMPREHENSIVE PERMIT (Continued) – Petitioner Taniel Bedrosian, Almik Construction Inc. (applicant) and Doris E. Bedrosian (owner) have applied to the Zoning Board of Appeals for a Comprehensive Permit pursuant to Massachusetts General Laws, Chapter 40B, Section 21, to construct 8 duplexes for a total of 16 3-bedroom units, with 4 units being affordable. The property is zoned Rural Residential and Farming.</p> <p>7:00 pm – Variance - Petitioner Banzan International Group has applied to the Zoning Board of Appeals seeking a Variance from the requirements of Article 4, Section 4.6.4(d) of the Town of Sterling Protective Bylaws to allow a “small quantity generator” as defined 310 CMR 30.00.</p> <p>7:20 pm – Special Permit - Attorney Gregory M. Boucher of Saul, Ewing, Arnstein & Lehr LLP, on behalf of petitioner SBA 2012 TC Assets LLC, has applied to the Zoning Board of Appeals seeking to extend an approval for a Special Permit for a Wireless Communications Facility (Article 4, Section 4.8 of the Sterling Protective Bylaws) for an existing cellular tower structure. The property is located in the Rural Residential and Farming zoning district.</p> <p>7:40 pm – Special Permit - Petitioner Vincent Ruziak has applied to the Zoning Board of Appeals seeking a Special Permit to allow for an extension, alteration, or change of a pre-existing non-conforming structure to extend the garage (damaged by fire) at the side lot setback (Article 2, Section 2.2.4 of the Sterling Protective Bylaws). The property is located in the Rural Residential and Farming zoning district.</p>
Minutes Approval	<p>Joe Curtin made a motion to approve the minutes of 1/14/2020. Diana Baldarelli seconded. 4 aye, 0 opposed, 1 abstain (Jerry Siver). Mr. Conroy left the meeting after the 40B hearing.</p>
Comprehensive Permit (40B) 81 Chace Hill Rd Parcel ID 150-21	<p>Sitting as a board were Pat Fox, Diana Baldarelli, Matt CampoBasso, Joe Curtin, alternate member Charlie Conroy and Jerry Siver. Jerry Siver sat through the hearing for 81 Chace Hill Road. Although he was not eligible to vote on the petition (missed more than one meeting), he is allowed to pose any questions he may have.</p> <p>The comprehensive permit for 81 Chace Hill Road continued.</p> <p>Pat Fox asked the applicant provide information in a slightly more timely fashion. The next meeting will be 3/10/2020 and set a deadline of 3/3/2020 for updated materials to be provided to the Board.</p> <p>Mr. Dean Harrison (consultant to applicant) discussed the contents of the letters that were sent to the Board today (1/28/2020).</p> <p>First was the review memo from Mr. Jeffrey Dirk of Vanasse & Associates regarding the traffic. There were a number of items reviewed. The applicant agreed to update sight triangles; will verify the fire truck design with the Sterling Fire Department prior to the next meeting and will review sidewalk criteria (Cape Cod berm with grass strip vs. 6” granite curbing called out in memo). Mr. Harrison will provide a response to Mr. Dirk’s memo dated 1/27/2020 prior to the next meeting.</p> <p>Next was a waiver request in regards to materials and standards dated 1/28/2020 from Almik Construction. Mr. Harrison reiterated that the roadway would remain private. The roadway will be constructed with 3” bituminous concrete, minimum of 12” gravel base, minimum roadway width is 20’ and curbing is a proposed 1’ cape cod berm on each side</p>

Comprehensive
Permit Cont.

of the drive. The trees will be 2.5" in caliper with a tree in front of each of the 16 units. Mr. Haverty requested a plan showing the location of the trees. Sterling Municipal Light Department will provide underground utilities, 1 transformer per duplex and a grant of easement is required for SMLD. The Home Owners Association will be responsible to remove snow in the sight triangles as well as vegetation in the sight triangles.

Mr. Harrison reviewed a memo from the DPW Superintendent Paul Lyons, which outlines the requirements for the Town water connection. The applicant requested that the Board waive the \$1000 hook-up fee for the affordable units. Mr. Haverty told the Board that they do not have to waive fees, but should consider waiving some.

Mr. Harrison then reviewed the waiver request letter dated 1/28/2020 from Almik Construction. The Board can impose construction standards and Mr. Haverty would like to see the waivers spelled out so that if necessary, the decision is defensible. After reviewing the tables in the letter, Mr. Haverty felt he had enough information to start drafting a decision incorporating the waivers.

The floor was opened for additional public comment. There are concerns over the density of the project and there was a request to stake out the development to enable a better visual interpretation of the site. Mr. Harrison stated he would discuss with his client if he was interested in staking out the project and opening the site to a public visit. Mr. Harrison also reminded the Board that he has submitted a site-dimensional plan, and does not feel that the project is too dense.

At 7:13 pm Mr. Fox suspended the hearing. Joe Curtin made a motion to continue the hearing until Tuesday, March 10, 2020 at 6:00 pm. Matt CampoBasso seconded. All in favor, 1 abstain (Jerry Siver).

Board members Patrick Fox, Joe Curtin, Diana Baldarelli, Matt CampoBasso and Jerry Siver sat for the remaining 3 petitions. (Charlie Conroy left at close of 40B petition).

Variance - Banzan
International - 12
Industrial Drive –
Parcel ID 51-9
(allow small
quantity
generator)

Mr. Andrew Smillie, principal research scientist for Banzan International Group has applied to the ZBA seeking a variance from the requirements of Article 4, Section 4.6.4(d) of the Town of Sterling Protective Bylaws to allow a "small quantity generator" as defined in 310 CMR 30.00 at 12 Industrial Way which is zoned Light Industrial and is in the Aquifer Protection Zone II. Also in attendance was Mr. Arthur Cunningham of Capaccio Environmental Engineering.

Mr. Smillie discussed the properties of the chemical in question, Maleic Anhydride. As the company grows, they will be moved from the classification of "very small quantity generator" to a "small quantity generator" – therefore requiring a variance since it is not an allowed use in the Aquifer Protection Zone II. The hazards only occur when heat is applied, and then the risk is to employees working with the chemical as it produces fumes that can be extremely irritating. It is not a hazard to the ground and water. It also metabolizes very quickly, and reverts to a solid state at room temperature. Banzan would receive the Maleic Anhydride in briquettes (solid) and would be stored in accordance to OSHA regulations.

Mr. Fox explained that a Variance is dictated by MGL 40A §10 and that findings owing to circumstances relating the soil conditions, shape or topography of the property required to be met in order to grant a variance.

The Board opened the floor to the public and Allen Hoffman of Sterling's Board of Health asked questions of the petitioner. Mr. Hoffman commented that the application is

(Banzan Variance Cont.)	<p>“shallow” and lacking any discussion of the process used by Banzan. Mr. Smillie answered several questions and discussed the process in some detail.</p> <p>An abutter raised concerns about odors, safety and about losing business if Banzan moved into the building.</p> <p>After some more discussion, Mr. Smillie requested a Leave to Withdraw Without Prejudice. Mr. Curtin made a motion to grant the Leave, Mr. Siver seconded. All in favor, 5-0.</p>
Special Permit - SBA 2012 TC Assets LLC - Parcel ID 84-13.1 (Renew Cell Tower SP)	<p>Mr. Gregory M. Boucher of Saul, Ewing, Arnstein & Lehr LLP, representing petitioner SBA 2012 TC Assets LLC, was on hand to discuss the Special Permit for a cell tower located at 5 Pine Woods Lane. The original permit was issued in 2003 with renewals every 5 years. The last renewal was July 2018, but the applicant missed that and therefore applying for a new Special Permit.</p> <p>The Tower has been in place since 2003 and the property it is located on is under agreement to be leased until 2053 with options to renew. There is a \$30,000 removal bond in place (per original conditions). There was an updated structural analysis completed on 11/7/2019. Mr. Fox commented that some of the conditions seemed to disappear upon renewals and wanted to review them with Mr. Boucher so that they can be added to this permit. Mr. Boucher was in agreement with all but two of them. One stated that the antennas are required to be flush-mounted. There are already antennas in place that are not flush-mount and the newer antennas provide better coverage. The second condition was relative to site plan review and not applicable at this time.</p> <p>Ms. Baldarelli asked that the petitioner obtain an updated tower removal estimate and adjust the decommissioning bond accordingly. It was suggested that we provide SBA sixty (60) days to obtain this information and correct the bond if necessary. (SBA provided the new estimate and the bond in place is more than adequate to cover decommissioning.)</p> <p>Mr. Curtin made a motion to approve the Special Permit subject to the conditions of the original permit as modified, and subject to acquiring a bond sufficient for decommissioning the cell tower within 60 days. There will continue to be no charge to the Town of Sterling for the use of the tower for emergency services. There will be no change to the footprint and the secure chain-linked area. Ms. Baldarelli seconded. All in favor, 5-0.</p>
Special Permit - Vincent Ruziak - Parcel ID 139-13 (Rebuild garage after fire)	<p>Mr. Vincent Ruziak and Mrs. Heather Ruziak applied to the ZBA seeking a Special Permit to allow for an “extension, alteration, or change of a pre-existing non-conforming structure” to extend their garage which was damaged by fire. The extension would not affect the front yard set-back, but it would lengthen the pre-existing non-conformity at the side yard setback. The homeowners stated that they will be obtaining a land survey for the addition to confirm that no further non-conformities arise.</p> <p>Mr. Curtin made a motion to grant the Special Permit to rebuild the garage with an extension of the 2-car garage that does not create a new non-conformity. Joe also made a motion to waive the application fee for the hearing, which was granted. Ms. Baldarelli seconded. All in favor, 5-0. Patty will work with the petitioner and treasurer to return the funds.</p>
Adjourn	<p>Motion to adjourn.</p>