



TOWN OF STERLING
ZONING BOARD OF APPEALS MINUTES
Butterick Municipal Building, Room 205 6:00 p.m.
December 12, 2023

MEETING:

Chairman Patrick Fox called the meeting of the ZBA to order at 6:00 pm. Present were members Joseph Curtin, Everett Pierce, Alternate members Joseph Testagrossa and Gail Bergeron. Matthew CampoBasso and Diana Baldarelli were absent.

Agenda

- 6:00 pm – Special Permit & Variance** - Renee Windward has filed for a Special Permit to allow for the extension, alteration, or change to a pre-existing non-conforming structure for the purposes of building an addition (Article 301-2.5, Section 301-2.2.4(5) and a Variance for relief from the side yard setbacks requirements (Article 301-2.4, Section 301-2.4.2) at a property located at 1 Magnolia Way, Sterling MA, Parcel ID 149-9. The property is located in the Rural Residential & Farming zoning district.
- 6:15 pm – Administrative Appeal** - Lorri Beltz is seeking an Administrative Appeal of the Building Commissioner's determination (Article 301-6.2.2(3) of the Protective Bylaws) that the activities taking place at 57 Greenland Road are not in violation of the Protective Bylaws and are a grandfathered use. The Parcel ID is 125-7, and is located in the Rural Residential Zoning District.
- 6:20 pm – Discussion & Possible Vote** – Discuss the Board's interpretation of the Accessory Dwelling Unit (ADU) Bylaw and draft a letter for the Building Commissioner.
- 6:25 pm – Minutes** - Review minutes from November 14, 2023

Chairman Fox opened the hearing at 6:00 pm.

Special Permit & Variance – 1 Magnolia Way – increase non-conformity and reduce side yard setback

Ms. Renee Windward presented her application to the board. She would like to combine her family into one home. The current home is small and wants a garage for storage and a portico for protection from the elements. Mr. Fox asked what she is seeking to construct – a garage with living space above. Mr. Richard Traina also spoke. He is trying to combine the family and it's a safety/medical issue and also cited the low housing stock.

At 6:11 pm, the hearing was opened to the public. A neighbor spoke in support of the application and Mr. Fox noted that there was no opposition. At 6:14 pm Mr. Curtin made a motion to close the public portion of the hearing. Mr. Pierce seconded. All in favor, 5-0.

Mr. Fox read a portion of a case he felt was relevant to the Variance. Bellalta vs. ZBA Brookline (2019). After some discussion, Mr. Curtin made a motion to approve the Special Permit as it is not more detrimental to the neighborhood and to waive the Variance. Ms. Bergeron seconded. All in favor, 5-0.

Mr. Curtin made a motion to approve the minutes of October 17, 2023 as amended. Ms. Baldarelli seconded. All in favor, 5-0.

Administrative Appeal – 57 Greenland Road – seeking to reverse the building commissioner's zoning determination

Acting as a board, were members Everett Pierce, Joseph Curtin, Gail Bergeron and Joseph Testagrossa. Mr. Curtin was acting Chairman and Mr. Patrick Fox recused himself. There were 4 voting members which met quorum.

Ms. Lorri Beltz presented her appeal to the Board. Ms. Beltz originally filed a complaint in August 2023 and at that time the Zoning Enforcement Officer issued a cease & desist for all activities taking place at a property located at 57 Greenland Road owned by Mr. Jason Baldarelli. In the meantime, Mr. Baldarelli obtained legal counsel, Mr. Brian Foley. Attorney Foley researched the history of the property and presented his findings and evidence to the Zoning Enforcement Officer. His research showed that the activities taking place at 57 Greenland Road were in fact a grandfathered use. Based on this evidence, the Zoning Enforcement Officer reversed his initial

determination and found that the activities were a grandfathered use. Ms. Beltz appealed that decision to the Board.

She presented a number of concerns with the activities that are taking place around her property. One of which was the discharge of firearms. (Though Mr. Baldarelli stated that both parties do discharge weapons on their properties). She stated that Mr. Baldarelli has removed a number of trees and was working long hours on the site. She cited concerns over noise, air pollution, water damage as a result of said removed trees and a reduction in home value because of all the activities taking place. She respectfully requested that the grandfathered status be removed, issue a cease & desist and make Mr. Baldarelli go for site plan review.

Attorney Foley then addressed the Board on behalf of his client. Mr. Foley stated nothing material has been presented in terms of the administrative appeal per MGL 40A §15. He stated he had difficulty believe that noise is an issue when the property abuts I190 and is within the air travel path for the airport and with Sterling Peat operating right across the street.

Sterling Peat has been in existence since the 1940's – he present an original brochure advertising Sterling Peat from the 1960's. He also stated that Sterling Peat was in existence 17 years prior to the adoption of zoning and the use was a permitted one until about 1965. Property transfers do not extinguish use. He also further stated that the Board should deny the appellant's request as she had not met the burden per MGL 40A.

Mr. Foley also stated that Ms. Beltz included a restrictive covenant in her application but is was missing a map which indicated what was covered under the agreement. Mr. Foley had a larger version of the map available and presented it to the audience. He also stated that Mr. Baldarelli is under a contractual obligation in the restrictive covenant for maintaining the property by clearing brush and keeping the area clear.

Mr. Baldarelli's use of the property is similar to the operations taking place at Sterling Peat. Mr. Foley ended his presentation by respectfully requesting that the Board uphold the October 2023 determination by the Zoning Enforcement Officer.

At 6:44 pm the floor was opened to the public. Nobody in the public spoke in favor or against the appeal.

The discussion continued. Ms. Beltz had presented satellite images that showed Mr. Baldarelli wasn't using the property. Mr. Baldarelli stated he hadn't cut any trees, only removal of invasive brush so he can maintain the property (as he's contractually obligated to do) and eventually wants to plant grass. He's also hauled out tons of trash that was left on the site. He feels that he has only improved the site.

Mr. Curtin asked about hours. Mr. Baldarelli stated that his hours are sporadic at this time. Mr. Foley responded and stated that the Protective Bylaws regulate hours of operation and would need to be address by the local authorities. Mr. Curtin wondered if the hours of operation that were placed on another property owned by Mr. Baldarelli would be acceptable. (Monday thru Friday 7 am to 6 pm and Saturday 8-6 and Sundays for emergencies and winter snow storms only.)

At 6:52 Mr. Testagrossa made a motion to close the public portion of the hearing. Mr. Pierce seconded. All in favor, 4-0.

Mr. Pierce indicated he had a problem with firearms being discharged on the site. Mr. Curtin stated that the Board cannot "remove" the grandfathered status. Ms. Bergeron asked more about the "use" being used on site. Basically they process earth materials (sand/gravel/peat, etc.). The material comes in and is screened.

The board continued the discussion of what a grandfathered use is. Mr. Foley stated that the use runs with the property. After more discussion, Mr. Pierce made a motion to uphold the Zoning Enforcement Officer's decision that the activities at 57 Greenland Road are a grandfathered use and therefore denying the applicant's appeal. Ms. Bergeron seconded. All in favor, 4-0.

Minutes

Mr. Fox joined the meeting. Mr. Pierce made a motion to approve the minutes of November 14, 2023. Mr. Curtin seconded. Vote was 4-0-1 with Mr. Curtin, Mr. Pierce, Mr. Fox and Mr. Testagrossa voting in favor, 0 against and 1 abstain (Ms. Bergeron as she wasn't present at that meeting).

ADUs

Mr. Fox wanted to further discuss Accessory Dwelling Units and perhaps providing guidance to the Building Commissioner in the form of a letter as to their interpretation of the bylaw. The discussion went back and forth, but ultimately the Board decided not to write the letter at this time.

Adjourn

Mr. Pierce made a motion to adjourn at 7:57 pm. Mr. Curtin seconded. All in favor, 5-0. Meeting adjourned.

Minutes were approved at a meeting held on 2/13/2024, P. Page.