



Town of Pepperell
BOARD OF APPEALS
One Main Street
Pepperell, Massachusetts 01463
(978) 433-0333
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Zoning Board of Appeals Meeting Minutes of November 12, 2008

PRESENT: Thomas McGrath, Sherrill Rosoff, Annette McLean, Mark Walsh; also present, Cheryl Lutzca (ZBA Assistant) and Pepperell's Town Counsel, Attorney Ned Richardson.

7:00P.M. Chair announces that the first agenda item is a Work Session regarding the Remand from Middlesex Superior Court regarding an application submitted by Louise Taylor, the Zoning Board of Appeals, by Decision filed with the Town Clerk on April 2, 2008, granted SPECIAL PERMITS, under Sections 3200, 3230, 3232, 3233, 3234, 3500, 3520, and 9223 of the Town of Pepperell Zoning By-Law, allowing the conversion of the existing non-conforming use as a retail tack shop to a garden center; allowing a portion of the premises to be used as a landscaper's and contractor's yard; and, permitting the operation on the premises of five commercial vehicles for haulage of commercial quantities of gravel, mulch and other materials. The Special Permits granted by the Board of Appeals were subject to conditions set forth in the Decision filed on April 2, 2008, from which the Applicant appealed to the Middlesex County Superior Court in Case Number MI CV 2008-01530-L. The appeal of the conditions has been remanded to the Board of Appeals for further review or modification. The property affected is located at 49 South Road, sometimes known and numbered as 47-53 South Road, Pepperell, MA, as shown on Assessor's Map 40 as Parcel 1.

Chair announced to the audience that this is a Work Session for the purpose of drafting a revised Decision on this matter and that the hearing and record were closed on October 1, 2008, and that previous Work Session was held by the Board on October 5, 2008.

Discussion ensued between Board Members and Town Counsel regarding hours of operation and screening.

Sherrill Rosoff motions to vote to approve modification to finding and conditions of the Decision of the Board filed with the Town Clerk on April 2, 2008. Annette McLean seconds. All concur.

8:00P.M. Chair announces that the second agenda item is a Work Session pertaining to a remand from the Court pursuant to an application submitted by Kimberley H. Gordon, the Zoning Board of Appeals, by Decision filed with the Town Clerk on June 30, 2008, granted a Special Permit under Section 3320 of the Town of Pepperell Zoning By-Law, to allow a Home Occupation for the collection and sale of collectables and various items both owned and by consignment. This Special Permit was appealed by the Town of Pepperell Planning Board and Building Inspector and Zoning Enforcement Officer, to the Commonwealth of Massachusetts Land Court in Case Number 08-MISC 382135 (CWT), and has been remanded back to the Zoning Board of Appeals as follows: *“ORDERED that this action is remanded to the Town of Pepperell Zoning Board of Appeals for the purpose of issuing a supplemental decision, explaining the reasons why it granted a Special Permit to Kimberley Gordon on June 30, 2008. This supplementation may not alter the decision itself and must be based on the existing record. Further, the Board may proceed without giving further public notice. It is further ORDERED that the Board must issue and record this supplemental decision no later than December 16, 2008, and file same with the Court without delay, thereafter. The parties have also requested that the Court order a sixty (60) day deadline for the completion of all discovery. Therefore, it is ORDERED that all discovery in this case be completed no later than December 16, 2008.”* The subject property is located at 75 Groton Street, Pepperell, MA, as shown on Assessor's Map 27 as Parcel 5.

The Board reviews the findings in the original Decision and references the Town of Pepperell Zoning-By-Laws.

Sherrill Rosoff motions to accept the Supplemental Decision. Annette McLean seconds. All concur.

Town Counsel will file the Supplemental Decision with the Land Court, after it has been filed with the Town Clerk.

Old and New Business:

Sherrill Rosoff motioned to approve ZBA Meeting Minutes of October 1, 2008.
Annette McLean seconds. All concur.

Sherrill Rosoff motioned to approve ZBA Meeting Minutes of October 5, 2008.
Annette McLean seconds. All concur.

Meeting Adjourned at 9:30P.M.

ZBA Minutes of November 12, 2008 filed with Town Clerk: April 16, 2009

Cheryl Lutzca
Assistant, Zoning Board of Appeals

cc: Town Clerk
Building Inspector
ZBA Minutes file
ZBA Members
ZBA Application File(s)