



Town of Pepperell
BOARD OF APPEALS
One Main Street
Pepperell, Massachusetts 01463
(978) 433-0333
Fax: (978) 433-0335

Zoning Board of Appeals Meeting Minutes of November 18, 2009

PRESENT: Sherrill Rosoff (Chair), Annette McLean, Mark Walsh, Sean McCaffery, Bruce Roberts; also present, Cheryl Lutcza (ZBA Assistant) and Town Counsel, Attorney Edward J. Richardson

7:00P.M. Chair announced that the first agenda item is a hearing regarding an application submitted by David and Lorraine Murphy, requesting a Zoning Board of Appeals **SPECIAL PERMIT** under Sections 9221 and 3400 of the Town of Pepperell Zoning-By-Law, which if granted, would allow an accessory apartment in an existing barn, which is attached to the dwelling. Subject property is located at 11 Heald Street, Pepperell, MA, as shown on Assessor's Map 20 as Parcel 10.

Clerk read the Notice of Public Meeting into the record.

Applicants, David and Lorraine Murphy, were present and signed an Affidavit of Owner Occupancy.

Clerk read responses from the following Town Boards/Departments and/or concerned parties into the record:

- Conservation Commission
- Highway Department
- Water Department
- Board of Health
- Planning Board
- Police Department
- Town Engineer
- Town Counsel

Board Member, Annette McLean, inquired if there was only one means of egress from the proposed accessory apartment. Applicant, Lorraine Murphy, responded that there would be two means of egress.

Sherrill Rosoff, Chair, inquired if any of the Board Members had questions for the Applicants. All responded no.

Chair inquired if members of the audience had any questions. No response.

Annette McLean motioned to close the record and the hearing. Mark Walsh seconds. All concur.

Mark Walsh motioned to approve the application for a Special Permit under Sections 9221 and 3400 of the Town of Pepperell Zoning By-law. to allow an accessory apartment in an existing barn, which is attached to the dwelling at the subject property, 11 Heald Street, Pepperell, MA, as shown on Assessor's Map 20 as Parcel 10. Annette McLean seconds. All concur.

7:30P.M. Chair announced that the second agenda item is a hearing regarding an application submitted by Kimberly Gordon requesting an ADMINISTRATIVE APPEAL. Applicant seeks relief from the Zoning Board of Appeals under Section 9223 of the Town of Pepperell Zoning-By-Law and M.G.L. Ch. 40A, Sections 8 and 15. Applicant appeals the action of the Building Inspector dated September 3, 2009 directing the Applicant to cease and desist from activities at 75 Groton Street as set forth in said notice. Subject property is located at 75 Groton Street, Pepperell, MA, as shown on Assessor's Map 27 as Parcel 5.

Clerk read the Notice of Public Meeting into the record.

Applicant Kimberley Gordon is present and is represented by Attorney Christine Morrissey, who is also present.

Attorney Morrissey addressed the Board, on the Applicant's behalf, and made the following points:

- Applicant is not in violation of Special Permit.
- Gave an overview of the history of the case/property.
- Applicant did request that the Town Clerk release the Special Permit for a Home Occupation, so that it could be recorded at the Registry of Deeds; however the Town Clerk was unable to give it to her, as it had not been released by the Court.
- Both Decisions have now been recorded and the delay was no fault of the Applicant's, as the Town Clerk did not realize that there was also a Supplemental Decision, and only gave Ms. Gordon the Special Permit Decision to record.
- There are no other permits that the Applicant needs to apply for.
- Applicant put up temporary signs directing clients to park on the temporary driveway and not the street. These signs are removed when the business is closed.
- There are numerous temporary signs posted around Town (listed in Exhibit T).

- Applicant is entitled to have personal property of her own on her property.
- Picture in Exhibit T shows no goods being displayed outside of the building.
- It is Applicant's belief that all concerns raised in the Cease and Desist Order are being complied with; there has been no remodeling done in the accessory structure that would require building permits.
- Requested that client's business be reinstated.

Clerk read responses from the following Town Boards/Departments and/or concerned parties into the record:

- Highway Department
- Conservation Commission
- Police Department
- Board of Health
- Planning Board
- Water Department
- Town Engineer
- Town Counsel (Town Counsel provide a verbal summary of his response to the Board).
- Opposition Letter from Dorothy Lohnes, 73 Groton Street

Chair inquired if members of the audience had any questions. The following questions/comments were raised by members of the audience:

John Cotton, 73-1/2 Groton Street:

- Lives next door to Applicant
- 2-3 weeks ago a bed and table were displayed on the front of Applicant's property.
- Last Summer vehicles of people visiting Applicant's property were on his grass; went over to ask that vehicles be moved off of his lawn.
- Applicant has spotlight shining on sign at night.

Attorney Morrissey objected and said this was off the point. Town Counsel responded that objections are out of order.

Mark Walsh explained that the Board handles each case on an individual basis and that this has no affect on what comes before the Board in the future.

John Cotton (continued):

- Concerned that Applicant's business will affect his property value

Donna Parker, 70 Groton Street:

- Sees stuff out front every weekend

Town Counsel commented that Condition No. 6 of the Special Permit states there is to be no exterior storage of goods. The Inspector of Buildings has filed a complaint regarding this.

Donna Parker (continued):

- This should have been nipped in the bud by the ZBA
- She did not receive a notice regarding this, as she is not on the Certified List of Abutters

Chair explained that the Notice is published in the newspaper. Town Counsel explained that residents within 300 feet receive a Notice.

Marion Flamino, 77 Groton Street:

- Sees no problem with Applicant's business; it is very pleasant and there is no problem to her with anything
- People that visit the business are wonderful people

Town Counsel explained that what is before the Board tonight is whether or not the Applicant is in violation of the Conditions of the Special Permit issued last year.

Audience Member, Donna Parker inquired if the stuff out front is considered to be non-compliance?

Chair explained that the Board is discussing that tonight.

Annette McLean inquired as to when photo in Exhibit T was taken. Applicant, Kimberly Gordon, replied two to three months ago. Ms. McLean inquired if this is how the business looks now? Applicant replied that everything is hidden and contained in the barn.

Attorney Morrissey explained that the Applicant didn't understand that she couldn't display a few items, i.e., did storage and display mean the same thing. Town Counsel reads a section of the Zoning-By-Law that covers Condition No. 6, and explained that the intent is no storage and no display.

Board Member, Sean McCaffery, commented that there is a sign issue and that the Zoning-By-Law restricts signs that can be put up. Town Counsel responded that temporary signs have been a headache throughout Town; this is a home occupation and the intent is that it should be in conformity with the residential neighborhood and what is not in conformance here is open storage and display of signs.

Mark Walsh asked Inspector of Buildings/Zoning Enforcement Officer (Harry Cullinan) about Cease and Desist Order regarding four parking spaces. Mr. Cullinan responded that the Applicant submitted a plot plan with her application showing a lawn and parking in the back and the concern is the driveway they are talking about will be muddy come Spring and it should be gravel.

Chair asked Mr. Cullinan if he wants to see a finished driveway. Mr. Cullinan responded that gravel would be fine. Town Counsel responded that a site plan review is not required. Discussion ensued regarding driveway issue, i.e., dirt vs. gravel.

Audience Member, Donna Parker, commented that there is already a driveway there; additional driveway on other side of property.

Attorney Morrissey addressed the Board and explained that the Applicant now understands that storage and display are different and the Applicant will no longer display goods outside.

Town Counsel explained that the Inspector of Buildings job is to cite people who are not in compliance. Attorney Morrissey asked what procedure is in place to police a Special Permit? Town Counsel responded that he did not believe there was selective enforcement going on. Inspector of Buildings, Harry Cullinan, explained that his job is to enforce the Decision of the Board and he does not need a written complaint in order to enforce.

Audience Member, Donna Parker, commented that the business stands out in the neighborhood.

Abutter, John Cotton, asked if this means that there will be no more furniture displayed on the Applicant's front yard? Sherrill Rosoff responded that there would not. Mr. Cotton asked about the light shining on the sign at night. Town Counsel and Mark Walsh both responded that the Applicant has to adhere to the portion of the Board's Decision addressing signage and lighting.

. Discussion ensued among Board Members.

Mark Walsh motioned to close the record and hearing. Annette McLean seconds. All concur.

Board enters deliberations and discussions ensue.

Mark Walsh motioned that the Board grant the Administrative Appeal with respect to all Conditions, except Condition #7 of the Cease and Desist Order and deny the Administrative Appeal with respect to Condition #7 of the Cease and Desist Order. Annette McLean seconds. All concur.

Old and New Business:

Annette McLean motioned to approve the ZBA Meeting Minutes of October 26, 2009, 2009. Mark Walsh seconds. All concur.

Mark Walsh motioned to adjourn the meeting. Annette McLean seconds. All concur.

Meeting Adjourned at 8:40P.M.

ZBA Minutes of November 18, 2009 filed with Town Clerk: January 15, 2010
Respectfully submitted by:

Cheryl Lutzca,
Assistant to the Zoning Board of Appeals

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