



*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 March 13, 2019\***

*\*This meeting was cablecast live and recorded for future cablecast by Pepperell Community Media*

**Present:** Mark Walsh (Chairman), Annette McLean, and Sean McCaffery.  
Also present, Cheryl Lutcza (ZBA Assistant) and Robert Kelly (Town of Pepperell Zoning Enforcement Officer/Building Inspector).

**Not Present:** Alan Leao, Jr.

**7:02PM**

Chairman, Mark Walsh opened the meeting and introduced the Board Members and Staff.

Chairman explained that over the last 24 hours information had come to light that may impact this hearing. He explained that the Board received the application requesting a Special Permit and a Variance and that over the course of the past couple of days there has been some correspondence between the Applicant's legal counsel (Attorney Robert L. Collins of Westford, MA), Pepperell's Zoning Enforcement Officer/Inspector of Buildings (Robert Kelly) and Pepperell's Town Counsel (David Doneski). The outcome of these discussions is that the subject property falls within and is subject to the protections of the Dover Amendment, which deals with uses for religious or educational purposes on lands, not subjecting them to the local zoning ordinances. The section of Massachusetts General Laws in question is M.G.L., Chapter 40A, Section 3, relative to religious and educational organizations. The Chairman reads said sections of the M.G.L. into the record. He further explained that it is the opinion of both Pepperell Town Counsel and the Applicant's Attorney that the ZBA Application for 17 Main Street fits squarely into this religious exemption. The Chairman asked Mr. Kelly if he concurred with these legal opinions and Mr. Kelly stated that he did.

Chairman explained that the timing on this was not good and a lot of time has been expended on this application by the Board's Administrative Assistant. He further explained that he consulted with Town Counsel earlier today and Town Counsel advised that where the process is so far along, that the Board needs to apply the test that is in the Dover Amendment and the Board would need to make a decision that would essentially confirm the Dover Amendment exemption.

Discussion ensued between the Chairman and Mr. Kelly.

Chairman announced that the meeting was being cablecast live and recorded for future broadcast.

Chairman asked for a motion to open the public hearing on this matter. Sean McCaffery motioned to open the public hearing. Annette McLean seconds. All concur.

### **7:08PM – Hearing ZBA-2019-01: 17 Main Street (Pepperell Christian Fellowship)**

The Applicant submitted certified check payments for the following fees associated with the ZBA Application:

- Postage Fee of \$37.40 (payable to the Town of Pepperell)
- Legal Advertising Fee of \$325.04 (payable to the Nashoba Valley Voice)

The Clerk read the Notice of Public Hearing (legal notice) into the record:

An application has been submitted by Pepperell Christian Fellowship, requesting a Zoning Board of Appeals **SPECIAL PERMIT**, under Section 3530 of the Town of Pepperell Zoning By-Law, which, if granted, would allow for the reconstruction, extension, alteration or change of a non-conforming structure, in connection with construction of an addition which would connect the two existing buildings on the site, and include a new main entrance, deck area, and access improvements, and construction of a new front entryway and steeple structure; and, a **VARIANCE**, from Section 4140 of the Town of Pepperell Zoning By-Law (Table of Dimensional Controls) which if granted would allow relief from the side yard setback to permit the construction of a building addition with a 9.9 foot encroachment into the required setback area, making the building 15.1 feet from the property line where 25 feet is required. The subject property is located at 17 Main Street, Pepperell, MA, as shown on Assessor's Map 21 as Parcel 53-0. A public hearing will be held on this matter at the Pepperell Town Hall, Conference Room A, on Wednesday, March 13, 2019 at 7:00P.M. The application is available for review at the Town Clerk's office at 1 Main Street. Parties wishing to speak in favor of, or in opposition to, the proposal may do so in writing prior to the hearing or at the hearing in person or represented by an agent or attorney. Interested parties are encouraged to attend.

The Applicant submitted certified check payments for the following fees associated with the ZBA Application:

- Postage Fee of \$33.18 (payable to the Town of Pepperell)
- Legal Advertising Fee of \$219.88 (payable to the Nashoba Valley Voice)

Chairman invited the Applicant to address the Board. Mr. Chad Brannon addressed the Board and explained that he was a Civil Engineer with Fieldstone Land Consultants, P.L.L.C., Milford, NH. Mr. Brannon stated that he would be representing the Applicant, Pepperell Christian Fellowship this evening. Representatives from Pepperell Christian Fellowship were present at the hearing, as well as abutters and/or members of the public.

Mr. Brannon gave an overview of the application, project, and plan details, and summarized the project making the following points:

- He had been well into the process of preparing for this evening's presentation when new information came in from the Applicant's legal counsel
- The Applicant's proposal will make the site more functional, bringing the structures together and tying everything on the site together
- An elevator will be installed to make the structure more ADA compliant and the proposed plans will make the property more ADA accessible.
- There will be a covered deck and enclosed addition/steeple structure.
- The addition will be further from the property line than the existing structure and the property will be more conforming, working within the current footprint
- Improvements will be made to the walkway
- Gave an overview of plan/renderings of the proposal
- Stated that no doors will face either of the abutting properties, they would be internally accessed from the deck area
- There will be a huge improvement to the aesthetics of the current structure and property
- There will be a net reduction in impervious coverings

Mr. Brannon asked if the Board had any questions for him. The Board did not. Chairman explained that the Board does not have to address the request for a Special Permit and Variance tonight.

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

- Treasurer-Collector (Ex: D)
- Conservation Commission (Ex: E)
- Historical Commission (Ex: H)
- Water and Sewer Departments (Ex: I)
- Fire Department (Ex: J)
- DPW Director/Town Engineer (Ex: M)

Mr. Brannon addressed the Board and explained that regarding the Town Engineer's comments, the project scope has been reduced since 2017.

Chairman stated that the Board received a letter/comments, dated March 11, 2019, from the Lawrence Library Board of Trustees (Ex: S) and asked Mr. Brannon if he had read it. Mr. Branon said he had reviewed it just prior to the meeting and in general will honor the agreement they had regarding parking with them. Mr. McCaffery stated that construction vehicles cannot park on the Library property. Mr. Brannon said that they would prefer not to honor the fence request by the Library. Discussion ensued regarding fencing and parking.

Deb Spratt, Director of the Lawrence Library, addressed the Board and explained that the Library does have good relations with the church; however, there are concerns with the Church utilizing the Library's parking area. The Church can park in the Library's lot on Sundays; however, the concern is that they utilize the Library's parking area while the Library is open on weekdays. She stated she was also concerned about construction during the summer while the summer reading program is going on. Discussion ensued regarding the Library's parking lot policy. Ms. Spratt said that they only have a verbal agreement with the Church regarding their utilizing the Library's parking areas. The Chairman said that in this instance the parking and fence issue are beyond the purview of the Board and that he would encourage dialogue between the Church and the Library and abutters.

Mr. Brannon stated that construction vehicles would not utilize the Library's parking area. The Building Inspector stated that the Church could install a temporary fence during construction.

Abutter, John Morrow (23A Main Street), addressed the Board and asked if any of these situations supersede the Building Codes/setbacks. Chairman explained that the Board is discussing this matter as a religious exemption. Discussion ensued.

Abutter, Joyce Morrow (23A Main Street), addressed the Board and explained that the lights from the Church's property constantly shine directly onto her property. She has had numerous discussions with the Church regarding this issue. She asked if the Board could make a condition regarding this lighting issue, as they (Morrow's) use their property 24 hours a day. The Chairman explained that the current recourse would be to go to the Zoning Enforcement Officer/Building Inspector and that lighting is beyond the Board's purview of this hearing. Discussion ensued.

Board Members discuss the overall proposal by the Applicant and the Dover Amendment exemption criteria.

Chairman asked if members of the audience had any more questions.

Ms. Spratt addressed the Board and said she was trying to look at the Plan and really didn't understand it. Board invited Ms. Spratt to come up and look at the Plan. Mr. Brannon gave Ms. Spratt an overview of the proposed Plan and location of walkway. Discussion ensued.

The Chairman asked if anyone had any further questions. No one responded.

The Chairman asked for a motion to close the public comment portion of the hearing. Sean McCaffery motioned to close the public comment portion of the hearing. Annette McLean seconds. All concur.

Board entered into discussion and deliberation.

The Chairman asked for a motion that the application for the Special Permit and Variance is unnecessary because there is sufficient evidence for the Board to lawfully find that it would be unreasonable not to allow the improvements as proposed and that the addition and associated work may be undertaken as authorized improvements to land used for religious purposes pursuant to section 3 of the Zoning Act. Annette McLean motioned that the application for the Special Permit and Variance is unnecessary because there is sufficient evidence for the Board to lawfully find that it would be unreasonable not to allow the improvements as proposed and that the addition and associated work may be undertaken as authorized improvements to land used for religious purposes pursuant to section 3 of the Zoning Act. Sean McCaffery seconds. All concur.

**Action Items:**

1. **Review and/ or Approve ZBA Meeting Minutes of April 4, 2018:**

Discussion on Housing Production Plan (HPP) and Affordable Housing Committee (AHC) and selection of a ZBA Member Representative to the Affordable Housing Committee (AHC). Chairman made a motion (out of necessity) to appoint Sean McCaffery as the ZBA's representative to the AHC. Annette McLean seconds. All concur.

**Old and New Business:** There was no old or new business conducted.

**Adjournment:**

The Chairman asked for a motion to adjourn the meeting. Sean McCaffery motioned to adjourn the meeting at 8:00p.m. All concur. **Meeting adjourned at 8:00p.m.**

ZBA Minutes of **March 13, 2019** were filed with Town Clerk on: August 19, 2019

**Respectfully submitted by:**

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**Cheryl Lutzka,  
Assistant to the Zoning Board of Appeals**

cc: Town Clerk  
Inspector of Buildings  
Town Counsel (via email)  
ZBA Members (via email)  
ZBA Application File: (ZBA-2019-01 – 17 Main Street (Pepperell Christian Fellowship))  
ZBA Minutes file (original)