

Minutes of the BOXFORD ZONING BOARD OF APPEALS
Virtual Attendance Due to Coronavirus Pandemic

May 25, 2023

Present:

Paula Lia Fitzsimmons, Chair
Steve Merriam, Vice- Chair
Ralph Nay- Clerk

Others Present: Peter Delaney, Teresa Mason, Dennis Sheehan, Colleen O'Connell, Attorney Masys, Richard Connick, Sherry Fuller, George Needham, Lance Cluster BCATV, Ted Merchant, Attorney Mark Kablack

7:03 PM Call to Order

With a quorum present, Chair Fitzsimmons called the meeting to order at 7:03 PM.

Continued Business:

- **Case #1042, 8 Cedar Street**
Applicants: John Cowhig & Sherry Fuller

Discussion:

Fitzsimmons recuses herself, Nay: Chair, Pro-Tem

Nay informs Mr. Cowhig and Ms. Fuller that this case needs to be continued to the June 29th meeting due to quorum not being met.

No vote necessary. Case continued to 6/29/23.

- **Case #1038, 39 Lily Pond Rd**
Applicant: Joseph DiPietro & Anna DiPietro

No one attended the meeting; continuance form was submitted for this case. Signed by Attorney Glass.

Motion made by Merriam to continue Case #1038 to next meeting June 29, 2023.

Seconded by: Nay

Roll Call: (Called by Fitzsimmons)

46 **Steve Merriam- YES**
47 **Ralph Nay- YES**
48 **Paula Fitzsimmons- YES**

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50 **MOTION CARRIED: Unanimously**

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- **Case #1039, 49 Mill Road**
Applicants: Dennis Sheehan

56 Fitzsimmons reads legal ads into the record.

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Discussion:

60 Chair Fitzsimmons brings case 1039 forward, stating that she asked Town Counsel if a
61 building inspector issuing a building permit voids zoning by-laws, and Town Council made it
62 clear it does not, it is the applicant's responsibility to ensure they are complying. Vice-Chair
63 Merriam asks if it is challenging to leave a door shut at all times, or getting double doors.
64 Dennis Sheehan responds that their frequency of the occupants coming could change, and he
65 is not sure what would be behind the walls in regards to having to put a door in. Merriam
66 suggests having a builder look at the possibility to put a door in. Sheehan says that no abutters
67 have come forward opposing this, and that if board is ok with it, since the by-law does not say
68 an interior connection is required. Nay adds that if there is going to be a yes vote from him,
69 there needs to be a door put between two parts of the house, Fitzsimmons concurs.
70 Fitzsimmons adds that access between the main structure and accessory structure is needed,
71 they have made cases in the past do this and will need to here. Nay reads Planning Board's
72 recommendation into record. Sheehan says it is up to the board, and Fitzsimmons explains the
73 choices before Sheehan on withdrawing or getting a denial, Sheehan would like to continue
74 the case.

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76 Motion made by Merriam to continue Case #1039 to the next meeting on June 29, 2023.

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78 Second by: Nay

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80 **Roll Call: (Called by Fitzsimmons)**

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82 **Steve Merriam: YES**

83 **Ralph Nay: YES**

84 **Paula Fitzsimmons: YES**

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86 **MOTION CARRIED: Unanimously**

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- **Case #1040, 6 Round Top Road**
Applicants: Shawn Mulcahy & Colleen O'Connell

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Chair Fitzsimmons reads legal ads into the record.

Discussion:

Attorney Masys' is representing for Colleen O'Connell, and begins by showing the board a list of Boxford businesses run out of their homes. She informs the board that the Town of Somerset granted a special permit for a dog grooming salon on the premise, and that a kennel down the street in the same RA Zone is doing dog grooming as well. Masys doesn't believe by allowing this it will set a precedent, since its already being allowed. Nay reads the Planning Boards recommendation into record, Fitzsimmons explains that she only saw 1 pet grooming operation on the list, she is not convinced either way but knows things are changing. George Needham, an abutter, addresses his concerns that this business will be a on bus stop corner, people are walking their dogs up and down the street, and this would increase traffic. Needham is also concerned this would affect the septic system by the detergents being used. He thinks board of health should see if this would be safe in a residential area. Masys states how O'Connell's driveway is long, no one would need to drive up or down the street, and that no concerned parent has joined the zoom meetings to state their concerns if they had any. They already spoke with Kendall Longo, Director of Public Health and there is a dry well on the property that will contain any discharged water, she says her client made sure everything being used is safe. Nay asks if the indirect waste has been approved by anyone, and Masys states she spoke with Director of Public Health. Nay suggests speaking with the plumbing inspector, and that he would like to see a materials safe product sheet. Fitzsimmons says she does not see the board issuing a special permit. O'Connell asks why she wasn't told beforehand to go to the plumbing inspector. Masys says the building inspector will have further involvement in this project because a water heater will need to be installed anyway.

Motion made by Merriam to close evidence on Case #1040.

Seconded by: Nay

Roll Call: (Called by Secretary, Teresa Mason)

Steve Merriam: YES

Ralph Nay: YES

Paula Fitzsimmons: YES

MOTION CARRIED: Unanimously

Fitzsimmons said from her perspective, there is not a mechanism for a special permit. Merriam says that they cannot deny this application, it was more of an error in application and he would entertain the applicant withdrawing without prejudice. Masys explains that she asked in her original memo to have the board fit this business in the customary home occupation description, and Peter Delaney, the Building Inspector, mentioned that he wanted the ZBA to

see if this was an allowable use. Nay suggests the applicant apply for a DBA from Town Clerk. Merriam mentions the applicant can withdraw without prejudice. Masys requests this being withdrawn without prejudice. Delaney explains he asked the applicant to bring this project to the ZBA because this is not an allowable use. Merriam and Nay state they do not see an issue with this. Fitzsimmons asks Nay and Merriam if this is a customary home occupation.

Merriam moves motion for case #1040 that pet grooming is a customary home application.

Seconded by: Nay

Roll Call: (Called by Secretary, Teresa Mason)

Steve Merriam- YES

Ralph Nay- YES

Paula Fitzsimmons- YES

MOTION CARRIED: Unanimously

Applicant wishes to withdraw without prejudice.

Merriam motions to move to allow applicant to withdraw without prejudice.

Seconded By: Nay

Roll Call: (Called by Secretary, Teresa Mason)

Steve Merriam- YES

Ralph Nay- Yes

Paula Fitzsimmons- YES

- **Case 1041, 13 Cross Road**
Applicants: Richard Connick Jr. & Alyssa Palazzo

Fitzsimmons reads legal ad into the record.

Discussion:

Nay begins by reading the Planning Board's recommendation into record. Richard Connick starts and shows the plans requested for this meeting, Merriam says he needs to see all the dimensions used in the calculation written on the plan, Fitzsimmons agrees that these are missing. Connick explains the measurements and dimensions, and Merriam questions a red line on the in-law in the drawing that is confusing, and wants to know where the dimension of the fireplace is shown. The Chair suggests the importance of the dimensions being listed on the plans, Merriam reiterates the importance. Fitzsimmons asks that the architect clearly puts these on, and Mr. Connick comes next month.

Motion made by Fitzsimmons to continue Case #1041 to the next meeting June 29, 2023

Second by: Nay

Roll Call: (Called by Secretary, Teresa Mason)

Steve Merriam: YES

Ralph Nay: YES

Paula Fitzsimmons: YES

MOTION CARRIED: Unanimously

- **Case #1014: 8 Willow Road**
Applicants: The Willows/Toll Bros.

Discussion:

Chair Fitzsimmons reads the legal ad into the record.

Ted Merchant introduces Attorney Mark Kablack to speak on his behalf, and Kablack begins to share with the board his involvement in this project. Kablack states there are no viable locations on the site for the dry hydrant. He asks the board for a minor modification from this condition from the board to allow them to install dry hydrants in an alternate location, and says the fire chief is on board with this. Merchant mentions the first closing was scheduled for the end of July. Peter Delaney reminds board that Ross Povenmire, the Conservation Commission Administrator, and the Fire Chief had a meeting to relocate the dry hydrant in the beginning of the year. Merriam asks if there is an issue with species, Merchant mentions there are 2 endangered turtles here, but there is protection plan in place for them. Kablack requests instead of coming back, if they can amend this condition so the sales can happen without a hold up of coming back for every unit. Fitzsimmons says she does not think this is a minor modification, and that Chief Geiger agreed to occupying 1 or 2 units, not 7. Kablack says he did not know a limitation was placed, but that 2 units is better than 1. Fitzsimmons suggests filing for amendment for the June meeting before their closing in July, that she is on board with the one to two units like Chief Geiger, but not seven, Nay agrees.

Chair Fitzsimmons told applicant to file for an amendment before the June 29, 2023 meeting.

Minutes were discussed from April 27, 2023 Meeting. Quorum not met to motion, will review next meeting.

- **Case 1035: Board of Health Letter**

Merriam explains he thinks that they would mostly be concerned here about power output. He said he will send a memo requesting that they update the letter, but that they know what he

wants. Merriam thinks they can report that the permit requires under the by-law certain annual reporting. and the question is if we will have an active mechanism for that to be reported. Fitzsimmons agrees that Merriam should draft a letter to them.

With no further business, on a **MOTION** made by Merriam, seconded by Nay, the Zoning Board of Appeals meeting of May 25, 2023 adjourned at 9:15 PM.

Roll Call: (Called by Secretary, Teresa Mason)


Steve Merriam: YES

Ralph Nay: YES

Paula Fitzsimmons: YES

MOTION CARRIED: Unanimously

Respectfully submitted,

A handwritten signature in cursive script that reads "Teresa Mason".

Teresa Mason

Minutes Secretary