

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

April 27, 2023

**Present:**

Paula Lia Fitzsimmons, Chair  
Ralph Nay, Vice- Chair  
David Valzania- Alternate  
Thomas Jonak- Alternate

**Others Present:** Lance Cluster BCATv, Peter Delaney, Teresa Mason, Ted Merchant,  
Attorney Caitlin Masys, Colleen O'Connell, Dennis Sheehan, Richard Connick, John Cowhig,  
George Needham, Jim O'Brien, John Morin

**7:00 PM Call to Order**

With a quorum present, Chair Fitzsimmons called the meeting to order at 7:00 PM.

**Continued Business:**

- **Case #1038, 39 Lily Pond Rd**  
**Applicants: Joseph A. DiPietro & Anna D. DiPietro**

**Discussion:**

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

**MOTION** made by Nay to continue Case #1038 to the next meeting on May 25, 2023

**Seconded by:** Jonak

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

**Ralph Nay: YES**  
**Thomas Jonak: YES**  
**Paula Fitzsimmons: YES**

**MOTION CARRIED:** Unanimously.

• **Case #1039, 49 Mill Road**

**Applicant: Dennis Sheehan**

Vice-Chair Nay reads legal ads into record.

Discussion:

Mr. Sheehan explained to the Zoning Board that the previous building inspector issued a building permit, and the rough inspection was approved. But the current inspector, Peter Delaney, said that he wouldn't be able to pass the accessory apartment, it needs to be brought to the Zoning Board.

John Morin from Morin-Cameron Group shows the Existing Dwelling Footprint of the Accessory Apartment, and a more detailed plan of the unit. Mr. Morin states that they built the accessory off of the approval of the rough inspection they received, and that Sheehan would've built the apartment differently if he knew when he requested the permit.

Fitzsimmons asks the board for any additional questions, and states she is still not settled if the issue of the previous building inspector negates Zoning bylaws. She will have Town Counsel research this and give their opinion, but at this time does not have that. Fitzsimmons asks Sheehan if he would like a vote tonight, or continuance. Sheehan replies by saying that he has communicated best he can, but he may need to hire his own counsel. Morin says he thinks Town Counsel will weigh in on Section 5, and Fitzsimmons responds that she cannot think of any other Accessory Apartment in Boxford without a connection. Sheehan agrees on a continuance.

Motion made by Nay to continue Case #1039 to next meeting May 25, 2023.

**Seconded by: Valzania**

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

**Ralph Nay- YES**

**David Valzania- YES**

**Paula Fitzsimmons- YES**

**MOTION CARRIED:** Unanimously

**New Business:**

• **Case #1040, 6 Roundtop Road**

**Applicants: Shawn Mulcahy & Colleen O'Connell**

Chair Fitzsimmons reads legal ads into the record.

Discussion:

Caitlin Masys, Esq. begins by speaking on Colleen O'Connell's behalf. Ms. O'Connell has a small detached garage, and owns a pet grooming shop in Lynn. She would like to run a shop out of her garage, in a small area in the garage with one tub for dogs, and install one water heater. Masys shows application, plot plans, and pictures of garage. Fitzsimmons states the current application shows no pictures of garage spaces, and Masys says there is two. The proposed hours of the grooming business will be Monday- Saturday from 8:00am to 2:00pm, with just one dog at a time, and only four or five dogs a day.

Valzania questions about signage, and Masys states that any signs will comply with zoning codes. Valzania states this seems like a commercial business, and Jonak reiterates that statement. Nay says it wouldn't be detrimental and no exterior changes will need to happen.

James O'Brien, a resident at 12 Round Top Rd., joins and adds that he is the next-door neighbor and has no concerns regarding cars coming in and out of their driveway. After that, George Needham, a resident at 11 Round Top Rd. comes in and adds he is concerned about traffic, and asks if there will be any overnight kenneling done here, and is told by Masys that after 2pm, there will be no customers.

Fitzsimmons told applicants to be put on the Planning Board's next agenda and they will submit their recommendation to the Board.

Motion made by Fitzsimmons to continue Case #1040 to next meeting May 25, 2023

Second by: Nay

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

**Paula Fitzsimmons:** YES

**Thomas Jonak:** YES

**Ralph Nay:** YES

**MOTION CARRIED:** Unanimously

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

Chair Fitzsimmons reads legal ads into the record.

Discussion:

Richard Connick explains how he would like to make an in-law apartment, and the new in-law would be 998 sq ft with the only changes made outside being a door and a window. His house and the in-law would share a common entryway that separates into two doors to each house. Chair Fitzsimmons pulls up his application on the screen, and Mr. Connick explains his plans

and where the changes would occur outside. Nay asks Richard where the exterior dimensions are, and that it needs to be verified. Fitzsimmons agrees and adds that the plans aren't stamped, and requests stamped versions of the plans with their measurements to verify accuracy. Connick thought they were from his site plan, and were done by Paul Donohue. Nay instructs Connick to request verified measurements from Donohue.

Fitzsimmons asks Connick to go to the planning board to speak with Ross Povenmire at Town Hall, and be put on the Planning Board's next agenda, then they will make a recommendation to the Zoning Board.

Motion made by Fitzsimmons to continue Case #1040 to next meeting May 25, 2023

Seconded by: Nay

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

**Paula Fitzsimmons: YES**

**David Valzania: YES**

**Ralph Nay: YES**

**MOTION CARRIED:** Unanimously

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

Fitzsimmons recused herself: Nay, Chair, Pro-Tem

Jonak reads the legal ad into the record.

Discussion:

John Cowhig starts by saying he went to Building Inspector, Peter Delaney, for new windows and roofing permit. But as the project evolved, substantial rot on the structure in the 2nd floor was found. Cowhig would like to add an addition to enclose his outdoor staircase, and said he does not want to change any square footage, just doesn't want to shovel snow so wants to enclose the staircase. Cowhig is proposing 54 sq ft just to enclose the stairwell.

Cowhig presented his plan, with it being 51 feet from the side and 62 feet from the front. Valzania states that the garage now appears nonconforming, but is wondering about if it increases size of nonconforming structure, but not increasing its nonconformity. Cowhig answers that it would increase size of structure but not its nonconformity. Nay says that none of this work is in line with Zoning and does not see this happening, that the roof of the garage should have never come off. Nay says building inspector Peter Delaney would have never issued this permit and should rescind it, and thinks that Cowhig should go for a special permit and move the garage to be conforming.

Nay states he can keep this open for 12 months, and Jonak says he thinks that if the homeowner is willing to conform, he thinks it will be recommended. Nay suggests to Cowhig to speak with Donohue and see if he can make a plan to place the garage in a place that conforms.

Motion made by Pro-Tem Chair Nay to continue Case #1042 to next meeting May 25, 2023

**Roll Call:** (Called by Nay)

**Ralph Nay:** YES  
**Thomas Jonak:** YES  
**David Valanzia:** YES

**MOTION CARRIED:** Unanimously

**Continued Business:**

- **Case #1025, 47C Pond Street- Board of Health Letter**

Discussion:

Nay tabled until Merriam can speak on matter at May 25, 2023 meeting

Discussion item only, no vote required.

- **Case #1014, 8 Willow Road  
The Willows/Toll Bros. - Dry Hydrant**

Chair Fitzsimmons reads legal ad into record.

Discussion:

Ted Merchant begins by explaining a permit was approved early January 2022 with a condition that a dry hydrant was placed. Last year with the fire department, they located an appropriate spot and submitted the application to the Conservation Commission. But the Conservation Commission did not want them to place it where Toll Bros and the Fire Dept. decided on. Merchant shows the area the Fire Dept. recommended, but that area is under restriction by the Conservation Commission. Merchant says they are in the process but would like to request a relief from time restraint, the first home is set to close at the end of June, but he is not sure if that will be possible due to these challenges.

Nay states he doesn't want to change the conditions of the existing permit, and Merchant said the Conservation Commission is asking for revisions, which is taking more time than expected. Chair Fitzsimmons said she needs to speak to Ross Povenmire at Town Hall to see what his timeline is. Merchant said he is requesting two months of relief, and if it's not do able, he understands his certificate of occupancy will be on hold. Fitzsimmons shares she was not aware that Merchant would be asking for a relief of time, but that Toll Brothers knows there is a provision in Condition 48 of Zoning Bylaws, and it did not happen. Fitzsimmons will ask Ross Povenmire at Town Hall to speak with the board at next meeting or write a letter to the board regarding his recommendation on this.

With no further business, on a **MOTION** made by Nay, seconded by Valzania, the Zoning Board of Appeals meeting of April 27, 2023 adjourned at 9:03 PM.

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

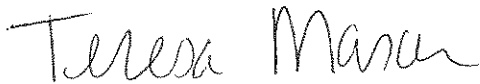
**Ralph Nay:** YES

**David Valzania:** YES

**Paula Fitzsimmons:** YES

**MOTION CARRIED:** Unanimously

Respectfully submitted,



*Teresa Mason*

*Minutes Secretary*