



TOWN OF WILBRAHAM

Zoning Board of Appeals
240 Springfield Street
Wilbraham, Massachusetts 01095

MINUTES OF THE WILBRAHAM BOARD OF APPEALS MEETING THURSDAY, FEBRUARY 16, 2017

In Attendance: Edward Kivari Jr. – Chair, H. Clark Abbott, Charles Pelouze, Mark Albano

Staff: Lance Trevallion, Zoning Enforcement Officer
John Pearsall, Planning Director
Heather Kmelius, Administrative Assistant

The meeting was called to order at 5:48 PM by Chairman Kivari.

1. **Approval of Minutes**

Chairman Kivari called for a motion to approve the minutes of January 19, 2017 as submitted and the Board unanimously agreed.

2. **Appeal of Zoning Enforcement Determination**

Leon Charkoudian, 19 Peak Road

(Digitally recorded)

The public hearing in this matter was closed on January 19, 2017 and the Board's discussion tonight will result in a decision in this matter. This hearing was held on October 27, 2016 and continued to January 19, 2017. The Board and interested parties also conducted a site walk on December 6, 2016.

Chairman Kivari complimented both parties in this complex matter as to the content and presentation of the case materials and arguments. The Board has reviewed the multiple memos written by Attorney Thibault representing Leon Charkoudian, Attorney Schafer representing John Charkoudian, and Town Counsel Alan Marshall, as well as analyzed all of the relevant exhibits submitted for consideration.

Board member H. Clark Abbott stated that although he agrees with a large portion of Attorney Thibault's argument, he ultimately believes that Section 3.3.3(A) is the most applicable and appropriate by-law specific to this situation and therefore leaves him in support of the Zoning Enforcement Officer's determination on August 22, 2016 that the property is buildable. Board member Charles Pelouze stated the issues presented in this case, including the pertinent fact that the Town has granted permission for other homes to be built along Peak Road, lead to his determination that the "seasonal cottage" destroyed by tornado was, in fact, a residence and therefore supports the Zoning Enforcement Officer's determination. Chairman Kivari stated that the site visit on December 6, 2016 was proof to him that the structure on the property was more substantial than simply a "seasonal cottage" and deemed it to be a residence as well. This determination was based on the fact that there was a functional septic system, delivery of U.S. Mail, and accommodations to sleep six to eight people. Chairman Kivari stated that the change from a seasonal home to a year-round home was not a significant expansion and therefore also agrees Section 3.3.3(A) is properly applicable.

MOTION (Abbott, Pelouze): To deny the Petitioner's appeal and to uphold the decision of the Zoning Enforcement Officer issued in a determination letter dated August 22, 2016 that a new single family residential dwelling may be allowed on property located at 19 Peak Road in compliance with the requirements of the Wilbraham Zoning By-Law for the reasons outlined herein this decision subject to the following condition:

Pursuant to M.G.L. Chapter 40A Section 6 and Section 3.3 of the Wilbraham Zoning By-Law, no building permit shall be issued for any new dwelling on said property being proposed as an exercise of the rights authorized under this decision, until and unless building plans have been submitted in a form and manner deemed sufficient by the Building Commissioner and the building plans have been determined by the Building Commissioner to be compliance with the setback, building coverage and building height requirements of Section 3.3.3(A) of the Zoning By-Law.

(3-0, voting in favor of the motion - Edward Kivari , H. Clark Abbott, Charles Pelouze).

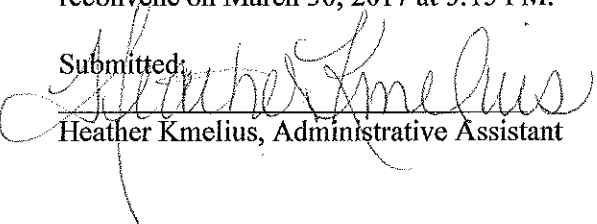
The matter was closed for discussion at 6:26 PM.

3. Proposed Future Use of 2451 Boston Road, Town of Wilbraham Property

Zoning Enforcement Officer Lance Trevallion stated that the demolition of the Town owned 2451 Boston Road building is expected to begin in the spring of 2017. Mr. Trevallion explained that following the demolition, the Town will sell the land by auction. The prospective buyer and developer of the property will be forced to construct a building that is unable to meet the required zoning setbacks and will need permission for a new use of the property. The Board agreed that new construction on the lot will require a special permit from the Zoning Board of Appeals, and maintained that it will not require the prospective buyer to obtain a variance for the anticipated new use of this property.

Having no further business, the meeting was adjourned at approximately 6:49 PM. The Board of Appeals will reconvene on March 30, 2017 at 5:15 PM.

Submitted:


Heather Kmelius, Administrative Assistant

Approved As To Form And Content:

Edward Kivari Jr., Chairman

Date: _____