

TOWN OF BOLTON – ZONING BOARD OF APPEALS MINUTES

Meeting Held at the Houghton Building at 697 Main St. on **May 18, 2016** at 7:00 PM

Members Present: Gerard Ahearn (Chairman), Andy Kischitz, Bradley Reed, Jack Sargent (Members)

Absent Members: Kay Stoner (Member), Bryan Holmes (Associate)

Also Present: Alan DiPeitro (110 Teele Rd), Vin Gately (Sunset Ridge)

Call to order: 7:00 PM

Hearings:

- In accordance with Massachusetts General Laws, Chapter 40A, Section 11, notice is hereby given that the Bolton Zoning Board of Appeals (ZBA) held a public hearing at 7:00 p.m. to hear and act upon the application of Alan DiPeitro for a Variance to Code of the Town of Bolton, Division I, Part III, Zoning Bylaw, Chapter 250, Section 13 - Dimensional Regulations – Residential Frontage and Section 28 – Terms Defined – Lot Frontage for property located at 110 Teele Road, Bolton, MA and shown on Assessors Map 3.00E-033.
 - o The Applicant was informed by the Board that because only four (4) board members were present, that any decision on the variance application would require a 4-0 unanimous vote. The Applicant was informed that he could withdraw the application if he so desired given the fact that stated about the unanimous vote requirement. The Applicant stated it was his intent to proceed with the hearing.
 - o The Board took initial input from the Applicant (i.e., a walk-through of the Application and history of the property) and input and inquiries from certain Town residents. One resident, Ms. Maria Shoemaker (106 Teele Road), questioned whether or not the Applicant can meet all conditions for a variance. The Board provided a summary of the four (4) findings that must be met under M.G.L, Chapter 40 A, Section 10 (see Criteria noted below). The Board also reviewed prior ZBA hearing minutes from October 22, 1991 and October 29, 1991. The October 29, 1991 concluded with the ZBA granting a variance (i.e., the lapsed variance). Additionally, the Board reviewed a March 1, 2016 Bolton Planning Board Memorandum to the Board of Assessors, in which the Planning Board reviewed the zoning history of the properties identified in Assessor Map 3.00E-033.
 - o Parcel 3.E-33 has 210 feet of contiguous frontage, however, due to the location of the town line only 168 feet of it is in Bolton. If this parcel was in a different location within the Residential District it would conform. There is no way to reduce this nonconformity and to add additional frontage into Bolton.
 - o Literal enforcement of the provisions of the Bolton Zoning Bylaws would involve substantial hardship to the Applicant in that the parcel could not be built upon.
 - o The desired relief may be granted without detriment to the public good; if not for its location along the town line this parcel would be in full compliance with the bylaw.
 - o The desired relief was granted in 1991 and may be granted again without nullifying or derogating from the intent and purpose of the Bolton Zoning Bylaw.
 - o A key question that arose among Board members present that centered on the circumstance of the majority of the frontage being within Bolton, with a small portion located with Stow. This circumstance was specific to the property that was not generally affecting the zoning district in which it is located, but the Board questioned whether or not the fact that the parcel extended into Stow, MA could be a condition to consider as contributing to a hardship determination. The Board chose to have this inquiry raised to Town Counsel before continuing discussions on the Variance.
 - o **B. Reed motioned to continue the hearing until May 31, 2016 at 7:00PM in the same location. 2nd by A. Kischitz. All in favor 4/0/0.**

Business:

- Sunset Ridge-Request for release of remaining escrow.

- o Vin Gately requested the release of the remaining escrow for the completion of the Sunset Ridge Development.
- o The Board reviewed two letters dated 04/14/16 and 05/18/16 from Steven Ventresca of Nitsch Engineering (ZBA' Review Engineer) indicating that the site was constructed in substantial compliance with the Comprehensive permit and As-Built Plans were reviewed and approved.
- o Further Discussion by the Board and those in attendance at the meeting questioned whether there were outstanding site items to be completed.
- o A. Kischitz requested from Stanley Haberski, a resident at Sunset Ridge, a list of his concerns regarding outstanding items to be addressed at the next meeting.
- o The Board will continue the matter to their May 31, 2016 meeting so that Steven Ventresca may be present to discuss outstanding site items.

Administrative:

- Approval of ZBA Minutes.
 - o The ZBA approved minutes for 12/17/14, 02/04/15, 02/23/15, 06/11/15, 07/13/15, and 07/20/15.

B. Reed motioned to adjourn the Zoning Board of Appeals meeting at 7:55 PM. 2nd by A. Kischitz. All in favor 4/0/0.

Approval of ZBA Meeting Minutes from 5/18/16



AD/Klatz II

Budley Reed



12/13/16