

**Zoning Board of Appeals  
March 22, 2012 Regular Meeting**

**Location** Meeting Room #1  
Town Hall  
7A Spofford Road  
Boxford, MA 01921

**Present** William R. Cargill, Jr., Chair  
Paula Lia Fitzsimmons, Vice-Chair  
Robert W. Conroy, Clerk  
Paula Meagher, Secretary

**Absent** Pat Canonica, Planning Board Liaison

**6:30 p.m.** William Cargill called the meeting to order

**Case #903** **John C. Sanidas, Trustee**  
**Sagamore Realty Trust**  
**Lots 8 and 9 Sagamore Lane**

Special Permit to construct a shared driveway serving two (2) lots on the property from Article III, §196-13 (B)(11)(l) of the zoning bylaw.

**Members Sitting** William R. Cargill, Jr., Chair  
Paula Lia Fitzsimmons, Vice Chair  
Robert W. Conroy, Clerk

**Applicant Present** John C. Sanidas, Trustee for Sagamore Realty Trust  
James H. MacDowell, Engineer from Eastern Land Survey Associates, Inc.

This case was continued from last hearing. Mr. MacDowell reminded the board members about the last hearing and what has transpired since that hearing. The Conservation Commission has issued an Order of Conditions and they've been before the Planning Board for recommendation at their meeting on March 14, 2012. The Fire Chief asked for a split at the half way point and a pull off area for two police or one fire truck vehicles. The turnout is located at Station 3+0 and approximately 250' in. The entire common portion area of the driveway is 450' and the Chief typically likes them at 300' intervals. The width is 8' and maximum grade is 9% at a length of approximately 150' and the remainder is 3%. Maximum cut and fill is 3' and the low end is 6.5'.

Robert Conroy read aloud the Planning Board recommendation from their March 14, 2012 meeting with a unanimous vote to grant.

**Motion** Robert W. Conroy – close evidence  
**Second** Paula Lia Fitzsimmons  
**Unanimous vote**

There was no one in the public to speak in favor or opposition of the application. The Board had no further discussion.

**Motion** Paula Lia Fitzsimmons – move to grant a Special Permit for John C. Sanidas, Trustee for the Sagamore Realty Trust to construct a shared driveway to share two lots on the premises from Article III, §196-13 (B) (11) (I) of the zoning bylaw for the premises at Lots 8 & 9 Sagamore and that it is constructed as per the plans submitted including the turnouts recommended by the Fire Chief and subject to regular terms and conditions such as bollards, maintenance agreement, properly recorded and the application of sodium chloride for deicing of the driveway is prohibited.

**Second** Robert W. Conroy

**Unanimous vote**

**Decision** Paula Lia Fitzsimmons will write.

**6:42 p.m. Case #904 John C. Sanidas, Trustee  
Sagamore Realty Trust  
Lots 1, 2 and 7 Sagamore Lane**

Special Permit to construct a shared driveway serving three (3) lots on the property from Article III, §196-13 (B)(11)(I) of the zoning bylaw.

**Members Sitting** William R. Cargill, Jr., Chair  
Paula Lia Fitzsimmons, Vice Chair  
Robert W. Conroy, Clerk

**Applicant Present** John C. Sanidas, Trustee for Sagamore Realty Trust  
James H. MacDowell, Engineer from Eastern Land Survey Associates, Inc.

The Applicant has requested an extension to the next hearing with a date certain of 4/26/12 so that Conservation and Planning can review and recommend. An extension form was signed by the Board and the Applicant to be filed with the Town Clerk.

**Motion** Robert W. Conroy – motion to extend Case #904 to a date certain of 4/26/12.

**Second** Paula Lia Fitzsimmons

**Unanimous vote**

**6:46 p.m.** Review draft minutes 1/26/12

**Motion** Robert W. Conroy – approve as amended

**Second** Paula Lia Fitzsimmons

**Unanimous vote**

**7:02 p.m.** Preston Galarneau (4 Roberts Road) was present and stated he was not representing the Board of Selectmen but said that they did have a conversation due to the fact that there are two tentatively placed articles on the warrant they are considering that need to be closed by 3/29/12. He thought that since they were relevant to this Board that he would like to seek ZBA member input since if it is placed on the warrant it requires a 2/3 majority vote to change a bylaw. There is talk also of an initiative petition for Annual Town Meeting.

Article 16 relates to this Board changing from a 3 member to a 5 member board and Article 17 is to modify the current bylaw for Section 196-30.

Bill Cargill thought that maybe executive session might be a better way to discuss at a Board of Selectmen meeting versus in open session at a ZBA hearing since we are in current litigation on the library case. Paula Fitzsimmons said that she doesn't think they should be talking about a specific section (5) in that bylaw since we don't have counsel, but can certainly discuss potential changes.

General consensus from Board members in regard to going from 3 to 5 members was that it could pose more problems. It has been 3 members with 3 alternates since the beginning of time and rushing to judgment to change the board possibly because of recent activity or concerns about veto authority may not necessarily be the right thing to do since it's even hard right now finding alternates- maybe there could be an Ad Hoc committee formed to see what other towns do or something like that prior to rushing to this town meeting. Boards sometimes function better with smaller numbers and there is always concern when individuals change bylaws because you don't like one outcome. If lawsuits were consistently appealed, overturned or something then maybe there is something awry but because of one decision that was not unanimous and the other regulatory boards came to the same decision; then they are reluctant to change. It should be examined more closely and maybe look at for special town meeting in October instead of the annual town meeting in May.

Another reason for smaller boards and two members on the board have sat on larger boards and have found that with more people meetings tend to go longer with more people's opinions on speaking, etc.; therefore, changes the complexion of the board. The ZBA currently with 3 members and 3 alternates also get recommendation from the Planning Board (7 members with 1 liaison to ZBA) with each and every application and that makes 13 regulatory board members looking at each application with zoning issues.

Preston Galarneau was asked if the Board of Selectmen voted in favor of the change to a 5 member board. He stated that they just started considering this recently and they are not in a rush to judgment but realize that some people are and initiative petitions may come before us that might push a 2/3 majority vote; they would rather all work on something that meets the needs of the town. Anything that requires a 2/3 vote should take some time and consideration with a well thought out process and that's why he thought it best to speak to the members of this board to get their personal opinions on what they think of the possibility of changing. He added that because they've had trouble attracting additional members recently is probably not a lack of interest but probably more recent actions from the board and maybe a new composition may attract people to serve. Mr. Galarneau said that he would request from the Chair of the Board of Selectmen 15 minutes on their agenda at the next meeting on Monday to speak on this subject.

The second part of the discussion that the Board of Selectmen were considering was modification--- the scope of the bylaw by excluding only the municipal buildings from site plan reviews done but the ability still to rule on other buildings such as churches. The idea is one that still gives power to protect Boxford from Walmart's or what people don't want in Boxford and is limited only to municipal buildings. This is one of the ideas that they are considering. The concern of the board members was --key element is to get input on safety issues, parking, entry, and exits and if you take away that section for municipal buildings only the town is not being served the way it should be.

**7:35 p.m.** Discussion – Variance vs. Finding

Bob Camacho previously sent an email with questions to the Board members about a lot and wasn't sure whether it would require a variance or just a finding. It was a 2 acre lot and land was taken by eminent domain and it is now 1.6 acres. Discussion was that they cannot come back and get a variance if they were previously compensated for the taking. The Building Inspector cannot grant a permit on a non-conforming lot regardless but there were many questions that the members had in relation to the question and Mr. Camacho was not present for the hearing; therefore, the Chair asked the secretary to relay to the Inspector that they cannot form an opinion based on just the email and invite him to the next meeting.

**Motion** Robert W. Conroy – adjourn 7:41 p.m.

**Second** Paula Lia Fitzsimmons

**Unanimous vote**

*Respectfully submitted,*

*Paula Meagher*

APPROVED AS AMENDED 9/25/12