

**Zoning Board of Appeals
August 23, 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
Robyn Kotarski, Alternate Member
Paula Meagher, Secretary
Pat Canonica, Planning Board Liaison

Absent Barbara Jessel, Alternate Member

6:40 p.m. William Cargill called the meeting to order

The Chair took cases out of order awaiting representation from the first case on the agenda.

6:41 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

This case was continued from the 5/24/12 hearing with extension forms filed with the town clerk pending Planning Board review and recommendation.

The petitioner had nothing to add to the record and there were no questions from board members. There was no one in the public to address the applicant.

Bob Conroy read aloud the Planning Board recommendation with a unanimous vote to grant the application at their 8/15/12 hearing.

John Sanidas gave a brief overview of the application for the shared driveway. It originally was heard by this Board on 2/23/12 along with a filing for two other lots. It was put on hold awaiting Conservation and the Planning Boards. DEP storm water regulations mandated they clear 1½ acre for a detention pond and he didn't want to do so they had to seek alternative methods of storm water management that satisfies the

Conservation Commission. He now has an OOC (Order of Conditions) from the Conservation Commission in hand for both filings and all the work is within the town bylaw standards.

There were no further questions from Board members and nobody in the public to speak in favor or opposition of the proposal.

Motion Robert Conroy – close evidence

Second Paula Fitzsimmons

Unanimous vote

Motion Paula Fitzsimmons – grant the application of John C. Sanidas, Trustee of Sagamore Realty Trust to construct a shared driveway to share three lots on the premises from Article V, § 196-13 (B) (11) (I) of the zoning bylaw and that it be approved as per the plans submitted.

Second Robert Conroy

Unanimous vote

Decision Paula Fitzsimmons will write.

William Cargill welcomed Robyn Kotarski as one of the new alternate members of the Zoning Board and also Barbara Jessel who was not present. He mentioned there was still one more vacant seat in case anyone is interested in serving.

6:53 p.m. Case #909 Paul D’Amore
314 Middleton Road

Special Permit to construct 340sf addition with second floor to existing single family dwelling from Article III, §196-6 (B) of the zoning bylaw.

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

Applicant Present Paul D’Amore
Anthony Messina
Attorney Jill Mann

Plans Supplied Plan of Land prepared by Atlantic Engineering & Survey Consultants, Inc. dated 6/27/12
Revised 7/2/12 and 7/17/12

Building Plans prepared by Esoteric Residential Design, Inc. consisting of eleven (11) pages dated 7/16/12

Plan of Land prepared by Louis M. Hold, Jr. dated 9/25/56
Memo from Atty. Jill Mann of Mann & Mann, P.C. consisting of two (2) pages dated 8/23/12

Bob Conroy read aloud the legal ad.

The attorney for the applicant Jill Mann explained the petition stating why the property is non-conforming. The lot was created in 1956 originally containing 2.2 acres and in 1974 the DPW on behalf of the Commonwealth of MA took by eminent domain a section of approximately 20,000 square feet which resulted

in 1.8 acres (undersized by current lot size dimensions). In addition, the front yard setback does not conform to the current requirement of fifty (50') feet. Based on the passage of time enforcement is barred pursuant to MGL Chapter 40A §7.

The proposal is to construct a 340 square foot two (2) story addition to the existing home. Site changes include complete renovation of the interior and exterior which will relocate the front entrance to what is now the back of the home and the addition is the new entry point that will greatly improve the appearance of the property. This addition is being constructed substantially within the same footprint as the existing wooden deck; therefore the footprint remains relatively unchanged. The use remains residential and the number of bedrooms will not increase; which is currently three (3) bedrooms.

She stated there is no detriment to the neighborhood and they are in fact improving the property and it will not be overbuilt. The addition complies with all other requirements. There is no increase in the non-conformity of the property.

There was no one in attendance to speak in favor or against the application and the Board members had no further questions.

Motion Robert Conroy – continue to a date certain of 9/27/12 pending Planning Board review and recommendation

Second Paula Fitzsimmons

Unanimous vote

**7:00 p.m. Case #908 Christian C. Huntress, RLA of Huntress Associates, Inc. for property owner
Town of Boxford
Haynes Land off Middleton Road**

Special Permit to develop a new town recreation area composed of three (3) athletic fields with parking known as Haynes Land from Article V, §196-18 O Official or Open Space District and Article VI, §196-30 Site Plans.

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

There was a request for extending this case and a continuance form signed by Bill Brown, Chair of Haynes Land Committee.

Motion Robert Conroy – continue Case #908 for Town of Boxford-Haynes Land to a date certain of 9/27/12

Second Paula Fitzsimmons

Unanimous vote

7:04 p.m. Informal: John Mulcahy – re; 31 Lake Shore Road

Paula Fitzsimmons told the Board that she had recused herself previously from discussion on this case and did not disclose why and has now received permission from former client that she could disclose. Mr. Mulcahy

was a client in the past and it has been long since over, but did not have anything to do with this case. She erred on the side of caution but now is not recused from discussing.

John Mulcahy explained what has been going on for the last two years. There have been three cease & desist letters written and the last one was in February at the insistence of the ZBA. He has written three letters. He has met many times face to face with the Building Inspector and also provided six weeks worth of ins and outs---by times, by truck description, etc. There are four trucks and nothing has happened to change; other than a new website that offers coupons for getting work done.

He took the Board back to when this whole zoning issue began. The property sold in December 2009 and in April 2010 Mr. Mulcahy approached the building inspector at the time (Jay Nies) and was told he was leaving and then the interim inspector (Glenn Clohecy) issued the first cease and desist letter and Mr. Mulcahy was told that the new inspector coming in would have to enforce, which became Bob Camacho.

After brief discussion on what occurs the problem is not just the trucks parked there but the condition of the property, noise, backup bells, shifting, loading, dumping and on occasion the multiple cars parked on the property. It is clearly in violation of the typical residential property. He is just asking why with all the letters of cease and desist, appeals, fines, etc. why is there still no enforcement.

Mr. Cargill suggested that all parties come to the September meeting for discussion- the violation needs to be enforced. It is on the BOS agenda for discussion next Monday so board members can attend that meeting and see if a response to the complainant is considered. Board members would just like to let them know also that they are unhappy with the process of zoning enforcement and see if there is going to be legal enforcement or what the next step will be for resolution; then follow up at the next meeting with anyone that may want to attend.

7:30 p.m. Reminder for upcoming meeting on Tuesday 8/28/12 for a meeting with the Library Study Committee. There will be no evidence taken but just an update on where the committee is at and there will be no comments from the public.

An invoice was approved and signed for nameplates for the new members on the Board. Pat Canonica advised board members that the Planning Board would be taking a site walk for the new proposed eleven lot subdivision "Pine Ridge" off Route 133 on Saturday and invited anyone should they desire to attend.

Motion Robert Conroy – adjourn at 7:38 p.m.

Second Paula Fitzsimmons

Unanimous vote

Respectfully submitted,

Paula Meagher

APPROVED AS AMENDED 6/13/13