

**Minutes of the BOXFORD ZONING BOARD OF APPEALS
TOWN HALL, MEETING ROOM #1
January 24, 2013 6:30PM**

Present:

*William R. Cargill, Jr., Chair
Paula Lia Fitzsimmons, Vice-Chair
Robert W. Conroy, Clerk (6:49PM)
Barbara Jessel, Alternate Member
Paula Meagher, Secretary
Patrick Canonica, Planning Board Liaison (6:43PM)*

Absent: Robyn Kotarski, Alternate Member

6:32PM Meeting Opened

William Cargill called the meeting to order.

New Business:

**6:33PM Case #916: Richardson Green, Inc., Middleton Road
Special Permit §196-6 (B) and §196-24 (B) (3)**

**Case #917: Richardson Green, Inc., Middleton Road
Variance §196-6 (B) and §196-24 (B) (3)**

Plans Submitted:

- **Variance Plan for Lot 40-1-22 Middleton Road
Professional Engineers & Land Surveyors Christiansen & Sergi, Inc.
Date: August 23, 2012**

Members Sitting:

*William R. Cargill, Jr., Chair
Paula Lia Fitzsimmons, Vice-Chair
Barbara Jessel, Clerk Pro Temp*

Applicant Present: David Ankeles, representing the petitioner, Richardson Green, Inc.

Barbara Jessel, Clerk Pro Temp, read aloud the legal notices for Cases #916 and #917.

Special Permit to construct a single-family home on an undersized lot created by the relocation of Middleton Road by the County Commissioners acting on behalf of the Boxford Board of Selectmen by petition, 9/13/63, and County Layout, 6/6/67, Registry Book 5587, Page 443 on the property, from Article III, §196-6 (B) and Article VI §196-24 (B) (3) of the Zoning Bylaw.

48 Variance to construct a single-family home on an undersized lot created by the relocation of
50 Middleton Road by the County Commissioners acting on behalf of the Boxford Board of
52 Selectmen, by Petition, 9/13/63, and County Layout, 6/6/67, Registry Book 5587, Page 443 on
the property, from Article III, §196-6 (B) and Article VI §196-24 (B) (3) of the Zoning
Bylaw.

54 David Ankeles, representing the applicant, provided a brief history on the lot, which
56 dated back to the 1800s. Ankeles advised it was a conforming lot until Middleton Road
was relocated. He continued with providing reasons why the intended use conforms to
58 the ordinance and why the variance and special permit should be granted. The Board
had questions/comments as follows:

- 60 • **Cargill: What remuneration was made to the landowner at the time the land
taking took place?** Ankeles advised there was no remuneration at all. He added
that it has been taxed as a buildable lot.
- 62 • **Cargill: Was there any litigation back in '69?** Ankeles advised that no, it was
considered a buildable lot since that time.
- 64 • **Jessel: What has happened to Lot 6?** It has been labeled Town of Boxford.
- 66 • **Jessel: There is no house on it?** Ankeles indicated there is no house.
- 68 • **Fitzsimmons:** Fitzsimmons, while reviewing Minutes from the Zoning Board of
Appeals meeting of May 10, 1973, found that there was a Richardson Trust
70 application on it. She conceded that it did not indicate if it was the same lot or
another lot, but noted, that due to land-taking, Richardson Trust was paid \$2500
72 for its loss of land of approximately 1.1 acres. The Board discussed this briefly
with Paul Richardson, the son of the original applicant. Ankeles advised none of
that was found on any of the title searches.

74 Cargill reviewed the criteria for a variance with the applicant and the Board and
suggested that the mention of remuneration may be a stumbling block. Ankeles
76 reviewed the documentation he submitted with the application, indicating that only two
families were remunerated and Richardson was not one of them. Cargill advised they
78 will need to do more research on this to determine why it was noted in the minutes, but
nowhere else. Poring over the historical information Fitzsimmons had in hand, she
80 noted that the acreage is indicated as 6.5 acres. Ankeles advised that was for a
different piece of land. Paul Richardson advised the Board that he distinctly
82 remembered Mr. Cole telling his father that "Your lot will be fine." Richardson added
that that's how they did business then. Cargill requested that the Board provide a copy
of all the historical documentation they have to Richardson and Ankeles' office.

84 **Abutter Input:**

- 86 • **Chris Deorocki, 297 Middleton Road:** Deorocki purchased his lot from
Richardson, when the 6+ acre lot was subdivided. He wanted to know which lot
88 they are talking about tonight. Ankeles pointed out that it is parcel 25. Deorocki
stated that building a house on this lot would be a detriment to the neighborhood,

90 as he purchased his lot due to the zoning in Boxford and this would be an
undersized lot, if allowed.

- 92 • **Resident (Jim Moody?), 30 Holmes Road:** He stated that he purchased his
94 home last February and before he did, he noted that the property abutting his
96 was an undersized lot, therefore guaranteeing his privacy. He feels that building
a house there would diminish the value of the neighborhood and he'd lose his
privacy.
- 98 • **Debbie Harlow, 7 Fuller Lane:** Harlow reiterated that the reason many people
move to Boxford is the 2-acre zoning and they pay dearly for that.

The Board discussed briefly what they would need before the next meeting and
reminded the applicant that they will need to go before the Planning Board for a
recommendation. After discussion, the Board took the following action:

102 On a **MOTION** made by **Conroy**, seconded by **Fitzsimmons**, the Zoning
Board of Appeals **VOTED** unanimously to continue Case #916 and Case
104 #917 to a date certain, February 29, 2013, pending a Planning Board
recommendation and additional research by the Zoning Board of Appeals
106 and Counsel.

Cargill requested that the record reflect that Barbara Jessel was sitting on the cases.

108

110 **Continued Business**

110 **7:25PM Case #913: Second Congregational Church, 173B Washington Street**
112 **Special Permit §196-6 (B); §196-18; §196-30**

114 **Plans Submitted:**

- 116 • **Alterations & Additions to the Second Congregational Church, 173B**
Washington St. West Boxford, Mass.
Royal Barry Wills Associates, Inc.
118 Date: May 9, 2012

120 Special Permit to construct 731 sq. ft. addition consisting of two levels, west of Parish Hall,
connecting building to facilitate wheel chair lift to access four levels of structure including
122 sanctuary from Article III, §196-6 (B); Article V §196-18; and Article VI §196-30 of the Zoning
Bylaw.

124

Members Sitting:

126 William R. Cargill, Jr., Chair
Paula Lia Fitzsimmons, Vice-Chair
128 Barbara Jessel, Clerk Pro Temp

130 **Applicant Present: Bart Beahm, member of the Board of Trustees of the 2nd**
Congregational Church

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134 Mr. Beahm advised that the Board had questions on the lighting at the last meeting. He added
that the architect made a drawing of the lighting for the Board's information and provided
copies of the drawings to the Board members. There were questions/comments as follows:

136 **Cargill: The motion lights do not shine anywhere off the property?** Beahm confirmed that
was correct.

138 **Conroy: The only structure it could shine upon would be the parsonage.** Beahm advised
that is also part of the church, to light the walk from the church to the parsonage at night.

140 Clerk Pro Temp, Barbara Jessel, read aloud the following:

142 Planning Board recommendation from the Minutes of December 19, 2012: It was moved
to recommend the ZBA grant the Special Permit to build an addition to the parish hall to
144 facilitate a wheelchair lift, as shown on the plans submitted entitled "Alterations and
Additions to the Second Congregational Church," prepared by Royal Barry Wills
146 Associates, Inc., dated May 9, 2012; and, provided that the Zoning Board determines
that this action is not a detriment to the neighborhood, there is no abutter opposition,
148 there are no objections from the Boxford Police, Fire, or Public Works Departments; and
that this structure complies with all the zoning, building, health and wetland regulations.
150 The motion was approved by unanimous vote, respectfully submitted, Ross Povenmire,
Planning Administrator.

152
154 From the Office the Town Administrator, dated 12/18/12: From Alan Benson, Town
Administrator, to the Inspector of Buildings and Zoning Board of Appeals re: ZBA Case
#913: In accordance with Town Code Zoning C196, Article V §196-6 (B), on Monday
156 December 17, 2012, the Board of Selectmen voted that the Board of Selectmen has
reviewed the proposed addition to the Second Congregational Church and had no
158 comments or suggestions for change and approved the proposed location, use, or
external appearance of the project.

160
162 From the minutes of the public meeting held on December 12, 2012 of the Planning
Board: Upon a motion duly made and seconded it was moved to recommend to the
Board of Selectmen to grant approval to build an addition to parish hall to facilitate a
164 wheelchair lift, as shown on a plan submitted entitled "Alterations and Additions to the
Second Congregational Church," prepared by Royal Barry Wills Associates, Inc., dated
166 May 9, 2012. The motion was approved by a unanimous vote; respectfully submitted,
Ross Povenmire, Planning Administrator.

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170 With no further questions or comments from anyone in attendance, the Board took the
following action:

172 On a **MOTION** made by **Fitzsimmons**, seconded by **Jessel**, the Zoning Board of
Appeals **VOTED** unanimously to close evidence for case #913.

174 On a **MOTION** made by **Fitzsimmons**, seconded by **Jessel**, the Zoning Board of
Appeals **VOTED** unanimously to grant the application of the Second Congregational
176 Church, requesting a Special Permit to construct a 731 sq. ft. addition, consisting of two
levels, west of the parish hall, connecting building to facilitate a wheel chair lift to access

178 four levels of the structure including the sanctuary, from Article V, §196-6 (B); §196-
180 18; §196-30 of the zoning bylaw.

182 **7:35PM Extension Request:**
Case #915: Christopher Melillo
184 **Special Permit: §196-6(B)**

For property owner David Murphy, 38 Glendale Road

186 On a **MOTION** made by **Conroy**, second by **Fitzsimmons**, the Zoning Board of Appeals
188 **VOTED** unanimously to continue Case #915 to a date certain, February 28, 2013, at the
request of the petitioner.

190 **7:36PM Extension Request:**
Case #910: InSite Towers, LLC and Metro PCS MA LLC
192 **Special Permit: §196-22**
194 **c/o Parisi Law Associates, P.C. for property owner Ronald & Catherine**
Tetreault, 58 Endicott Road, and

Case #911: InSite Towers, LLC and Metro PCS MA LLC
Variance: §196-22(1)(6)

198 On a **MOTION** made by **Fitzsimmons**, second by **Conroy**, the Zoning Board of Appeals
200 **VOTED** unanimously to continue Case #910 to a date certain, February 28, 2013, at the
request of the petitioner.

202 On a **MOTION** made by **Fitzsimmons**, second by **Conroy**, the Zoning Board of Appeals
204 **VOTED** unanimously to continue Case #911 to a date certain, February 28, 2013, at the
request of the petitioner.

206 **7:37PM Extension Request:**
208 **Case #914: Joseph Hill for property owner Alison Chase, 41 High Ridge**
Road
210 **Special Permit: §196-13(B)(11)(I)**

On a **MOTION** made by **Fitzsimmons**, second by **Conroy**, the Zoning Board of Appeals
212 **VOTED** unanimously to continue Case #914 to a date certain, February 28, 2013, at the
214 request of the petitioner.

216 **7:37PM Extension Request:**
Case #908: Town of Boxford Haynes Athletic Fields, Off Middleton Road
218 **Special Permit: §196-30 Site Plan Review; §196-18 "O" District**

On a **MOTION** made by **Fitzsimmons**, second by **Conroy**, the Zoning Board of Appeals
220 **VOTED** unanimously to continue Case #914 to a date certain, February 28, 2013, at the
222 request of the petitioner.

224 **7:38PM Extension Request:**
226 **Case #912: Town of Boxford Community Center, 4 Middleton Road**
Special Permit: §196-6; §196-18; §196-25(2)(7) and §196-30
228 On a **MOTION** made by **Fitzsimmons**, second by **Conroy**, the Zoning Board of Appeals
230 **VOTED** unanimously to continue Case #912 to a date certain, February 28, 2013, at the
request of the petitioner.

232 Paula Meagher, secretary, Joe Hill got a new plan done by his surveyor; his house is within the
234 50' setback and now the special permit has to reference a new section. Are we going to amend
it or are we going to have to advertise it again. They will take it up at the next hearing.

236 **7:39PM Discussion: 31 Lake Shore Road Violation**
238 Building Commissioner, Bob Camacho, met with the Zoning Board to provide an update on the
ongoing violation at 31 Lake Shore Road. He advised there is a pretrial conference scheduled
240 for February 14, 2013. It was recommended that they defer to Town Counsel. Until that
happens everything is status quo.

242 There were questions/comments, as follows:

- 244 • **Cargill: Is there still a violation going on?** Camacho confirmed that there was.
- 246 • **Cargill: What are the fines up to?** Camacho advised they are up to \$3000.
- 248 • **Cargill: Has there been any attempts at negotiating?** Camacho advised that all
attempts at negotiations went nowhere.
- 250 • **Cargill: Have there been any interest or penalties applied to fine?** Camacho
advised it's reached a level that's out of his hands.

252 • **Cargill: The Board of Selectmen are up to date?** Camacho believes the Board of
Selectmen are up to date, or they will be shortly.

254 Discussion ensued about the case and Camacho will report back on February 28 with an
update on what transpires at the pretrial conference.

256 **7:42PM Discussion: Enforcement of Driveways**
Camacho made the Board aware of the issue with driveways not being built according to plan.
His concern was with making sure the driveways are in compliance, once a project is
258 completed. Camacho provided a copy of section 40-A of the State Zoning, advising that he is
directed not to issue occupancy permits when a driveway is not in compliance. He suggested
260 that the ZBA work with him to come up with a plan on how they can best and most efficiently
make a determination that these driveways are in compliance with whatever conditions were
262 set forth when the permit was issued. He suggested that when an applicant submits a plan for
a new driveway, he would be able to ask that the builder confirm, through the surveyor, to
264 submit an As-Built, showing that the driveway was built according to the specs. Much
discussion ensued between the Board and Camacho regarding the various issues that can
266 come about with driveways. Camacho will provide an update at the next meeting.

268 **8:01PM Review Draft Minutes: 6/28/12**

270 After amendments proposed by Fitzsimmons, the Board took the following action:
272 On a **MOTION** made by **Fitzsimmons**, seconded by **Conroy**, the Zoning Board of
Appeals **VOTED** unanimously to approve the minutes of June 28, 2012, as amended.

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276 **8:06PM Approve 2013 Meeting Calendar:**

After a brief discussion, the Board took the following action:

278 On a **MOTION** made by **Fitzsimmons**, seconded by **Conroy**, the Zoning Board of
Appeals **VOTED** unanimously to approve the meeting calendar as presented.

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282 **8:07PM Approve FY14 Budget:**

After a brief discussion, the Board took the following action:

284 On a **MOTION** made by **Fitzsimmons**, seconded by **Conroy**, the Zoning Board of
Appeals **VOTED** unanimously to approve the FY14 budget as presented.

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288 **8:09PM Library Building Issue:**

290 Cargill announced that, regardless of rumors that may be going around, the Board has taken
no position, pro or con, on the library. He added that they're going to hear all the evidence and
292 conceded that it is a sensitive issue and that he's looking forward to working with the town to
come to a resolution.

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Meeting Adjourned

296 **8:16PM** On a **MOTION** made by **Fitzsimmons**, seconded by **Conroy**, the Zoning Board of
Appeals **VOTED** unanimously to adjourn at 8:17PM.

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300 Respectfully Submitted,

302 *Judith A. Stickney*

Minutes Secretary

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Approved as Amended 7/25/13