



TOWN OF MARION
ZONING BOARD OF APPEALS
2 SPRING STREET
MARION, MASSACHUSETTS 02738
Telephone (508) 748-3560; FAX (508) 748-2845
www.marionma.gov

MINUTES OF MEETING

June 25, 2015

The Marion Zoning Board of Appeals convened at 7:30 p.m. on Thursday, June 25, 2015 in the main conference room of the Marion Town House to hear case number:

- Case #703, that of the First Congregational Church c/o William G. Saltonstall, Jr., to seek relief from the following action of the Building Inspector: the issuance of a building permit to demolish and reconstruct a nonconforming apartment building at 16 Cottage Street, Plan 14, Lot 56A

Zoning Board members present were Chairman Eric Pierce, Betsy Dunn, Michelle Ouellette, Bob Alves, Marc Leblanc, and Joanna Wheeler.

Also present:

Bill Saltonstall, 159 Front Street; Henry & Andrea Keen, 51 Main Street; Kathy Reed, 6 Register Road; Suzanne Kokkins, 72 Cove Circle; Kate Mahoney, 40 Dexter Road; Patricia McArdle, 50 Stoney Run Lane; Scott C. Shippey, Building Commissioner; Colonel Briggs, West Wareham; Margie Baldwin, 36 Cottage Street; Eric Radin, 6 School Street; Christy Mach Dube, 9 School Street; Shelley Richins, 22 Cottage Street

Upon arrival the Board was presented with the following information for the evenings Business:

- Agenda
- Materials for case #703, which include:
 - Legal Notice
 - Application form
 - Comments from Conservation Commission
 - Comments from the Planning Board
 - Letter from the First Congregational Church

- Letter from William G. Saltonstall, Jr.
 - Letter from Margie Baldwin and abutting neighbors
 - Fax from Mathieu & Mathieu, Attorneys and Counsellors at Law
 - Field Card
- Information in reference to Baywatch Realty case # 654 for a requested modification to the Comprehensive Permit
 - Minutes from April 9, 2015 and May 14, 2015 to be approved

At 7:30pm, Mr. Pierce opened the hearing of case number 703, that of the First Congregational Church c/o William G. Saltonstall, Jr. Mr. Pierce read aloud a memo from the Conservation Commission, there was no comment. He also read aloud the recommendations from the Planning Board. Mr. Pierce read aloud the letter from Wayne Mattson of the First Congregational Church stating that Mr. Saltonstall is authorized to represent the Church in this case. He also read aloud portions of the letter from Mr. Saltonstall and noted that the letter is public record. Mr. Pierce read aloud the letter from Margie Baldwin and abutting neighbors. He made note of the fax received from the developer's attorney stating that there was a family emergency and he could not be present.

Mr. Saltonstall addressed the board. He said that a lot of effort has gone into put something together that will work well for the neighborhood because it is his belief that they would not be successful with his appeal. They have had a number of conversations with the developer Christian Loranger and Mr. Saltonstall said Mr. Loranger has been responsive to the suggestions that have been made. Since the changes that have been made to the plan the project will now require a Special Permit. Mr. Saltonstall also indicated that Mr. Lorganer will be submitting this application for an upcoming July meeting. Mr. Saltonstall said he will not withdraw the appeal until the Special Permit application has been submitted so he asked the board for a continuance.

Mr. Pierce asked the board if they had any questions. There were none at that time. Mr. Pierce asked if anyone was in the audience to represent Mr. Lorganer. No one was present. He also asked for comments from any neighbors/audience members. Eric Radin of 6 School Street felt the request to be continued was a reasonable request.

Patricia McArdle had represented the developer during the original permitting process and was present to defend the issuance of the building permit. If the case were to be continued she said she would wait and make her statement at that time.

Suzie Kokkins asked what the deadline for filing the Special Permit to be on the July meeting. The deadline was the next day June 26, 2015. The developer was aware and was intending on filing the application on that date. Mrs. Kokkins also stated that she

was supported this type of project in town.

Mr. Pierce read aloud the faxed letter from Mathieu & Mathieu that stated they intended to submit the Special Permit application on June 26, 2015.

Mr. Alves asked the Mrs. McArdle give her statement regarding the appeal of the issuance of the building permit. She submitted a letter to the board and the letter will be part of the case documents. She made it known that she is not representing Mr. Loranger or Mr. Shippey. However, she was there to defend the issuance of the building permit. First, she stated that the First Congregational Church has no standing with this appeal. She said they would have to prove they have been aggrieved. There are four points which must be met in order to receive aggrieved status from both at the local level and in accordance with G.L. c. 132, sec. 100. These points are listed in the letter submitted to the board from Mrs. McArdle. She said the appellant has not met any of these points.

Mrs. McArdle also said that the building permit is allowable under the Marion Zoning By-laws. Her letter quoted Section 6.1.7. She briefly spoke about how this by-law describes how area and volume are used in issuing building permits. In by-law 6.1.7, it state "volume or area". She also indicated that Mr. Shippey obtained legal guidance from Town Counsel, Jon Witten and herself before issuing the building permit. Mrs. McArdle said that the town has hired the Building Inspector for a purpose. He has the education and experience. He has vetted this thoroughly and sought legal advice from Town Counsel. She felt the appeal should be denied based on the reasons given. Mrs. McArdle reiterated that she was not representing Mr. Shippey.

There was a discussion about whether or not to continue this hearing to keep conversation going between the neighbors and the developer or to deny the appeal. Kate Mahoney, 40 Dexter Road, asked on what grounds would the board deny the appeal. She was asking for clarification. Mr. Pierce said for instance if they took at face value the argument that was presented, they could deny.

Margie Baldwin, 36 Cottage Street said that the developer has been working with the neighbors and he feels strongly that it is an improved design. She noted that whether or not the Church has standing in this appeal is not an issue at this point since the developer will be going ahead with the new design.

Christy Dube, 9 School Street, said that she and her husband have had conversations with Mr. Loranger about the new design.

Mrs. McArdle said that she wanted to make clear that the issues of the appeal of the building permit and the submission of a Special Permit application for the new design are two separate issues.

There was further discussion about continuing the hearing or not. Mrs. Dunn motioned to continue the hearing to July 23, 2015; Mr. Pierce seconded the motion. Mr. Alves made

it clear that he was opposed to a continuance.

Shelley Richins, 22 Cottage Street said that if they thought that the case would not be continued tonight, the neighbors would have been more prepared to fight their case. She said she did not see a negative in continuing the hearing.

Ms. Mahoney asked if they would be setting precedence in which someone could challenge the Building Inspector's decision that he made according to the by-laws. Is it not important that the board back up the Building Inspector upon the data involved? Mr. Pierce said the board tends to be very supportive of the Building Inspector. He noted that there is a subjective part of the permit and his thinking was to continue the hearing to keep conversation going between the neighbors and the developer especially since the developer was not present to make his case.

Mr. Pierce said that there was a motion on the floor to continue the hearing to July 23, 2015. There was a roll call vote. Mr. Pierce and Mrs. Dunn voted to continue; Mr. Alves, Ms. Ouellette and Mr. Leblanc voted not to continue. The motion was defeated 3-2.

Mr. Pierce said that they there was still an open appeal in front of the board. Mrs. Dunn motioned to take case # 703 under advisement; all voted to take the case # 703 under advisement.

Minutes from April 9, 2015 and May 14, 2015 were accepted.

There was a discussion item regarding Baywatch Realty and a modification to the Comprehensive Permit for case #654. It is considered a substantial change so they will be filing a modification and will hold a public hearing on July 23, 2015.

Under Advisement: Case #702 for Sid Bowen and Angela Watson, 16 Vine Street. Mr. Bowen submitted a letter to the board to withdraw his application without prejudice.

Kate Mahoney, 40 Dexter Road, addressed the board regarding her application to become an associate member of the Zoning Board of Appeal. She described her qualifications and her desire to serve the community. Mr. Pierce asked the board if they has any questions for Ms. Mahoney. There were none. He said he welcomed the application and that the board send a recommendation to the Selectmen.

With no other business before the Board the meeting was adjourned at 8:47 p.m.

Approved July 9, 2015

Submitted by: Eric Pierce, Chairman