



TOWN OF MARION
ZONING BOARD OF APPEALS
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MINUTES OF MEETING August 27, 2015

The Marion Zoning Board of Appeals convened at 7:30 p.m. on Thursday, August 27, 2015 in the main conference room of the Marion Town House to hear case numbers:

- Case #706, that of Donna Tobin's application for a special permit under section 8.6 of the zoning by-law to allow for an in-law apartment. The property is located at 490 Point Road, Assessors' Plat 2, Lot 11A.
- Case #708, that of Dena Xifaras & Michael Papadakis's application for the allowance of the continued use, namely repair, maintenance and storage of landscaping vehicles for an established landscaping business at property formally known as Jenney Garage. The property is located at 828 Point Road, Assessors' Plat 8, Lot 31.
- Case #709, that of Kathleen Marie Hill's application for a special permit under section 4.1 of the zoning by-law to allow a bed and breakfast home as defined in Massachusetts Law Chapter 64G, Section 1 – Definitions. The property is located at 460 Front Street, Assessors' Plat 23, Lot 41.
- Case #710, that of Sippican Preservation, LLC's application for a variance from sections 6.5.3, 6.5.4(a) of the zoning by-law to allow relief from sections 6.5.3 to allow one (1) parking space per residential unit and 6.5.4(a) to allow the parking area on both School Street and Cottage Street to be forward of the building front plane lines. The property is located at 16 Cottage Street, Assessors' Plat 14, Lot 56A.

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

Also present:

Michael Papadakis & Dena Xifaras, 40 Park Street, Mattapoisett; Bill Claffin, 618 Delano Road; Donna & Richard Tobin, 490 Point Road; Ron & Virginia Sundberg, 24 Jenney Lane; Warren Ferguson, 12 Jenney Lane; Deborah Ewing, 8 Jenney Lane; Michael Meachen, 8 Jenney Lane; Richard A. Meyer, 20 Jenney Lane; Nancy Russell, 22 Jenney Lane; Faith Leavitt, 824 Point Road; David & Sherry Jenney, 818 Point Road; Kate Hill, 460 Front Street; Janet Taunton-Rigby, 13 Jenney Lane

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

- Agenda
- Materials for case #706, which included:
 - Legal Notice
 - Field Card
 - Application
 - Plans submitted
 - Comments from Conservation Commission
 - Comments from the Board of Health

- Materials for case # 708, which included:
 - Legal Notice
 - Application
 - Field Card
 - Letter from the applicants
 - Affidavits from nine residents

- Materials for case #709, which included:
 - Legal Notice
 - Application
 - Field Card
 - Letter from the applicant
 - Plot plan

At 7:30pm, Mr. Pierce opened the hearing of case #706. Mr. Pierce read aloud the memo from the Conservation Commission: the project is not within their jurisdiction. He also read aloud the mem from the Board of Health: they did not have any objections to this project.

Donna Tobin was present and described the project. The home was originally had 4 bedrooms and they renovated it to a three bedroom. By adding the in-law apartment the home will go back to a 4 bedroom. The in-law apartment will be above the garage. Mrs. Tobin noted that they hired professionals to do the drawings and they have licensed contractors on the project. She said they have taken great care in maintaining the architectural integrity of the home. Mrs. Tobin stated that the apartment will be used infrequently. It will be for her sister and she visits 4 to 6 times per year.

Mr. Pierce asked if the project with change the footprint of the existing structure. Mrs. Tobin said it will not, that the addition is just over the garage. Richard Tobin noted that there will be a 5' cantilever off the back of garage but does not change the footprint.

Mrs. Tobin mentioned that they have submitted the State Board Building regulation check list as part of the packet. Mr. Tobin said that the apartment will be approximately 600 sq.ft. and will have access on the side and the rear. Mr. Leblanc asked if the unit will be metered separately to with the main house. Mr. Tobin said he has spoken with his electrician and he suggested that they stay with one meter. They will do the same with the water meter. It is a studio apartment.

Mr. Pierce asked if there were any further questions from the board; there were none. He asked if

there were any questions from the audience; there were none. Mrs. Dunn motioned to take case #706 under advisement; Mr. Leblanc seconded; voted unanimously.

At 7:40pm, Mr. Pierce opened the hearing of case #708. Mr. Pierce noted that there was a letter as part of the application (from the applicants) along with affidavits from nine residents stating that they have used this location for auto repair in recent years. Dena Xifaras and Michael Papadakis were present and described their application. Ms. Xifaras said they have owned a landscaping business since 2004 and are looking for a location to store and maintain their business vehicles. She said there had been a question as to whether or not there was continued use of repairs on this property. It is their understanding that the use has been continuing. They wanted to be sure before purchasing the property that they would be able to use the property for their business needs. Ms. Xifaras said it is their understanding that it is a legal nonconforming use that predates zoning by-laws.

Ms. Xifaras said that the business day starts at 8:00am – 8:30am. They have three full time and one part time employee. She said they will be respectful and good neighbors. Mr. Pierce said that since they are in a residential neighborhood, a concern is if the trucks were to start at a very early hour such as 5:30am and be a disruption to the neighborhood. Ms. Xifaras said that would not happen. Mr. Papadakis said they have two dump trucks and three landscape trailers. Mr. Pierce asked if they would be storing piles of dirt, chips, etc. Mr. Papadakis said at this time, no. He also said that all debris is brought to a different location. Mr. Leblanc asked about the repairing of vehicles. Mr. Papadakis said any work will only be done on their own vehicles. Richard Meyer, 20 Jenney Lane, questioned if the use had been abandoned. He said that if this permit is granted he would like to see restrictions in regards to the repairs to any vehicles are to be their own, storage of materials and time of day.

Mr. Pierce asked what a reasonable start time would be. He also asked if they plow snow. Mr. Papadakis said last year was their first year plowing and he may not do it this winter. He said that their start time would be between 8:00am and 8:30am. Warren Ferguson of 12 Jenney Lane, asked if they would be a new permit or a renewal of an old one and asked if it would be just for his business purpose and no subletting. Mr. Pierce said that the permit would be under their names. The use can be carried on but the names on the permit are unique. If there were a new owner they would need to renew the permit. He said that no subletting could be written into a permit.

Mrs. Dunn asked for clarification on which buildings were being purchased. Mr. Papadakis said it was the garage buildings but not the house. Mr. Pierce asked if there were any further questions; there were none. Ms. Ouellette motioned to take case #708 under advisement; Mrs. Dunn seconded; voted unanimously.

At 7:50pm, Mr. Pierce opened the hearing of case #709. Mr. Pierce said that in full disclosure he does know the applicant but he does not have any financial or business connections. Kathleen Hill was present and described her plans for the bed and breakfast. She said that they will have two bedrooms. Ms. Hill has met with the Board of Health and discussed what is needed for the food service end. The customer base that she will be pursuing would be Tabor Academy parents and tourists. Once everything is confirmed she will create a website, etc. Mr. Leblanc asked about signage. She would need to follow the by-laws for that as well.

Ms. Hill said that there will not be any changes to the house. The two bedrooms will share a bathroom. They both have egress out of both staircases. Mr. Leblanc asked if the fire system

needed to be upgraded. Mrs. Dunn said Board of Health and Fire Department will do inspections but further into the process. Ms. Ouellette located the by-law 7.4.1 and reviewed the meals sections. Only breakfast may be served. Mr. Pierce asked if they will run the bed and breakfast full time. Ms. Hill said it will be part time. She is a school teacher. Ms. Ouellette asked about parking. Ms. Hill said there is plenty of room. She mentioned that she has spoken to her attorney regarding the pool on site. Mrs. Dunn said there may be further approved needed. It will be checked into.

With no further questions from the board, Mrs. Dunn motioned to take case # 709 under advisement; Mr. Leblanc seconded; voted unanimously.

At 8:20pm, Mr. Pierce opened the hearing of case #710. Mr. Pierce read aloud the memo from the Board of Health; they did not have comments. The applicant was not present. They are planning on withdrawing this application but at the time of the meeting the letter of withdrawal had not been received. Mr. Leblanc motioned to table to the next meeting; Mrs. Dunn seconded; noted unanimously.

Discussion returned to case #709. The board reviewed section 7.4.1 of the by-laws. Based on the fact that stipulations listed in 7.4.1 shall be followed, Mrs. Dunn motioned to grant the special permit for the bed and breakfast; Ms. Ouellette seconded; voted unanimously.

Case # 706 was discussed next. Mrs. Dunn motioned to grant the special permit for the in-law apartment at 490 Point Road; Ms. Ouellette seconded; voted unanimously.

Discussion then returned to case #708. The board discussed the continued use of the property. Based on the following stipulations: 1. Start time no earlier than 8:00am, 2. No storage of substantial amounts materials on site and 3. Any maintenance of vehicles is on the business vehicles only, Mr. Leblanc motioned to grant the special permit; Ms. Ouellette seconded; voted unanimously.

With no other business before the Board the meeting was adjourned at 8:35pm

Approved September 10, 2015

Submitted by: Eric Pierce, Chairman

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