

Town of Millbury Board of Appeals

Paul Nigosian, Chairman
Robert Simmarano, Vice Chairman
Ken Perro, Clerk
Harold Proodian
Daniel Mezynski
Anna Lewandowski, Alternate member



MUNICIPAL OFFICE BUILDING
127 ELM STREET
MILLBURY, MA 01527

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MILLBURY, MA
TOWN OF MILLBURY

Meeting Minutes

Wednesday, May 03, 2017

7:00 pm

Meeting Schedule:

- I. 7:00 pm: Official Call to Order
- II. 7:05 pm: Public Hearing (First Hearing); John Biello for property at 31 Park Hill Drive, Millbury, Ma
- III. 7:10 pm: Short Recess
- IV. 7:30 pm: Public Hearing (Second Hearing); Thomas Stratford; 237 LMB, LLC for property at 221 Riverlin Street, Millbury, Ma
- V. 8:00 pm: Adjournment

Board of Appeals Board Members Present:

Paul Nigosian (Chairman), Ken Perro (Clerk), Daniel Mezynski, Harold Proodian, Anna Lewandowski (Alternate)

Not in Attendance: Robert Simmarano (Vice Chairman),

Guests to appear as scheduled:

First Petitioner as scheduled for 7:05pm: John Biello of 2 Sunset Dr., Douglas, Ma 01516 for the property at 31 Park Hill Ave., Millbury, Ma, Map# 28, Lot# 14 Book# 4572, Page# 345, Suburban 4 District..

Second Petitioner as scheduled for 7:30pm: Robert G. Murphy of Robert G. Murphy & Assoc., Inc (Environmental Consultants) representing Thomas Stratford; 237 LMB, LLC of 237 Riverlin St., Millbury, Ma for the property at 221 Riverlin Street, Millbury, Ma, Map# 24, Lot# 21, Book# 48776, Page# 337. Industrial I District.

(See attached sheet for abutters who were present for both hearings)

I. 7:00 PM: Official Call to Order:

Millbury Board of Appeals on Wed. May 03rd, 2017 @ 7:00 pm, with five members present for two hearings Anna Lewandowski residing as the alternate. **Paul Nigosian** addresses the hearing; a meeting of Millbury Board of Appeals on Wednesday, May 03rd, 2017 we're here for an application for an appeal for a variance for 31 Park Hill Ave., Millbury, Ma and for 221 Riverlin St. Millbury, Ma. The hearing was officially opened by **Ken Perro** at 7:00 pm. Having complied with the provisions of Chapter 40A of the General Laws of the Commonwealth of Massachusetts, relative to advertising and notifying abutters, all decisions of this board are final except as provided in Chapter 40A of the Massachusetts General Laws.

(First Hearing) John Biello of 2 Sunset Dr., Douglas, Ma 01516 for the property at 31 Park Hill Ave., Millbury, Ma, Map# 28, Lot# 14 Book# 4572, Page# 345, Suburban 4 District. Mr. Biello was seeking to construct a new detached single family home at 31 Park Hill Ave., Millbury, Ma; the Millbury Zoning By-Laws section 23.4 requires a minimum of 150 feet frontage. 31 Park Hill Road, Millbury, Ma Map# 28, Lot# 14 shows street frontage of 125 feet a variance of 25 feet of relief is needed. **Mr. Biello contacted Jayne Davolio Town Clerk via email (see attached) to withdraw from the scheduled hearing.**

(Second Hearing) Thomas Stratford; 237 LMB, LLC of 237 Riverlin St., Millbury, Ma for the property at 221 Riverlin Street, Millbury, Ma, Map# 24, Lot# 21, Book# 48776, Page# 337, Industrial - I District. Mr. Stratford is seeking (3) Variances.

(First Variance); Millbury Zoning By-Laws section 26.3 requires 150 feet of street frontage. 237 Riverlin St., Millbury, Ma Map# 24, Lot# 21 shows street frontage of 132 feet, a variance of 18 feet of relief.

(Second Variance); Millbury Zoning By-Laws section 26.3 requires 80,000 square feet of lot area. This project has 43,461 square feet. Millbury Zoning By-Laws defines "lot area" states that land within a utility easement cannot be counted for lot area. A variance seeking 36,539 square feet PLUS the area within the utility easement is required from the Millbury Board of Appeals

(Third Variance); Millbury Zoning By-Laws section 26.3 requires a paved parking set back of 20 feet. This property has 5 feet a 15 foot variance is needed.

II. 7:05 PM: Public Hearing (First Hearing):

John Biello of 2 Sunset Dr., Douglas, Ma 01516 for the property at 31 Park Hill Ave., Millbury, Ma, Map# 28, Lot# 14 Book# 4572, Page# 345, Suburban 4 District. **Mr. Biello contacted Jayne Davolio Town Clerk via email (see attached) to withdraw from the application / 7:05pm scheduled hearing.**

Harold Proodian made the motion to accept the cancelation of the hearing for John Biello of 2 Sunset Dr., Douglas, Ma 01516 for the property at 31 Park Hill Ave., Millbury, Ma, Map# 28, Lot# 14 Book# 4572, Page# 345, Suburban 4 District.

Daniel Mezynski second the motion, all were in favor approved **5 – 0**.

Paul Nigosian the withdrawal has been accepted by the board if the petitioner wants to reopen it they will have to reapply without prejudice.

III. 7:10 PM: Due to the first hearing cancelation the board took a Short Recess

Harold Proodian made the motion to accept the brief recess; **Ken Perro** second the motion all were in favor **5 – 0**.

IV. 7:30 PM: Public Hearing (Second Hearing):

Thomas Stratford; 237 LMB, LLC of 237 Riverlin St., Millbury, Ma for the property at 221 Riverlin Street, Millbury, Ma, Map# 24, Lot# 21, Book# 48776, Page# 337, Industrial - I District. Mr. Stratford is seeking (3) Variances.

(First Variance); Millbury Zoning By-Laws section 26.3 requires 150 feet of street frontage. 237 Riverlin St., Millbury, Ma Map# 24, Lot# 21 shows street frontage of 132 feet, a variance of 18 feet of relief.

(Second Variance); Millbury Zoning By-Laws section 26.3 requires 80,000 square feet of lot area. This project has 43,461 square feet. Millbury Zoning By-Laws defines "lot area" states that land within a utility easement cannot be counted for lot area. A variance seeking 36,539 square feet PLUS the area within the utility easement is required from the Millbury Board of Appeals

(Third Variance); Millbury Zoning By-Laws section 26.3 requires a paved parking set back of 20 feet. This property has 5 feet a 15 foot variance is needed.

Mr. Robert Murphy from Robert G. Murphy & Assoc., Inc. Environmental Consultants was there to Represent

Thomas Stratford 237 LMB, LLC Riverlin Street: Mr. Murphy explains to the board that he is there to request a variance from the zoning by-laws for an existing non conforming lot to be developed with conforming use in an industrial one district. The lot was created prior to zoning and it does not meet the requirements for the 80,000 square feet and it does not meet the frontage requirements of 150 square feet. Mr. Murphy presented to the board a map/ chart of the site plan and explained the existing layout of the property on Riverlin Street, a 1947 COUNTY LAYOUT. Midstate Sewerage is an existing business to the right of the property. The wetlands run to the rear portion of the property and continue to run along the left side of the property. In 1962 the New England Power Company obtained an easement of 4,260 square feet to develop the electric transmission lines over the rear portion of the property. If they were to acquire additional property to the rear and side to meet the required 80,000 square feet they still wouldn't be able to expand on that lot because of the wetlands the extra land would be useless. The proposed development of the lot has been approved by the DEP and the Millbury Conservation Commission. Once the applicant gets all the approvals to seek a tenant, commercial or industrial, it will be a use that is allowed in the Industrial I district. They have an agreement with the planning board that prior to development of the property that they have to go to the building department and the planning board with specific plans as to the use and the plans for that site. The intent is to not request a variance or a waiver for the use of the property it would be an allowed use within the Industrial 1 Zone. They are all set with the planning board they've done the final review with a consultant, all the questions have been answered except the proposed tenant that will be left as a condition with the planning board.

Mr. Murphy continued with the history of the property; the previous owners of the property were Edward & Hazel Kupstas they purchased the property back in 1952 they owned it up until 2012 they were the single owners and the property had not been subdivided or broken up. While they owned it, in 1962, New England Power Company obtained an easement to develop the transmission line over the back which produced the hardship to the use of the property.

The site has been designed to reduce any visual impact to abutters or neighbors; there are wetlands across the street, wetlands to the north and west and Midstate Sewerage business to the east there is no issue with direct abutters relative to the proposed use of the property.

Questions from the board:

Harold Proodian: The building that exists at Midstate, are they the builders of the new proposed property, is that two different lots owned by two different people and in no connection with either? (Mr. Murphy responds): They are two different corporations of different trustees and basically following the ruling from the supreme court; a couple of years ago a corporation can be viewed as an individual, different corporations are viewed as different individuals and can't be one in the same. (Harold Proodian was confused by the answer); Mr. Murphy clarified; Midstate Sewerage is owned by Midstate Properties and is a corporation and the current property is owned by LMB, LLC an entirely different entity. The two properties, (Midstate Sewerage and LMB, LLC), will share an easement, a driveway with the town placing a stop sign at the end of the drive and then continue to flow out on to Riverlin Street.

Paul Nigosian: The planning board has no problem with 43,000 square foot lot space where an 80,000 is required, the area - it's not 10% smaller, 20% smaller it's almost 50% smaller? Mr. Murphy responds: The reason being is that they have proposed to develop the property with a parking lot and a building that meet the requirements of a 40,000 square foot lot, if the lot was 80,000 then the building would have been bigger.

Anna Lewandowski: What conditions did the conservation issue? They had to meet their requirements for onsite drainage; they have an infiltration basin in the front so all of the drainage from the building and parking lot has to go through a purification process which is called a stormceptor which cleans the water before it recharges it into the ground. All of the

parking area and the paved areas of the building goes into a closed drainage system, which means no water from the site will go into any of the developed areas or going onto other peoples properties. They also had to file with the DEP and Conservation Commission a letter of illicit discharge; it's a recorded statement by the owner that no illicit materials be discharged from the site, this is not an aquifer area to a public water supply the idea is to protect the wetlands, in this case the drainage goes down to the Blackstone River but they still have to meet the requirements of illicit discharge.

Paul Nigosian You met all the requirements from the Planning Board, Conservation Commission and DEP?

They have recorded orders of conditions for the DEP approval the conservation approval and they have letters from consultants of the planning board, Stantec Engineering, they have approval from them and that they met all the requirements. The only outstanding requirement that they have is the give the project a name, it's going to be called Phase One of Stratford Park.

Paul Nigosian This is phase one of a development?

What they are planning to do is going on to the next lot which meets all the requirements they are just now working with the DEP due to the wetlands and get that approval. The area on the other parcel is 125,000 square feet.

Paul Nigosian asks if anyone had any further questions and if not he would like to entertain motion to close the public hearing? **Daniel Mezynski** made the motion to close the public hearing, **Harold Proodian** second the motion all were in favor 5 – 0.

(First Variance) Daniel Mezynski made a motion to grant a variance to Thomas Stratford; 237 LMB, LLC as shown at 221 Riverlin Street, Millbury, Ma. As shown on Map# 24, Lot# 21, and recorded in the Book# 48776, Page# 337 with Worcester District Registry of Deeds with the Industrial I District, Section 26.3 of the Millbury Zoning Bylaws. Said Variance to allow the total area to be 46,461 sq. ft. which is 36,539 sq. ft. short of the required 80,000 sq. foot lot area; **Harold Proodian** second the motion all members were in favor 5 – 0.

(First Variance) Daniel Mezynski made a motion to grant a variance to Thomas Stratford; 237 LMB, LLC as shown at 221 Riverlin Street, Millbury, Ma. As shown on Map# 24, Lot# 21, and recorded in the Book# 48776, Page# 337 with Worcester District Registry of Deeds with the Industrial I District, Section 26.3 of the Millbury Zoning Bylaws. Said Variance to allow existing lot frontage of 132 linear feet which is 18 ft short of the required 150 linear feet. **Harold Proodian** second the motion all members were in favor 5 – 0.

(Third Variance) Daniel Mezynski made a motion to grant a variance to Thomas Stratford; 237 LMB, LLC as shown at 221 Riverlin Street, Millbury, Ma. As shown on Map# 24, Lot# 21, and recorded in the Book# 48776, Page# 337 with Worcester District Registry of Deeds with the Industrial I District, Section 26.3 of the Millbury Zoning Bylaws. Said Variance to allow a side setback of 5 ft. which is 15 ft. short of the required 20 foot side setback. **Ken Perro** second the motion all members of the board were in favor 5 – 0.

Paul Nigosian informs Robert Murphy of Murphy Assoc. Environmental Specialist that the decision will be filed with the town clerk within two weeks after that there is a 20 day waiting period from the date it is filed not the date of the hearing in case someone wants to appeal the decision there is a 20 day waiting period once the 20 day waiting period has passed you'll be able to obtain a permit from the building department.

V. Adjournment

Paul Nigosian asks the board if there was any new business he then entertained a motion to adjourn the meeting; **Ken Perro** made the motion, **Daniel Mezynski** second the motion; carried unanimously 5 - 0.

Respectfully submitted by Nancy Young and submitted to Town Clerk.

From: Jayne Davolio <JDavolio@townofmillbury.net>

To: Paul Nigosian <pmn9997@aol.com>; Nancy Young <membutterfly2003@yahoo.com>

Subject: FW: Variance Submission Withdrawal

Date: Tue, May 2, 2017 11:38 am

FYI, let me know what you are going to do, please and thankyou!

JAYNE MARIE DAVOLIO
TOWN CLERK-NOTARY-JUSTICE OF THE PEACE
127 ELM STREET
MILLBURY, MA 01527
PHONE: (508) 865-9110
FAX: (508) 865-0857
EMAIL: jdavolio@townofmillbury.net

From: John and Melissa Biello [<mailto:jandmbiello@yahoo.com>]

Sent: Tuesday, May 02, 2017 11:32 AM

To: Jayne Davolio <JDavolio@townofmillbury.net>

Subject: Variance Submission Withdrawal

Hi Jayne.

My name is John Biello and we have a scheduled meeting on Wednesday night 5/3 in front of the board. This meeting was for whether we would be granted a variance for street frontage on a piece of land on Park Hill Ave. I am writing this letter as a withdrawal from the variance application. We no longer would like to go forth with the variance application, and therefore would like the meeting to be canceled and withdrawn. Thank you.

PLEASE SIGN-IN

PRINT NAME & ADDRESS

Dr Eileen Perez 41 Park Hill Ave
CHAGO PEREZ 41 PARK HILL AVE

Ray & Julie Richards 27 Park Hill Ave

Robt & Mueple

221 Riverlin

John Gagliardi

241 Riverlin ST

Thank-you

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Board of Appeals Approval Signatures for Meeting Minutes, Wednesday, May 03, 2017



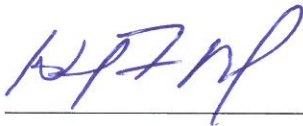
Paul Nigosian, Chairperson




Robert Simmarano, Vice Chairperson



Daniel Mezynski



Harold Proodian



Ken Perro, Clerk

Anna Lewandowski, Alternate