

Orleans Zoning Board of Appeals
Minutes
November 3, 2010

A meeting of the Orleans Zoning Board of Appeals was held in the Skaket Meeting Room at Town Hall. Present were Robert Osterberg, William Piersol, D. Beth McCartney, Matthew Cole, Greg DeLory, and Michael Marnik. Rolf Soderstrom was absent. Building Commissioner Brian Harrison and Board Secretary Sandy Stewart were also present.

Chairman Osterberg called the meeting to order at 7:00 p.m.

Case #1918 (Continued)

Matt Doyle has applied for a Special Permit as set forth in MGL Chapter 40A, Section 9, under Orleans Zoning Bylaw Sections 164-4 and 164 Attachment 1:3 to conduct a customary home occupation yard maintenance business. The property is located at 142 Route 28, Orleans Map #48, Parcel #15.

Special Permit granted. See attached Decision. Documents reviewed include the original application and a Site Plan prepared by Ryder & Wilcox, Inc., P.E. & P.L.S., Job No. 7321, dated September 7, 2010 and the joint statement of Martha and Matthew Doyle dated 9/13/10. Documents are held in the permanent Zoning Board of Appeals case file located at Town Hall.

Case #1919 (Continued)

Doncroft, LLC has applied for a Special Permit as set forth in MGL Chapter 40A, Section 9, under Orleans Zoning Bylaw Sections 164-8 and 164-13 to extend general business use into a residential zone and to exceed 2,500 square feet of commercial use subject to 164-38 commercial regulations. The property is located at 19 Lots Hollow Road, Orleans Map #40, Parcel #85.

Special Permit granted. See attached Decision. Documents reviewed include the original application and a Site Plan prepared by East Cape Engineering, Inc. dated August 12, 2010; the Site and Sewage Plan prepared by East Cape Engineering, Inc. dated 7/22/09; and the undated floor plan marked Exhibit A. Documents are held in the permanent Zoning Board of Appeals case file located at Town Hall.

Case #1921

Robert R. and Kay W. Nagle have applied for a Special Permit as set forth in MGL Chapter 40A, Section 9, under Orleans Zoning Bylaw Section 164-21A (Note 5) to construct an addition resulting in more than 4,000 square feet of building coverage. The property is located at 196 Rock Harbor Road, Orleans Map #17, Parcel #93-1.

Special Permit granted. See attached Decision. Documents reviewed include the original application and a Site Plan prepared by East Cape Engineering, Inc., dated 8/9/10 and the floor plans dated August 2, 2010, prepared by Sara Jane Porter, Architect. Documents are held in the permanent Zoning Board of Appeals case file located at Town Hall.

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In other business, on motion by Mr. Osterberg and seconded by Ms. McCartney, the Board voted 6-0-0 to approve minutes of the October 20, 2010 meeting as drafted.

On motion by Mr. Piersol and seconded by Mr. Osterberg, the meeting was adjourned at 8:02 p.m.

Sandy Stewart
Board Secretary

CASE NO. 1918

APPLICATION OF

ZONING BOARD OF APPEALS

MATT DOYLE
NO. 142 CHATHAM ROAD
ORLEANS, MA

BOOK 10163, PAGE 200
MAP 48, PARCEL 15
TOWN OF ORLEANS, MA

DECISION

THE HEARING:

On October 20 and November 3, 2010, Case No. 1918 came on for hearing before the Orleans Zoning Board of Appeals. Matt Doyle applied for a Special Permit as set forth in MGL Chapter 40A, Section 9, under Orleans Zoning Bylaw Sections 164-4 and 164 Attachment 1:3 to conduct a customary home occupation yard maintenance business at 142 Route 28, Orleans. The hearing was duly advertised and scheduled.

Mr. Robert Osterberg, Chairman of the Orleans Zoning Board of Appeals, chaired the hearing. Also in attendance were Mr. William Piersol, Ms. D. Beth McCartney, and Mr. Matthew Cole, regular Board members; Mr. Greg DeLory and Mr. Michael Marnik, associate Board members; and Ms. Sandy Stewart, Board Secretary. The Chairman announced that he, Mr. Piersol, Ms. McCartney, Mr. Cole, and Mr. DeLory would vote on the application.

Mr. Doyle presented the details of this application to the Board. No person appeared, either in favor of, or in opposition to the application. One letter containing signatures of several abutters in favor was received by the Town. The Chairman then closed the hearing for the taking of further testimony.

Following public deliberation by the Board and based upon the application, including the Site Plan prepared by Ryder & Wilcox, Inc., P.E. & P.L.S., Job No. 7321, dated September 7, 2010 and the joint statement of Martha and Matthew Doyle dated 9/13/10, the Board adopted the following

FINDINGS OF FACT:

1. The subject property, known as 142 Route 28 (Chatham Road), shown as Parcel #15 on Orleans Map #48, is in a Residential District, Groundwater Protection District #2.
2. The residence is occupied by both the owner Martha Doyle and her son Matthew Doyle.
3. Matthew Doyle proposes to operate a yard maintenance business on the subject property utilizing a tool shed for the storage of landscaping equipment and a basement room in the residence structure for office type activities associated with the business.
4. The yard maintenance business will be conducted solely by Matthew Doyle, without any employees.
5. The yard maintenance business will involve services provided to customers exclusively at off-site locations.
6. There will be no storage on the premises of any toxic or hazardous materials used in the proposed business.
7. No supplies or equipment used in the proposed business will be stored in an open area on any part of the subject property.

8. All vehicles used in the proposed business bearing a business sign will be parked only at the rear of the subject property, close to the existing shed and blocked from the view at Route 28.
9. The only business sign on the subject property will be a 27" by 30" sign in conformity with the sign illustrated in Exhibit A to this application.
10. The application is supported by the petition signed by eleven area residents and marked Exhibit B.
11. The site is suitable and adequate for the proposed business because it will be confined to the existing shed and the residence structure.
12. The proposed business will have no impact on traffic flow or safety because the business activities on the subject property will be conducted solely by Matthew Doyle.
13. The proposed business will have no negative impact on the visual character of the neighborhood because there will be no outside storage of any supplies or equipment, and all business vehicles parked on the subject property will be confined to the rear area by the shed.
14. The proposed business is isolated from, and will have no impact on the method of sewage disposal, source of water, drainage, or water resources.
15. Utilities and public services will be unaffected by the proposed business.
16. Noise and litter will not be increased by the proposed business because all debris of the business will be disposed of at an off-site location.
17. The proposed business will not be detrimental to the established and future character of the neighborhood and will be in harmony with the general intent and purpose of the Zoning Bylaw.

The motion was seconded by Mr. Cole and unanimously approved by the Board.

THE DECISION:

Based on the FINDINGS OF FACT, on motion by Mr. Osterberg and seconded by Mr. Piersol, the Board grants a Special Permit pursuant to Sections 164-4, 164-35D, and 164-44, limited to Matthew Doyle, to conduct a self-employed home occupation of yard maintenance on the subject property as described in the Findings of Fact and in all events, conditioned upon the continued residence of Matthew Doyle at the subject property.

VOTING IN FAVOR:

Mr. Robert Osterberg
Mr. Matthew Cole
Mr. William Piersol
Mr. Beth McCartney
Mr. Greg DeLory

Dated: November 3, 2010

ROBERT OSTERBERG, Chairman

MATTHEW COLE, Clerk

CASE NO. 1919

APPLICATION OF

ZONING BOARD OF APPEALS

DONCROFT, LLC
NO. 19 LOTS HOLLOW ROAD
ORLEANS, MA

CERTIFICATE #182080
MAP #40, PARCEL #85
TOWN OF ORLEANS, MA

DECISION

THE HEARING:

On October 20 and November 3, 2010, Case No. 1919 came on for hearing before the Orleans Zoning Board of Appeals. Doncroft, LLC applied for a Special Permit as set forth in MGL Chapter 40A, Section 9, under Orleans Zoning Bylaw Sections 164-8 and 164-13 to extend general business use into a residential zone and to exceed 2,500 square feet of commercial use subject to 164-38 commercial regulations. The property is located at 19 Lots Hollow Road, Orleans Map #40, Parcel #85. The hearing was duly advertised and scheduled.

Mr. Robert Osterberg, Chairman of the Orleans Zoning Board of Appeals, chaired the hearing. Also in attendance were Mr. William Piersol, Ms. D. Beth McCartney, and Mr. Matthew Cole, regular Board members; Mr. Greg DeLory and Mr. Michael Marnik, associate Board members; and Ms. Sandy Stewart, Board Secretary. The Chairman announced that he, Mr. Piersol, Ms. McCartney, Mr. Cole, and Mr. Marnik would vote on the application.

Attorney Duane Landreth of Orleans presented the details of this application to the Board. Several abutters appeared and expressed concerns about the application and a letter from one of the same abutters was received by the Town. The Chairman then closed the hearing for the taking of further testimony.

Following public deliberation by the Board and based upon the application, including the Site Plan prepared by East Cape Engineering, Inc. dated August 12, 2010; the Site and Sewage Plan prepared by East Cape Engineering, Inc. dated 7/22/09; and the undated floor plan marked Exhibit A, the Board adopted the following

FINDINGS OF FACT:

1. The subject property, known as 19 Lots Hollow Road, shown as Parcel #85 on Orleans Map #40, is in both General Business and Residential Districts.
2. The applicant has a contract to purchase the subject property.
3. In April 1978, the subject property was authorized for general business use extending into the area of the lot zoned for residential use, pursuant to a Special Permit issued by this Board in Case #649.
4. In May 1996, this Board amended the Special Permit, including by expressly restricting it to the applicant, L. Robert Gill.
5. The subject property most recently has also been used by a plumbing supply business that also extended the business use into the residential zoned area.

6. The subject property will be used for the sale of small tools and associated repair services.

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Case #1919, 19 Lots Hollow Road

7. No person associated with a prior use of the subject property will have any interest in the business of the applicant.
8. The proposed business use will be conducted in the existing building which is located in the area zoned for general business, except for minimal parts of a paved apron and concrete patio which extend into the area zoned for residential use.
9. The lot frontage on Lots Hollow Road is 229.1 feet and the proposed commercial space in the building of 6,020 square feet corresponds to the commercial space of the prior uses.
10. The nearby uses on Lots Hollow Road are commercial uses more likely to benefit from, than be damaged by the proposed use.
11. The subject property is not subject to any peculiar environmental stress.
12. The proposed business use will contribute to the diversity of services available to the town on a year round basis, enhancing such employment opportunities without posing any environmental hazard, excessive noise, or air pollution.
13. The site will remain unchanged and the business activities will be centered in the general business zone except for parking which will be close to the building.
14. The exterior of the existing building will remain unchanged except for general maintenance.
15. The area of the subject lot east of the existing building will not be used for outside storage and will be kept clear of any debris from the business activities.
16. The site is suitable and adequate for the proposed use because it is compatible with the existing uses of surrounding properties.
17. The proposed use will have no impact on traffic flow or safety.
18. The proposed use will have no negative impact on the visual character of the neighborhood because the site will be virtually unchanged from its historical condition.
19. The proposed use will have no impact on the source of water, drainage, or water resources.
20. The existing cesspool will be replaced with an approved septic system in compliance with the septic plan.
21. Utilities and public services will be unaffected by the proposed use.
22. Noise and litter will be consistent with normal levels associated with retail sales of tools.
23. The existing chain link fence which forms an enclosure, formerly used as a propane filling station, will be removed and the former supports will be removed or rendered harmless.
24. The proposed use will not be detrimental to the established and future character of the neighborhood, and will be in harmony with the general intent and purpose of the Zoning Bylaw. The benefits to Orleans will outweigh any foreseeable adverse effects.

The motion was seconded by Mr. Piersol and unanimously approved by the Board.

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Case #1919, 19 Lots Hollow Road

THE DECISION:

Based on the FINDINGS OF FACT, on motion by Mr. Osterberg and seconded by Mr. Cole, the Board grants a Special Permit pursuant to Sections 164-8, 164-13, 164-38, and 164-44, to run with the land, to conduct a tool supply business on the subject property in conformity with the description and conditions expressed in the Findings of Fact.

VOTING IN FAVOR:

Mr. Robert Osterberg
Mr. Matthew Cole
Mr. William Piersol
Mr. Beth McCartney
Mr. Michael Marnik

Dated: November 3, 2010

ROBERT OSTERBERG, Chairman

MATTHEW COLE, Clerk

CASE NO. 1921

APPLICATION OF

ZONING BOARD OF APPEALS

ROBERT R. & KAY W. NAGLE
NO. 196 ROCK HARBOR ROAD
ORLEANS, MA

BOOK 21933, PAGE 138
MAP 17, PARCEL 93-1
TOWN OF ORLEANS, MA

DECISION

THE HEARING:

On November 3, 2010, Case No. 1921 came on for hearing before the Orleans Zoning Board of Appeals. Robert R. and Kay W. Nagle applied for a Special Permit as set forth in MGL Chapter 40A, Section 9, under Orleans Zoning Bylaw Section 164-21A (Note 5) to construct an addition resulting in more than 4,000 square feet of building coverage. The property is located at 196 Rock Harbor Road, Orleans Map #17, Parcel #93-1. The hearing was duly advertised and scheduled.

Mr. Robert Osterberg, Chairman of the Orleans Zoning Board of Appeals, chaired the hearing. Also in attendance were Mr. William Piersol, Ms. D. Beth McCartney, and Mr. Matthew Cole, regular Board members; Mr. Greg DeLory and Mr. Michael Marnik, associate Board members; and Ms. Sandy Stewart, Board Secretary. The Chairman announced that he, Mr. Piersol, Ms. McCartney, Mr. Cole, and Mr. Marnik would vote on the application.

Mr. Tim Brady of East Cape Engineering presented the details of this application to the Board. No person appeared, either in favor of, or in opposition to the application. One letter in favor of the application was received by the Town. The Chairman then closed the hearing for the taking of further testimony.

Following public deliberation by the Board and based upon the application, including the Site Plan prepared by East Cape Engineering, Inc., dated 8/9/10 and the floor plans dated August 2, 2010, prepared by Sara Jane Porter, Architect, the Board adopted the following

FINDINGS OF FACT:

1. The subject property, known as 196 Rock Harbor Road, shown as Parcel #93-1 on Orleans Map #17, is in a Residential District, Groundwater Protection District #4.
2. Parcel 93-1 exists as part of Parcel 93 which contains two single family dwellings, each held in separate condominium ownership.
3. The dwelling on lot 93-1 is a legally preexisting, nonconforming structure, built in or about 1875.
4. The proposed addition to the dwelling on parcel 93-1 is 15 feet by 18 feet and will add 270 feet to the building coverage on lot 93.

5. The proposed addition will only increase the building coverage on lot 93 to 8.6 percent of the buildable upland.
6. The site is suitable and adequate for the proposed addition because the increase in building coverage will be minimal.
7. The proposed addition will have no impact on traffic flow or safety.

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Case #1921, 196 Rock Harbor Road

8. The proposed addition will have no negative impact on the visual character of the neighborhood because it is a minor addition that will be integrated into the style of the existing dwelling.
9. The proposed addition is isolated from, and will have no impact on the method of sewage disposal, source of water, drainage, or water resources.
10. Utilities and public services will be unaffected by the proposed addition.
11. Noise and litter will not be increased after the addition is added.
12. The proposed addition will not be detrimental to the established and future character of the neighborhood and will be in harmony with the general intent and purpose of the Zoning Bylaw.

The motion was seconded by Mr. Cole and unanimously approved by the Board.

THE DECISION:

Based on the FINDINGS OF FACT, on motion by Mr. Osterberg and seconded by Mr. Piersol, the Board grants a Special Permit pursuant to Sections 164-21A (Note 5) and 164-44, to run with the land, for construction of a 15 foot by 18 foot addition to the existing dwelling on lot 93-1 in conformity with the site plan dated 8/9/10 and the floor plans dated August 2, 2010.

VOTING IN FAVOR:

Mr. Robert Osterberg
Mr. Matthew Cole
Mr. William Piersol
Mr. Beth McCartney
Mr. Michael Marnik

Dated: November 3, 2010

ROBERT OSTERBERG, Chairman

MATTHEW COLE, Clerk