

## SEEKONK ZONING BOARD REGULAR MEETING

### MINUTES July 16, 2012

Present: Ch. Edward F. Grouke, Gary Sagar, (heard the Grist Mill petition for Keith Rondeau) Keith Rondeau, Robert Read, Ronald Blum, Jeffrey Creamer

7:03 Chairman Edward F. Grouke called the meeting to order.

Ch. Grouke This is the meeting of the Town of Seekonk Zoning Board of Appeals, July 16, 2012. I am going to go over our Rules and Regulations. I am going to read each petition as it was advertised and call upon the petitioner or their representative to present their case. All testimony, including the testimony and statements of the petitioner and/or the representatives or witnesses, will be taken under oath. The Board will ask questions of the petitioner and witnesses. Any questions from the podium will go through the Chair. We will hear from anyone in the audience to speak either in favor of or against the petition or with any questions. At the close of the evidence, we have a discussion and then take a vote. We also usually make a decision on the same night, although we are not required to do that. There are times that we may postpone a petition for another meeting either for a site visit or to gather some information. Once we have closed the public hearing and taken our vote, it is then reduced to writing and filed with the Town Clerk within 14 days of the date the vote is taken. Any person who feels that he is negatively affected by our decision, as long as he has the proper legal standing, has the right to appeal to the courts; and anyone considering taking such an appeal has to comply with very strict time limitations that are applicable to a court appeal.

**2012-18 93084, LLC/Gregory Esmay**, 390 Fall River Avenue, Seekonk, MA, 02771, Owner and Petitioner, Appealing the Decision of the Zoning Enforcement Officer and, if necessary, requesting a **Special Permit** under Sections 5.3 and 9.2.3.1 and **Variance** under Sections 6.5 and 6.8 of the Zoning Bylaws to allow the repair and reconstruction of “The Old Grist Mill Tavern” at 390 Fall River Avenue, Plat 13, Lot 45 in a Mixed Use/R-3 Zone containing 3.21 acres.

G Sagar Mr. Chairman, before Mr. Navega gives his presentation, I would just like to disclose for the record that the day after the fire I received a call from representatives of the Grist Mill; and I was asked to assist them with preparing the application before this Board. I met with that representative and our secretary in her office and helped prepare that application, something I have done many times in the past.

Atty. Navega I am an Attorney with an office address of 447 Taunton Avenue. I am also a resident of the Town; I reside at 175 Warren Avenue. Sworn in. I am pleased to be here tonight representing Greg Esmay and the Grist Mill in this petition for the start of the repair process. As you are well aware, the Grist Mill site predates zoning and predates the incorporation of this town. It is recorded (inaudible) 1745 but there are some estimates that it was in existence in 1738. The original portion of that structure remains, which probably means it is one of the oldest parcels that remains in this town. I had an opportunity to visit the site tonight, and I was pleasantly surprised how much of that building remains in-tact; and there is an engineer here tonight to testify (inaudible). In addition to its historical status, the Grist Mill is a landmark restaurant and has been for decades. Obviously, it is known far and wide and has a loyal following. We need to repair and preserve the building and site; and the ZBA is the first step in a very lengthy process. The property is on approximately 3.2 acres in a Mixed Use R-3 zone. As you know, in a Mixed Use/R-3 zone, in 9.3.1 it is defined as an overlay zone superimposed over, (in this case) the R-3 designation. It does not affect the underlying zone, but I will paraphrase and say that it is useful to have some control to preserve Seekonk's rural character. It prevents strip commercial areas. We are in a Mixed Use/R-3 Zone and as such; it has existed for many years. This use, the most important, what we are under 5.1 is a pre-existing, legal, nonconforming use of land, building or structure; meaning essentially our use predates zoning, and hence is legal nonconforming under the Town Bylaw. In addition to all of this, this area of town, including this particular lot, is in the Wetlands and Floodplain Protection District under our bylaw 9.2. Again, this is superimposed over the existing zoning and does not affect the underlying zone. What we need from the Board is a Special Permit under 5.3 and 9.2.3.1, 9.2.3.2, 9.2.3.3 and 9.2.3.4. First off, let's talk about the nonconforming use. As I previously commented; a special permit can be issued for uses which are in harmony with the general purpose and intent of the bylaws and under 5.3 because we are pre-existing and legal nonconforming. We are requesting relief to extend or alter the structural use. Realistically, is the use consistent with neighborhood? Because it is in a mixed use zone and it already existed in the neighborhood, we meet the criteria. Under 5.3, I think this Board must find, and I suggest that a special permit is appropriate and as it will not be more detrimental to the existing nonconformance. It exists in the neighborhood; it is a restaurant, as it has for many years. I have one photograph from 1944 showing it as a restaurant. I have some photographs from 1890 and the 1880s showing this particular building being used commercially. To extend or alter the use, we may be exempt from section 5 because of the preexisting situation. It is our sole purpose to request your approval to the repair the Grist Mill to what it was before the accident. Because we are in the wetlands and floodplain protection district, we need from the Board a Special Permit because any construction or work done within the Wetlands and Floodplain Protection District requires a special permit under 9.2.3.1. We are expecting during the rebuild process to erect in that area and we expect to do grading, filling or transferring of earth material. Similarly, under 9.2.2.2 and 9.2.3.3, we will be in an area where there is a water course going through it; and lastly any development

within the Wetland and Floodplain protection district requires a special permit. We expect to be in that area because the actual construction will require work in this area; clearly, we do not want to change anything. We are at the mercy of other town agencies, and town boards. We need a special permit to improve or change things. Similarly, a variance is necessary under section 6 because the underlying residential zone requires 150' at the street, 50' front setback, 70' rear setback, 50% minimum depth of both front and rear, 35' for the interior side yard. Because of the nature of this repair, this one particular site, some variations may come to light that we don't know right now; we are already within the setback frontage areas, not delineated with any specificity, issues may arise during the process; because we are already within the setbacks we need relief from the Board. Factually, as far as a variance is concerned, we meet criteria for a hardship due to the conditions of the property and not as a result of the applicant's actions. Consequently, the literal enforcement of the bylaws would involve substantial hardship, financial or otherwise; and this repair is appropriate for a Variance owing to circumstances related to the soil conditions, shape, size, and topography of the land or structure and especially affecting such land or structure but not affecting generally the zoning district in which it is located. Special Permit on the other hand would be in harmony with the general purpose and intent of the Bylaws; we will not be substantially more detrimental than the existing nonconforming, nonconforming being a restaurant in a residential zone. I should make you aware that any decision by the board favorable to my client as to a variance, I would urge or suggest the board once the decision is reduced to writing, should reflect my concerns about the lack of specificity as to the setback requirements. Unfortunately, during the permitting process, some things may change by an inch or more; and we need to have a variance that we are not stuck on (inaudible). On a personal note, I should tell you that Mr. Esmay employs about 22 people full time and in the height of the season, about 45 -50 people full time and part time. He also sponsors a softball team, and he tells me an interesting story that this past St. Patrick's Day, he turned over his restaurant to the "Little Sister of the Poor" in Pawtucket and all proceeds went to them and they raised \$45,000. He is a pillar of community, and the Board should welcome people like him into the area. As another note the property is assessed at approximately \$1.6 million and he pays about \$85k annually in combined real estate and meals tax. With that said, I am ready to answer any of your questions and would like to introduce Mr. Connors, the engineer, to tell you about the structure itself.

Robert Connors        Structural Engineer, I work at STV, 321 Summer Street, Boston, Massachusetts. I assessed the building; I was up there the day of the fire. Because it was a mill, there is a significant portion of the structure below. We lost over half the roof, we lost about 50% of the walls, but the floors in the main area are essentially intact and the substructure is essentially intact. Because it is a mill and built in such an unusual way, during the calculation it works out to be about 70% of the structure is still remaining. Even though driving by it looks a little rough, it is because we have the holes in the roof (inaudible) The intention is to build on the exact same footprint and will use remaining structure intact.

- R Blum            Are there any major changes in structure?
- R. Connors        The intent is to rebuild to the extent that we can on the existing footprint. We are going to submit a notice of intent; I think that because we are in a flood zone we might be limited in that respect. As far as the structure goes, there are currently some steel posts and steel beams; I think that we might be able to include more steel to help with seismic response. It would be more reflective of the current size requirements, in general the idea is to match the character of the existing structure; and we will retain as much of the existing structure as we can.
- S Navega          The intent is to rebuild using the footprint and put it back to what it was exactly before the accident. With that said, there are variations that occur during the repair process whether it be subject to the Conservation Commission and other various Boards in town that may require us to do specific things that are different from what we have now. The intention is to replace that building and get it back to the same shape that it was prior to the accident and to do that as soon as possible. There is no plan for expansion whether it is up down or sideways, it is just to put it back exactly the way it was. I was pleasantly surprised when I walked through tonight that there is quite a bit of the property still viable. All the floors are intact; downstairs bathrooms are intact; the flooring is intact; the steel beams in the bar/lounge area are intact; all the fire places are still up there, all the original stonework. The Fire Department should be commended for the job they did to preserve that building. But in essence, they just want to rebuild it to exactly what it was.
- J Creamer         Is there going to be any guard rail put around the corner?
- S Navega          Yes, but I cannot be specific we are at the whim of the state. I will tell you that the road, not building, the road encroaches into the building. We do not encroach into the road; the road encroaches into the building. With that said, we are going to do everything that we can to make sure that the motoring public remains safe and the patrons remain safe. Whatever the state requires, that is why I say there will be some variations through the course of the repair process.
- R Blum            As a former member of the Historical Commission, I value this property, and it is a great loss. I was out of the country when I heard about this, and I was informed via email. My question is, yes, I would like to see the structure back the way it was; and unfortunately things like this happen, and one of my concerns is any future improvements on Arcade Avenue/Fall River Avenue roadway that they have been talking about for years may be a concern and, should we now plan ahead to moving the building or change the building slightly so it will benefit...
- S. Navega         That is exactly why if the Board were to approve special permits under Section 5, and the Variance under Section 6, we need the flexibility to consider all the things that would happen in the future, possibly redoing the intersection.

- G Sagar I would like to respond to that. The process of redoing the Arcade Avenue roadway/intersection has been ongoing; and there is some new data that will be available next week at the Board of Selectmen meeting. In a lot of ways, one has nothing to do with the other. I will tell you there is a whole different group of regulations, the different entities that have to be satisfied for this to come forward. If this structure is built exactly where it sits, it is exempt under the rivers protection bill because it was destroyed by fire. Move it 6", it is a whole other world. It is very important with respect to Conservation. It reduces the involvement that DEP and Conservation has with the oversight and with the regulations. They are still going to be involved in it; but if we grant them the relief they need, it makes their life much easier under DEP and conservation.
- S. Navega We don't want to be at any other boards unnecessarily. We want to get the relief to start the process to repair this as soon as possible; it's a very unique piece of property as you know. It's very unique geographically the way it is set up. It's very interesting that the rivers protection act is appropriate here. Conservation indicated that other than notice of intent it doesn't appear that if we put it in the same footprint, we would have any problems with the state agencies. That is why I'm concerned, though, that the special permit or a variance--that's today, tomorrow something may change. But we do not want to deviate from that footprint; we do not want to incur the wrath of all the variance regulatory agencies of the Commonwealth. We want to put it back up, get it going through the process.
- R Read Could you get into the encroachment of the road on the building a little bit?
- S. Navega As Fall River Avenue evolved over the years, I could show you some photographs that show where Fall River Avenue was. Over the years the road expanded and widened and encroached on us as opposed to we encroaching on them. We existed before the road existed. It may have been a cart path; it may have been a road that was utilized a long time; but as it expanded and widened over the years, it encroached onto us. That's as simple as I can relate.
- G Sagar Listening to Mr. Navega and in reading everything that is in front of us, I disagree when he has to apply to the 5.3, because he is not extending or altering; I think that the 5.4 is better entitlement to the exemption; that is what it is there for.
- Atty. Navega That is why I suggested to you that we may be exempt completely under 5.4; but I just want to err on the side of caution that we get the relief under 5.3.
- Ch Grouke The question is if a restaurant is going to be substantially more detrimental than a restaurant? We are not changing the use.

Atty. Navega We are not changing the use; we are not altering the use or extending the use or expanding the use, where in that particular area, as you know, has some commercial enterprises. We have the American Legion down the road, the consignment shop across the pond, and up Arcade Avenue. This particular area on the other side of Fall River Avenue, where Burr's Pond is, is a conservation area; it's a nonconforming use, but it is certainly not more detrimental than. (inaudible)

G. Sagar Would it make sense for this board to grant the special permit under section 5; that way we don't have to get hung up whether it is 5.3 or 5.4?

S Navega Introduces the architect:

Michael Cassavoy STV Inc. This is the same as the other firm. The goal is to replicate the 1800's feeling that the building he already has, to put everything back and repair it the way it was. As Steve was saying there are some little things that came up, some glitches that we hadn't anticipated that we really wouldn't want to get into it right now measuring the building, our goal is to figure out exactly how it was built and put it back so if I drive by the building a year from now, you will think of the way it was before fire.

Ch Grouke Is there anyone who wishes to speak in favor of the petitioner?

Edith Kerkorian, 8 Harriet Court I have been in Seekonk for sixty years, and I have been at restaurant since it opened the second time. I did a television show about the fire at the restaurant; people are calling. Please make sure they are able to open again.

Steven Howitt 425 Pine St. sworn in: As a lifelong resident of Seekonk, the Grist Mill has been a part of my life. Many family functions have occurred there as I am sure with many other people living in the town and outside the town. It is an institution, the events that have occurred have nothing to do with the facility or the employees; it does employ quite a few people that are dependent on their jobs. The gas company, as we all know, there seems to be a lapse of 1-2 hours before they showed up; the Seekonk Fire Department did an admirable job by containing the fire. Much of the damage, and I have pictures since I was there at the time of the damage incurred after the fire was contained after the excavator came through, was the left-hand section of building. It would be a shame for the town if it was not allowed to be put back in place. It gives Seekonk its fabric.

Eleanor Rezek William Rezek 120 Jacob Street – Both sworn in. Not only as a resident; we have been here 21 years, but we own the Jacob Hill Inn. We have people from all over the world come for a unique experience in New England. The Grist Mill always provided an extension to what we offer, and it is really important to be able to have it back not only for everyone personally and for businesses. We are not the only ones, there are other hotels in town that send people there. It is a

beautiful land mark, and it really needs to be rebuilt, it is a gem in Seekonk. It is Seekonk's identity, everybody knows The Grist Mill.

Mr. Dan Horton 940 County Street. Sworn in. I am a member of the Historical Commission, the Commission would like to see this site retain its historic character with the rebuilding of the restaurant. The building was the heartbeat of the community, providing essential services in earlier times as the Grist Mill, Ice House facility and as a restaurant. It served our community even through the lean years following World War II. It has proven to be an important part of the fabric of our community and should be allowed to continue providing this essential service for future generations.

Brian Kressinger I am the president of the corporation that owns the two buildings to the right of the Grist Mill, the martial arts school and the chiropractic building; 895 and 879 Arcade Avenue. We would strongly like to have the Grist Mill back. We have been there for 10 years; they are perfect neighbors. We share borders and parking without a problem; and I ask if you didn't allow them what is the alternative? Would there be a big hole there? We have to have them back.

Richard Santino 898 Arcade Avenue. I live directly across the street. I strongly support the rebuilding of the Grist Mill. It is meticulously kept, always landscaped, not a speck of noise there at night; it is very well managed and an asset to the town; and I think it is a shame if they were not allowed to rebuild. I live directly across the street and I am there all the time. It is a beautiful piece of property as well as being an historic site.

Sandra Coble 864 Arcade Avenue, sworn in. I totally support them. It has been there forever, and it is a land mark.

Inaudible Speaker 890 Arcade Avenue sworn in. I bought my house in 2003. We live across the street; we love the Grist Mill and go there all the time. Please grant this variance.

Robert Araujo 85 Bishop Avenue. Sworn in. Other places have famous landmarks; the Grist Mill is the landmark for Seekonk. That establishment has been run well for years; it is a good neighbor, and I think you should grant it.

Edward Jastram I am a chiropractor who has a practice at 879 Arcade Avenue sworn in. I don't know how many patients after the fire told of their connections to the Grist Mill. Many got married there; it is a landmark. When folks call to come see us we tell them we are next to the Grist Mill. Please allow them to put it back.

Kate Cherepowich Rehoboth, Ma. Sworn in. This is my daughter, (inaudible) It has been our Cheers for 41/2 years; we go every Friday night. I have a son now; he is

almost two. Everybody there is wonderful. On the day of the fire, she cried for 4 hours (inaudible)

Ch. Grouke Is there anyone to speak in opposition to the petition? No response; no one wishes to speak in opposition. Is there anyone with any questions about the petition?

G. Sagar I would like to hear from Mr. Esmay.

Greg Esmay Owner of the Grist Mill, sworn in. We would like to thank everybody for the support, the firefighters and everybody. We fully want to put the Gristmill back to what you have always known it as. I've been there 13 years. What they did in '57, when the fire happened then, was an amazing job. If you saw the pictures before the fire and after, you can barely tell that much happened to that property. Our goal would be the same; that same thing happened again. One thing they did that a lot of people aren't aware of is it is a steel structure, they put steel in it then; they encased it so you would think it was all wood. When people cited the changes-- obviously the building techniques have changed; you can improve on certain parts of it through technology, but nothing that hopefully ever would be noticed; (inaudible). We can improve on certain structural parts that would make it better, you wouldn't see it; you would see wood.

Atty. Navega It's a fabulous place, everybody agrees with that; and all the testimony here tonight is more emotional here than I thought. Be that as it may. It identifies Seekonk; It's an opportunity here for the Board to do the right thing and get them on the road to repair.

Ch Grouke Actually, coming back, you need the Special Permit under Section 5 and 9?

Atty. Navega Yes, 9.2.

Ch. Grouke There is some reference in 9.2 that specifically refers to buildings damaged by fire, right?

Atty. Navega Right.

Ch. Grouke Discussion:

R. Read We have the wording, correct?

Ch. Grouke Well we have to decide on the request for a Special Permit and the Variances.

Atty. Navega I wasn't privy to the preparation of the documents for the petition; my research under the bylaws in this particular situation leads me to believe that we need relief



under section 5, either 5.4 or 5.3 and under 9, The Wetlands and Floodplain Protection District.

Ch Grouke The question under section 5 is whether or not this use is going to be substantially more detrimental than the existing nonconforming use to the neighborhood. So, because the use is not going to be changed, it's already a restaurant, they want to keep it as a restaurant. Certainly that can't be anymore nonconforming. Do we agree on that?

Board Yes.

G. Sagar I think an argument could be made, Mr. Chairman, that it doesn't even have to be section 5, but certainly since he is asking the relief, we should give it to him.

G. Sagar made a motion to close the public hearing, seconded by R. Blum and **so voted unanimously by:** Ch. Edward F. Grouke, Gary Sagar, Ronald Blum, Jeffrey Creamer and Robert Read

**VOTE: (Approve 5-0)**

G. Sagar made a motion to approve the Special Permits in accordance with Sections 5 and 9 subject to the following stipulations: that the gas service and meters servicing the building shall be relocated to a location acceptable to Building Commissioner and Fire Chief; that a jersey-type barrier or equal shall be erected and maintained along the exterior foundation fronting on Fall River Avenue, according to Mass DOT approval, and a variance under Section 6 that the dimensional variances for all zoning setbacks is hereby granted based on an as-built plan prepared by a Massachusetts registered land surveyor certifying the location or locations of all foundations prior to the reconstruction said as built shall be incorporated in said petition. I think we have given him the latitude that he needs, the approval that he needs. I look forward to the new (inaudible)

Ch. Grouke Does that address Section 9?

G. Sagar Yes, earlier I said under Special Permits—all of Section 5 and all of Section 9.

R. Blum What about setbacks?

G. Sagar That is under Section 6.

Seconded by R. Blum and **so voted unanimously by:** Ch. Edward F. Grouke, Gary Sagar, Ronald Blum, Jeffrey Creamer and Robert Read

**VOTE: (Approve 5-0)**

**2012-12 Matthew T. Gifford**, 8 Olin Avenue, Seekonk, MA 02771, Owner and Petitioner, appealing the Decision of the Zoning Enforcement Officer, and requesting a **Variance** under Section 6.3 and 6.6 to allow construction of an addition to a single family dwelling within the rear-yard setback at 8 Olin Ave, Plat 9, Lot 40 in a R-1 Zone containing 10,000 sq ft.

Jeff Tallman Representing the applicant. Sitec Engineering, 449 Faunce Corner Road, Dartmouth, Massachusetts, was sworn in. I am here tonight representing Matthew Gifford, the applicant, requesting a zoning variance. The Giffords reside at 8 Olin Avenue which is an existing two bedroom, one-story dwelling. The dwelling is on slab; there is no basement in this particular dwelling. The Giffords bought the property in April, 2009, and since then Mr. Gifford's wife gave birth last month to their third child. They have a growing family; they have kind of outgrown the home as it is right now. What they are looking to do is just to add one additional bedroom to the dwelling so they can remain in the dwelling. They really like the area; they want to stay in the area, but without putting an addition on the home, there is really nothing they can do. The existing dwelling was built back in 1960; the dwelling as it sits right now does not meet the rear, left-side, or front setbacks under the current zoning, located in an R-1 zone. What they are looking to do is to construct a 16x18' addition off the right rear of the home to put in master bedroom and bathroom. The only other spot they could expand is to the right of the dwelling. The issue with that location is that there is where the existing septic is located and going forward, if this is approved, they are going to have to do a voluntary upgrade to that system. The existing cesspool was approved for a two bedroom dwelling. Since they are adding, they are going to have to comply with Title 5. They will need that area for a new septic system. Basically the entire lot is accounted for. We are looking for some relief for the rear setback. From the 25' that is required now it would be 15.3 with that addition. The existing other dwellings in the area are also located within the current setbacks. There are two immediate abutters that are in the same situation they do not meet current setbacks. It is not like if this were approved, this house would be out of character with other homes in the area. With no basement there is not much they could do, if they go up, then they would need another side setback creating a hardship in another area. This is the easiest and most logical place to put the addition.

Ch. Grouke Are there any questions for Mr. Tallman? Is there anyone here to speak in favor of the petition? No response.

Matthew Gifford 8 Olin Avenue. Sworn in. I basically just want to reiterate what was said. I have a growing family. I am the only bread-winner right now. With the

economy and the market right now, to pick up and move is not realistic, we like the neighborhood and our neighbors and we would like to stay in the area.

Ch. Grouke Is there anyone here to speak in opposition to the petition? No response.

R Blum Currently there is a cesspool but they are upgrading and have to comply to Title 5 system?

J. Tallman Yes, there is no other place for them to build out, no matter what they were to do they need relief.

R. Blum This predates the rezone of the '70s no matter what they do they would need a variance.

R Read Pretty much all other homes in area are in same situation.

K. Rondeau made a motion to uphold the Decision of the Building Inspector and close the public hearing, seconded by R. Blum and **so voted unanimously by:** Ch. Edward F. Grouke, Keith Rondeau, Ronald Blum, Jeffrey Creamer and Robert Read

**VOTE: (Approve 5-0)**

R. Blum made a motion to approve the petition as submitted with the variances requested, seconded by R. Read and **so voted unanimously by:** Ch. Edward F. Grouke, Keith Rondeau, Ronald Blum, Jeffrey Creamer and Robert Read

**VOTE: (Approve 5-0)**

**2012-13 Antonio & Amy Tenreiro**, 185 Read Street, Seekonk, MA 02771, Owners and Petitioners, Appealing the Decision of the Zoning Enforcement Officer, and requesting a **Special Permit** under Section 5.2.1 and a **Variance** under Section 6.5 to allow construction of an addition with a front porch and stairway to a single family dwelling within the front yard setback at 185 Read Street, Plat 24, Lot 408 in a R-4 Zone containing 97,953 sq ft.

Antonio Tenreiro I want to make a correction; this is just for the front porch. The way it reads is as if it were for the addition. I was granted the permit for the addition on

the house, this is for the front porch that encroaches within the 50' setback. I have been in Seekonk 11 years, lived on Cherry Hill Drive, sold the house and bought 185 Read Street. We bought the house a little over a year ago and moved into it in March and started construction. When we bought the house from Pearl Anderson we promised we would not tear down the house; she built it with her husband to raise their children. We had it surveyed and the house is just outside the 50' buffer, the front steps are within the 50.02. The original intent was to put the house a little bit forward and make the Cape look like the addition but we found out it was within the 50', pushed whole house back, but I have a septic system in the rear I have to deal with so this as far back as I could push it and not encroach on the existing garage that is also there. The front porch lays almost entirely within the 50' buffer zone so I am looking for a Variance for the porch and steps. The steps that are there now are entirely within the buffer zone. Because the house is at 50.2, I think that is why the Commissioner thought I needed a Special Permit for a nonconforming lot because of those steps. They are not going to be there at the end of the day so I don't know if I need the Special Permit but definitely the Variance for the new front porch so the house looks good. I will be planting trees and shrubs in the front. It is a large lot. The neighboring houses are far away but if you start over by 152, I didn't realize it but there is a lot of ledge so it looks like there is about 80' of frontage but the property line must hug the other side of the right of way because there is an 8' piece of ledge in my front yard then it drops off. When it was surveyed the property line was about 15' into the lawn.

- K. Rondeau I thought that when I looked at this the lawn looked like it was more than 50'
- A Tenreiro I bet if you look at it the road hugs the other side of the right of way. That large rock comes through to the east of the new subdivision Madison Estates. Then there is an 8' drop from the yard to the road.
- R Read This is similar to the last one, large lot, not near any neighbors, I wouldn't have any problem with it.
- J Creamer I look at a porch like this is enhancement; ideally you wouldn't want to encroach but...
- Ch. Grouke Is there anyone here to speak in favor of the petition? No response. Is there anyone here to speak against the petition? No response. Are there any questions for Mr. Tenreiro?
- K Rondeau So basically he needs about 12.2'?
- A Tenreiro That is the maximum.
- Ch. Grouke The new addition is going to be flush with existing house.

A Tenreiro And porch to break up the look of the house, to soften it up a little bit.

K. Rondeau made a motion to uphold the Decision of the Building Inspector, seconded by J. Creamer and **so voted unanimously by:** Ch. Edward F. Grouke, Keith Rondeau, Ronald Blum, Jeffrey Creamer and Robert Read

**VOTE: (Approve 5-0)**

K. Rondeau made a motion to close the public hearing, seconded by R. Blum and **so voted unanimously by:** Ch. Edward F. Grouke, Keith Rondeau, Ronald Blum, Jeffrey Creamer and Robert Read

**VOTE: (Approve 5-0)**

K. Rondeau made a motion to grant the Special Permit and Variance as submitted as it will be in keeping with the neighborhood, there is the hardship of frontage of the original house and the petitioner merits relief, seconded by R. Read and **so voted unanimously by:** Ch. Edward F. Grouke, Keith Rondeau, Ronald Blum, Jeffrey Creamer and Robert Read

**VOTE: (Approve 5-0)**

**2012-14 JMV Realty**, 14 Berkley Street, East Providence, RI, Owner, by Joseph Vieira, 299 Providence Street, Rehoboth, MA 02769, Petitioner, Appealing the Decision of the Zoning Enforcement Officer, and requesting a **Special Permit** under Section 5.2.1 and 5.3 to allow the applicant to open dormers on the second floor of an existing legal, nonconforming dwelling at 9 County Street, Plat 9, Lot 208 in a R-1 Zone containing 78,843 sq ft.

**2012-15 JMV Realty**, 14 Berkley Street, East Providence, RI, Owner, by Joseph Vieira, 299 Providence Street, Rehoboth, MA 02769, Petitioner, Appealing the Decision of the Zoning Enforcement Officer, and requesting a **Special Permit** under Sections 5.2.1 and 5.3 to allow the construction of a second story addition over the existing foundation of a legal, nonconforming dwelling at 17 County Street, Plat 9, Lot 208 in a R-1 Zone containing 78,843 sq ft.

Ch Grouke took both petitions together.

Joseph Vieira 299 Providence Street, Rehoboth, MA. Sworn in. There is one lot of land with two addresses and two houses on one lot. They are both two family houses. On house (#9 County Street), there is a step down and small attic, I want to rip off the roof and put a rear exit, for egress there is only one entry now. I want to redesign the house, bring the roof line up and make it straight across so they can go in and out the rear door. It will stay as a two family. I want to make second floor the same as the first with a rear exit. It only has one door straight up the middle; I want to bring the second floor up to match the bottom deck with a full rear door so they can use the back door because it is safe and easier form the back.

The second petition (#17 County Street) is basically the same. It has an enclosed porch and I want to rip off the roof and bring up the second floor to make the living room bigger put a porch. It has one door that goes straight up, I want to make a second means of egress with a porch so they can come in and out the back of the house and for safety sake I want it to be a full legal 3' door. I want to build the first floor back up for additional space on the first floor and a two bedroom apartments. #9 (County Street) downstairs has three bedrooms and I will put new septic. There are two separate septic; there is more than enough parking. It is a large piece of property but the houses are too close to the street that is why I have to come here.

Ch. Grouke Is there anyone here to speak in favor of the petition? No response. Is there anyone here to speak against the petition? No response. Are there any more questions for Mr. Vieira?

R Read Anything he can do is a huge improvement.

J Creamer What he is proposing makes sense for both fire and safety sake.

K. Rondeau It is basically because it is two lots on one building; that is why it is nonconforming.

J. Creamer Two buildings that are two-family. That is unusual in this town.

Ch. Grouke So what he is doing is not substantially more nonconforming than what is there now.

R. Read made a motion to uphold the Decision of the Building Inspector and close the public hearing on both public hearings, seconded by R. Blum and **so voted unanimously by:** Ch. Edward F. Grouke, Keith Rondeau, Ronald Blum, Jeffrey Creamer and Robert Read

**VOTE: (Approve 5-0)**

R. Blum made a motion to grant the Special Permit for 5.2.1 and 5.3 as submitted on petition 2012-14, seconded by K Rondeau and **so voted**

**unanimously by:** Ch. Edward F. Gourke, Keith Rondeau, Ronald Blum, Jeffrey Creamer and Robert Read

**VOTE: (Approve 5-0)**

R. Blum made a motion to grant the Special Permit for 5.2.1 and 5.3 as submitted on petition 2012-15, seconded by K Rondeau and **so voted unanimously by:** Ch. Edward F. Gourke, Keith Rondeau, Ronald Blum, Jeffrey Creamer and Robert Read

**VOTE: (Approve 5-0)**

**2012-16 Marita V. LaRotonda**, 46 Juniper Road, Seekonk, MA, 02771 Owner, by Martin V. LaRotonda (Trustee), 46 Juniper Road, Seekonk, MA 02771, Petitioner, Appealing the Decision of the Zoning Enforcement Officer, and requesting a **Variance** under Section 6.3 to allow the construction of a garage and breezeway on an existing foundation of a single family dwelling on a lot with less than the required lot area at 46 Juniper Road, Plat 6, Lot 89 in a R-1 Zone containing 11,373 sq ft.

Martin LaRotonda 46 Juniper Road, sworn in. I would like to point out that this is the only issue concerning the existing 1962 residence. (inaudible) although our lot has 80% of the required area, the shape of this lot is much different than other lots in that it more than supports a (inaudible) garage and breezeway and all the required setbacks needed. Therefore 80% in this case equals 100% needed or required. This residence with unused foundation for garage and breezeway has been this way for over half a century along with property value and decreasing the architectural look of this part of Fieldwood Estates, not only for the public view but also on behalf of the neighborhood. So please vote...substantial hardship financial or otherwise this is unfinished business. If you look at the plot plan I put together and the abutters map, it shows the shape of the property. The boundary line goes down below the corner up to garage, on the plan you can see the garage existing foundation from 1962. To the right is the existing foundation, 572 square feet if you look to the right hand side of the foundation it is going to say 29' to the property line and then the left corner you will see 27' to the property line. The existing residence is 32' to the property line. The required setback is 25' so you can see we have more than enough. If we go to the front part of property, you will see 41.10' to street, and the right corner it is 43' from the street; and the right corner is 53'8" to right 52' even from the street.

J Creamer The size of the lot is the issue. This was put in I assume in 1962, would this have been approved by a building inspector back then but then did not get built?

R. Blum We had zoning changes back in 1976 so it made the house legal nonconforming.

M Larotonda The foundation for the house and the breezeway/garage was poured in 1962, but it was never constructed. My mother wanted something bigger there, and my father wanted a garage; so you know how that goes, rather than fight, nothing got built.

R Blum So the right corner of the foundation of the garage, is there a measurement there?

M. Larotonda Yes, 15'.

R Blum There is 15' in the front; there would be less in the back.

M Larotonda Yes, about 12'. You have to go under that fence a little bit, you have to give me some room because (inaudible) neighbors that lived there before.

R Read The front is okay, it is just the back.

R Blum So the proposed drawings, is it going to be a single story garage with nothing above it?

M Larotonda Right.

R Blum The same with the breezeway, enclosed?

M Larotonda Yes it is a 13x13 breezeway just your average ranch house style. The only difference is I am going to use 2'x6, my father built the house; I am just trying to complete what my father did then.

J Creamer Is the existing foundation in good condition?

M Larotonda Yes it is, it is perfectly level.

J Creamer No cracks?

M Larotonda There are a few fine cracks in the foundation floor has little bit of cracking.

K Rondeau I did not receive a certified copy of the plot plan.

M Larotonda See, that is the thing. In 1942, that is when all of this was required; my father already had that, the certified plot plan. I don't know what happened, what the Town did with it. Somebody must have lost it or something. Because he had to have had it because of the bylaws in 1942-1962, he couldn't have built that residence without having a plot plan.

K. Rondeau I guess the issue is, I am not seeing a lot of problems with what I have seen so far, its just that legally the foundation that exists, it is almost like there was no structure that was ever there. So if there was no structure that was ever there you need a certified plot plan to make sure it is all engineered properly and also to make sure setbacks are all correct. Right now we are going off hand drawings and although your hand drawings appear to be very accurate and you have done an admirable job to make sure they are accurate they have to be 100% accurate by a certified engineer because this has to be filed with the deed office.



M. Larotonda I understand sir but this structure would never have been built without a certified plot plan. It was issued with the permit. For me to get a certified plot plan it is going to cost a lot more hardship and if that is the case I won't be able to build this. For the sake of the neighborhood, I mean the neighborhood is going to see this foundation for another 35 years. It brings down the value of that part of the neighborhood.

Ch. Groucke Is there anyone here to speak in favor of the petition? No response. Is there anyone here to speak against the petition? No response. Are there any questions for Mr. Larotonda?

Barbara Hayden 40 Linden Road sworn in. We have lived on Linden Road for 31 years. We knew his parents. We see two issues; there are some cracks in the floor of the garage. It does come close to our side yard or backyard; the side of where the foundation for the garage is does come close to our backyard fence. Why this is an issue is because I want to say back in 2010 they had some water issues on the property. If they were to build, we would ask that the drainage for the garage, the gutters for the garage would be aimed out at their back piece of land not the side, otherwise we would have a flooded back yard. The other issue we have with regard to what he is saying about the property values in the neighborhood; the fact that the garage was not built is not issue to the property values. What becomes an issue for the abutters is the fact there are several abandoned vehicles on the property. The folks that walk by or the folks that are over the house are always asking what is going on over the fence. There an unregistered van, an unregistered trailer, an unregistered partially constructed car on the lot. What you see as a small lot. In our mindset that is more issue for our property values than the fact that the garage sits there with just a foundation. We have no objection if there is an engineered plan for the garage as long as drainage for the garage is done properly.

M Larotonda Those vehicles; one is a van and I want to use the van in the construction of the garage to put my tools in. The same thing with the camper. I would be able to put my tools in there until I build this garage. Those two things will be gone if I get this variance, I am going to get rid of both vehicles immediately. I don't want them there. The camper is in front of the garage, I can't have it there when I build the garage. I have no problem getting rid of the camper and the van. As far as the car goes; that is my brother's car he is going to have to get rid of it. That is going to go in the garage and be put together and get it out of there.

Ch. Groucke So you could comply with those things if this Board makes it a stipulation.

M Larotonda Yes, that is no problem at all. As soon as the garage is done, that's out of there, all of it. And the drainage; yes, I will point the gutters out wherever you want them I will put a French drain going out to the back yard left side.

Ch Groucke Normally I would agree with you Keith about needing engineered plans to know the exact amount of variance he is looking for but the only thing with this case is the foundation exists. Normally we would want an engineered plan to say where you can build a foundation but in this case we already know where it is, in granting this we could say on existing foundation.

- K Rondeau We don't have the old site plan.
- J Creamer We are going on blind faith that this foundation is anywhere on the lot. He did a nice job; but it doesn't mean anything.
- K Rondeau This has to be recorded at the Registry of Deeds.
- R Read Are we sure it is not recorded already?
- R. Blum It probably was recorded back in 1962.
- M Larotonda I forgot to mention, if you look on this plan, you will see that this was formally lot 64. This came off the original deed somewhere along the lines years later, they relabeled this lot. My neighbors lot is lot 60, they retained their lot number. I don't know when they did that if they lost the site plans, but I have to add a very important thing, my father was Victor Larotonda. He was a well-known carpenter in this area he built many houses, a lot of high end houses contracted in Barrington and around here and he worked as a construction foreman for various companies from Georgia to Alabama to here into Boston and Maine. He knew a lot about what he was doing, that is all I have to say.
- Mary Messier 26 Raymond Drive sworn in. I do agree with the gentleman about the site plan being needed and the only reason why I agree is because our house was built in 1985 or 1987; and when I went to get the permits to get our deck, the site plan that I presented which was approved by the Town of Seekonk was a mirror image of our house so the garage was on the other side. So I had to get an engineering firm to come out and do a current site plan. I can certainly understand when you say that you need it.
- K Rondeau I would like to allow the petitioner some time to present before the board a certified plot plan. I think we absolutely have to. This is one of those things that is supposed to be included in every packet; it was not included in this packet. We make this demand to every applicant before us and this would be an exception. I would be more comfortable to act on the matter. There is nothing in the deed that references the foundation just the lot itself. I think we absolutely need a certified plot plan as to the current condition and what it is he would like to do. I don't know if the Registry of Deeds will record this without a site plan, I am not sure of that. I would like to continue the hearing and ask Mr. Larotonda how much time he needs.
- Ch. Grouke Okay so there is a definite sentiment that you would like to see a site plan.
- Mr. Larotonda This has already taken a long time to get this far and the window of opportunity is closing. If I have to go on any further with this, it just isn't worth it and I guess I will have to leave it the way it is. I am serious about that because it just isn't worth it for me to have to do all that. I have done a lot already and I can't do any more. I have other things to do. I was going to build this myself. I have so much money set aside for it that money is not going to be there when I need it, I just can't go on any more with it. I am being honest, this is the last chance. I swear to God, it will be like this for 35 more years.
- Ch Grouke So there is a strong sentiment of two of our Board members to require this, and I think it is a reasonable request. It might be circumstances that we might not need it in this case

but I still think it is a reasonable request. I think we should entertain a motion to continue to August 27 and if within that time, if you don't feel that you want to go through that expense, then you can come back on that day and say you didn't do it and we will make a decision at that time. It is a, reasonable request and we usually require everyone to do this. For consistency we should do it also.

R Read Would he need anything more than just the plot with that side of the garage and how close it is?

Ch. Grouke You would think it might not be that elaborate of a thing, it might not be that expensive.

M Larotonda It is time; time is an issue more than anything. And secondly, I am not going to have enough money for this project. I know as time goes on, I should be doing different things. I am tired of playing with this garage, I have put in a lot of time; I can't do it anymore. Basically I am 95% sure when I come back on the 27<sup>th</sup>, I am not going to be able to do it. Another factor is I am not building this garage in the winter. I just have to say that I think the town should have this site plan; when they numbered that property lot, who knows if they moved the site plan. I don't know what they did with it.

R. Read Maybe he should have the building inspector look at the foundation.

K Rondeau make motion to continue the public hearing until August 27 at 7:00 pm and allow the petitioner to have the parcel engineered and present a certified plot plan site plan of the entire parcel if he desires to go forward, seconded by J. Creamer and **so voted by:** Ch. Edward F. Grouke, Keith Rondeau, Ronald Blum, Jeffrey Creamer

Robert Read opposed

**VOTE: (Approve 4-1)**

**2012-17 Mary & Maurice Messier Jr.**, 26 Raymond Drive, Seekonk, MA, 02771 Owners and Petitioners, Appealing the Decision of the Zoning Enforcement Officer, and requesting a **Variance** under Sections 6.3 and 6.6 to allow the construction of a deck within the rear yard setback on a single family dwelling on a lot with less than the required lot area at 26 Raymond Drive, Plat 2, Lot 32 in a R-1 Zone containing 10,025 sq ft.

Mary Messier 26 Raymond Drive. Sworn in. We purchased home in 2005 and made some changes to it internally; now we want to do the deck. We spend a lot of time on the deck but it is 7' x 13'; the zoning requirements in the town are that you need 25' to the boundary, and the proposed deck would be 20' x 14' which means that instead of 25' to the boundary, it would 18.8' to boundary. We are looking to replace with an AZEK deck, which is similar to a TREX material, it is low maintenance but more costly as well. The configuration of the deck right now, we

have 4 chairs and 4 very small chairs so if we have anymore than 2 people over, the deck is pretty much nonfunctional.

Ch. Grouke Is there anyone here to speak in favor of the petition?

Alicia Parker 20 Raymond Drive. Sworn in. They are wonderful neighbors and they spend lot of time on their deck; and it would be very advantageous for them to get a larger deck. Nobody can go on there except 2 people besides her and her husband, and I think it would be in the best interest of Seekonk to allow them to have their deck. It will be well used.

Ch. Grouke Is there anyone else to speak in favor? No response. Is there anyone here to speak against the petition? No response. Are there any questions for Ms. Messier?

J Creamer I can't imagine a 7' wide deck, it seems like a reasonable request; and from a practical standpoint, it is too small. Unless somebody is against it, I see no problem.

R. Read made a motion to uphold the Decision of the Building Inspector and close the public hearing, seconded by K Rondeau and **so voted unanimously by:** Ch. Edward F. Grouke, Keith Rondeau, Ronald Blum, Jeffrey Creamer and Robert Read

**VOTE: (Approve 5-0)**

K. Rondeau made a motion to grant the Variance as submitted, it is a reasonable request and it would allow them to enjoy the backyard, it is a well maintained yard and in keeping with the neighborhood, seconded by J. Creamer and **so voted unanimously by:** Ch. Edward F. Grouke, Keith Rondeau, Ronald Blum, Jeffrey Creamer and Robert Read

**VOTE: (Approve 5-0)**

### **Work Session:**

R. Blum In the near future, we may be hearing petitions from Wal-Mart; in the past, two petitions we have had for their outdoor area, we have always had concerns over

their nonconforming storage containers on the property. Can we ask Mary, the Building Inspector to look into that for us?

R. Read You mean at the existing WalMart?

R. Blum The last two petitions they had before us, every time they come before us, they always had outdoor storage containers and when we brought it up to them, they said "oh, we'll do it, we'll take care of it." It happens for a week until they get their application approved from us and they basically laugh in our face. If you drive in the parking lot you see storage containers, probably 10. My concern is this will probably come up again and I would like the Building Inspector/Zoning Enforcement Officer to say something. I don't know if they have temporary permits, but there should be a letter sent to them saying they should be removed from premises. Every application they promise, promise, promise and they do not follow through. Now they are going to be building this large establishment and I would like to set a precedent.

Ch. Groucke It is a matter of enforcement if something not being followed, we can make a request that she check it out. We do not know if they are in violation or not.

R. Blum But they were in violation twice before.

J. Creamer I do not want to prejudge anything. One thing I wanted to bring up; when we dealt with library for the signage, I believe one of the stipulations was they were supposed to remove the library sign out in front. That was one of the stipulations. One last thing, when you go down Route 6 and the amount of vans and trucks that have signage on them, they are hiding behind the fact that they are business trucks but they are all left out in front and it looks like one billboard after another.

R. Read Is there a bylaw against that?

J. Creamer One of the things we talked about at a previous meeting about updating the bylaws we could address it that way.

K Rondeau Those trucks are not allowed under the bylaw. It tells you the signs that are allowed in the sign bylaw and those are not so by exclusion, they are not allowed. We have had that problem before. Part of the other problem is how do we make a good informed decision if one of those companies comes before us for signage and they are sitting there and taking U-Haul trucks, paying for registration those trucks have not moved in months or years, they are registered but none work or are operable and they are basically like a billboard. If they come to ask for additional signage, how are we supposed to make an informed decision if they remove it and go and put it back afterwards? There are a lot of issues there that need to be addressed.

J Creamer It is a quality-of-life type thing. What do you want Route 6 to be; do you want it to be a trashy area? We spend a lot of time and effort trying to approve tasteful signage on buildings wherever we can and then you turn around and allow that just because we don't have a bylaw. Shouldn't we have something?

K Rondeau The bylaw is; by exclusion it should not be there so it is enforcement, we are not enforcement, that would be the Building Inspector/Zoning Enforcement Officer.

R. Read She has too much to do already.

**Adjournment:**

K Rondeau made a motion to adjourn the meeting, Seconded by R. Read  
**and so voted unanimously by:** Ch. Edward F. Grouke, Keith Rondeau, Ronald Blum, Jeffrey Creamer and Robert Read

**VOTE: (Approve 5-0)**

Meeting adjourned at 8:40 PM

Respectfully submitted by:

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Christina Testa, Secretary