

**MINUTES MEETING OF 10/13/04- MISSIC, Shaws, Sellars**

Members Present: Stuart Schulman, Robert Cadle, Chase Duffy, Mark Mulligan, Jay Prager

The MISSIC hearing was convened and continued to 10/20/04 at 8:15 pm.

The Board determined that a hearing is in order to reviewing raising comprehensive permit and other application fees. The Chairman said that the hearing will be advertised ASAP.

The Chairman convened the Shaw's temporary trailer hearing.

The applicant presented a plan showing the location of up to 14 trailers. Jack Meddy, Appledore Engineering and CN and B Construction were present. Mr. Meddy said that there will be 2 15x38 office trailers at the entrance by Rt. 119 and Sandy Pond Rd. He said that he wants to amend the application to have a lay down area for up to 12 trailers in the middle of the site as support to sub contractors to house building materials for the site. He said that all trailers will be on wheels and will be staggered during the construction period. He said that the 12 storage trailers will be off site within six months and noted that they chose those locations because they are most suitable to support construction. He said that on a site like this, the location is not untypical.

Discussion ensued regarding how long the project will take. One engineer said through June 2005. He said that certain items need to be purchased in advance and will be housed in the trailers until needed.

The Board asked for a bond of \$5000.00 to be posted with the treasurer.

Discussion ensued regarding why the office trailers need to be so close to the road. Mr. Meddy said that that is where wiring is and it would hamper operations to require the trailers to be more into the site. He said that contractors want to oversee the whole site from those trailers.

The Board seconded, moved and voted unanimously to grant a temporary permit to Shaw's for up to 14 trailers. The permit is valid for one year with a \$5000.00 bond posted.

The Chairman reconvened the Sellars hearing.

Town Counsel, although submission in writing not present, verbally indicated that there is no two-year waiting period required.

The Building Inspector said that the access issue is between property owners.

Discussion ensued regarding what Town Counsel recommended regarding both the easement and access issues.

Sylvia Sangliolo, abutter and assessor, presented an historical map. She said that the area is very steep and is like a huge kettle bowl. She suggested that there may have been a traditional fishing access and gave a brief history and said that her driveway is not a legal right of way. She said that she is concerned regarding liability if her driveway is used in winter. She said that even though it is stated on the assessor's maps as a right of way, it is not correct.

Mrs. Duffy noted concern regarding granting a variance before the access issues are cleared up.

The Building Inspector said that the Noyes took a tractor and crane down the road to construct their modular home. He also noted that if any structure burns down, the fire truck would need to get down there now.

Discussion ensued regarding how to determine whether one or three, etc dwellings effects the ability of fire truck egress.

Atty. Bowman expressed concern that both the Noyes and Sangliolos could build with the same issues and his client would not be able to. He said that neither Noyes nor Sangliolo have a deeded access to Whiley Rd.

Mr. Noyes said that a point of their property touches Whiley Road but not at the point of their driveway.

Atty. Bowman said that the right of way does not entirely rest on their land. He said that his client could tomorrow get a permit to reconstruct a residential home if it was done in pieces, but this is not economical.

Discussion ensued whether the building is abandoned.

Atty. Bowman said that it was used all summer. He said that the private access issue is irrelevant but will share a statement from a previous owner that for a period of 40 years they used the Sangliolo access to the property.

Discussion ensued regarding how to handle the issue that neither neighbor has frontage. Of note: This case is different because the two driveway owners refuse access to the applicant.

Mr. Noyes said no to the right of way.

Mrs. Sangliolo said no to the right of way.

Discussion ensued that the two opposing attorneys agreed that no written deeded access or easement has been found to date.

Atty. Bowman said that there are 4 elements for the variance that need addressing and noted that the lot is clearly unique and has size, wetland and access issues. He said that undue hardship would be created with no variance and stressed that it is not his client's fault that no access exists. He said that it is not against the public good because they will be replacing the old septic system and a dilapidated building. He stressed that the residence is already there and the new structure is limited to one bedroom and will be no larger and no more detrimental than the building already there. He stressed that the same criteria exists here as with the Noyes application in 1998. He said that the special permit seasonal conversion criteria are laid out specifically because they have the necessary information from the BOH that satisfies that criteria. He stressed that many conversions have been allowed.

Discussion ensued re: how to rate the special permit criteria. Of note: Traffic flow and safety are the only unresolved issues.

Atty. Bowman suggested acting on the variance and continuing the special permit hearing to get BOH info.

Mr. Noyes said that if vote is taken before the access issue is resolved, they will appeal.

The Board noted that it doesn't want to vote on the variance before the special permit issues are addressed by the BOH.

The hearing was continued to 11/18/04 at 8 PM.

The meeting adjourned at 10:15 pm.