



## Town of Groton Massachusetts Zoning Board of Appeals

Meeting Agenda and Minutes

### January 27, 2016 – Scalley, Scampini, Stephens

#### Present

Cynthia Maxwell, Chairman

Robert Cadle, Member

Mark Mulligan, Member

Jay Prager, Member

Bruce Easom, Associate Member, participating by teleconference.

#### Not Present

Alison Manugian, Member

Berta Erickson, Associate Member

A quorum was attained. The meeting was called to order at 7:00 pm.

#### Meeting Minutes

##### Scalley Special Permit

Chairman Maxwell reconvened the hearing.

Mr. Black, contractor, requested a continuation to the next meeting in February 24, 2016. Chairman Maxwell read the request into the record.

Member Mulligan made a motion to grant a continuation to February 24th as requested by the applicant. The motion was seconded and passed unanimously with Members Easom, Mulligan, Prager and Maxwell all voting aye.

##### Scampini Accessory Apartment Special Permit

Chairman Maxwell reconvened the hearing by reading the legal notice.

The Scampinis were present.

No abutters were present.

Member Easom asked for a brief description of what is planned.

Stephanie Scampini said she wants to live in the apartment, due to a disability that does not allow her to live totally independently. She said she intends to work in town as a nanny if she is able to work, noting that she knows the town well and loves it. Wants to make a bit of the house a space she can return to. Wants to live as independently as possible dealing with this lifelong illness (just started driving).

Member Mulligan said the application speaks for itself and meets all guidelines.

Member Cadle said he and Member Easom were concerned just because the applicants were not present and not about the apartment itself. He said they are satisfied because they are here.

Member Easom said he is satisfied.

Mrs. Collette said the Groton ADA commission supports the application wholeheartedly.

Member Prager made a motion to approve the application for an accessory apartment as described in the application provided only that the apartment meets the requirements of the Groton Zoning Bylaw. Member Mulligan seconded, with Cadle, Mulligan, Prager, Easom and Maxwell all voting aye.

### **Stephens Appeal**

Chairman Maxwell convened the hearing by reading the legal notice.

Mr. Stephens and his attorney, Brian Burke, were present.

Aleta Manugian was present.

No abutters were present.

Michelle Collette and Ed Cataldo, Building Inspector, was present.

Atty. Burke said the town handled the situation well when it was brought to their attention that a structure was constructed in the floodplain illegally. He said that next is the enforcement issue of the large, permanent cement blocks installed with no permits. He said his client is in the floodplain as well and feels the barriers may affect the flow of the water. He said that in 2010 there was a serious flood in the area. He said his client has a small lot and is retired and on a fixed income and takes this very seriously and personally and wants the board to take action against a business that has violated many town bylaws. He said he knows it is a preexisting nursery operation but said the previous owners were able to operate without a stone block structure. He said he wants a drop-dead date and fines for a daily violation of state and town codes. He said he wants the town to take a moment to offer relief to his client. He said his client understands that it is difficult to remove them because the ground is frozen but March is flood time and he wants action before them. He also presented some of the wetland bylaws to show how blatant the violations are in a heavily trafficked area.

Member Mulligan asked whether anything has been done to the offending structure.

Atty. Burke said no, noting that the owner has more of a landscaping business.

Member Mulligan asked what the blocks are for.

Atty. Burke said to separate the bark mulch, noting that the town was responsive to his client's concerns.

Member Mulligan said he has no problem with enforcement of the Zoning Enforcement Officer's orders.

Mr. Cataldo said the gist of this is what is a structure, noting that when he first saw the blocks, they were stacked to four feet and could be considered a structure. He said the nursery owner has removed blocks such that the row of blocks is down to 24 inches, which is well under the four-foot limit. He said that under town bylaws, the blocks would have to be a structure in place indefinitely. He said the blocks are temporary and just sitting there, noting that the letter has been complied with. He said the Conservation Commission suggested moving the blocks but without a survey he felt they could not expect him to move them.

Member Prager had a procedural question: whether the planning board should be consulted because this is out of ZBA purview.

Atty. Burke asked whether the blocks are actually in the ground.

Mr. Cataldo said the blocks are not permanent in any way.

Atty. Burke said the blocks are an eyesore and that he feels it is expanding what the nursery originally did.

Member Cadle said the nursery has been selling bark mulch for many years.

Discussion ensued regarding whether this is a ZBA issue.

Member Easom said he is in agreement with Member Prager, that there is no appealable decision by the Zoning Enforcement Officer.

Mrs. Collette suggested that the applicant withdraw because there is ambiguity.

Atty. Burke had a suggestion that the hearing is postponed to get a decision from the PB.

Mrs. Collette said the Planning Board is not an appealable process but just an opinion.

Mr. Stephens said this should be considered a dangerous use under §218.5, noting that this seems contrary to common sense. He said he has no flood insurance.

Discussion ensued regarding how applies to §218-5, which applies to structures, which this is not.

Mr. Cataldo said it is all hearsay and the board can't make a determination on that.

Member Mulligan said he wants the zoning enforcement officer to enforce an order issued and there has been compliance.

Member Prager said there could be a problem but he has no way of determining what danger is there, if any.

Mr. Stephens said he went to the insurance company of nursery owner and they were upset with illegal activity.

Mr. Cataldo said that is not relevant.

Further discussion ensued regarding conservation commission issues and how they to apply to the enforcement order.

Member Prager said he has no evidence that the blocks are dangerous.

Member Easom suggested a continuation to get more info.

Member Prager said it is not within the purview of the ZBA.

Discussion ensued regarding Mr. Stephens' dissatisfaction with the process and the Zoning Enforcement Officer.

The Chairman closed the public hearing and the applicant said he would withdraw his application.

Mrs. Collette said the Planning Board stands behind the Zoning Enforcement Officer.

Member Mulligan made a motion to close the public hearing. The motion was seconded and all voted aye in voice.

Member Mulligan made a motion to accept the withdrawal, which was seconded with Maxwell, Mulligan, Cadle, Prager and Mulligan all voting aye.

### **Other business**

## **Minutes and Bills**

One Groton Herald bill was signed.

Minutes from November 18, 2015 were approved unanimously, by roll call vote.

Member Prager made a motion to adjourn at 8:15 pm. The motion was seconded and all voted aye in voice.

Approved 2/24/16