



Town of Groton Massachusetts Zoning Board of Appeals

Meeting Agenda and Minutes

March 1, 2017 – Garger/Pitre Appeal, Thomas Vet Clinic, WKT

Present

Cynthia Maxwell, Chairman
Mark Mulligan, Member
Robert Cadle, Member
Bruce Easom, Member, via teleconference

Not Present

Jay Prager, Member
Berta Erickson, Associate Member

A quorum was attained. The meeting was called to order at 7:05 pm.
One Board Member was unable to attend so a unanimous decision is required.

Meeting Minutes

Garger Appeal – 47-1 Redskin Trail, #14-16

Chairman Maxwell reconvened the hearing.

The appellant said he was willing to continue with a four-member board, understanding that the decision must be unanimous.

Chairman Maxwell said she felt that without new evidence, the BI could not be overturned.

Mr. Garger said he had no new evidence but had three new photographs to be submitted if the board wanted to see them. He said the commercial activity continues on the site.

Member Cadle asked how old the photographs were and what they showed.

Mr. Garger said they were several weeks old, noting that two are of a huge log crane on the property and one is of a bucket truck. He said there were also several complaints through the years.

Member Cadle said there is several cease and desist orders and Ayer District Court issued fines.

Mr. Pitre said there were no fines and the court and Mike Kinney, BI at the time, said there was no wrongdoing. He said a friend doing a job for him at his house owns the bucket truck. He said he did not know what the other picture was of. He said he owns one truck. He said that Mr. Cataldo (Building Inspector and Zoning Enforcement Officer) has been at his house many, many times and has found no wrongdoing. He said he cuts wood for his family only.

Member Mulligan asked what the complaints of the neighbors are.

Mr. Garger said this has been going on for years, and the noise is constant, on weekends, etc. He said there were cease and desist order and fines, noting that it seems the most active times are on the weekends.

Mr. Pitre said he has weekends off and why he cuts wood then.

Member Mulligan asked where the appellant's house is in relation to Mr. Petres.

Mr. Garger presented a map showing how close the houses are to each other in the neighborhood, noting that it gets really bad down there.

Member Mulligan said that he feels that he can't vote against the Zoning Enforcement Officer since there is no zoning violation occurring.

Mr. Garger said he feels it is open to interpretation and this BI interprets it differently than other BIs in the past.

Discussion ensued regarding when the first cease and desist order was issued. Mr. Garger said the first one was issued in 2011.

Mr. Pitre said he does not have paperwork from Ayer District Court. He said he is not selling wood, but just cutting it for his ten siblings and friends.

Mr. Garger said a special permit would be good because there could be limits and restrictions on when the wood is cut.

Member Cadle said he went to Ayer District Court and they could not find a file on it.

Discussion ensued regarding whether it was a magistrate hearing for mediation and thus there would be no court file.

Mr. Garger said he was unaware of any court activity. He said two previous Building Inspectors had a problem with the operation but everything ordered was ignored. He said he doesn't understand why Ed Cataldo doesn't have a problem with it.

Member Easom asked about a noise ordinance in the bylaws.

Mr. Garger said that §218-5.A. prohibited uses discusses offensive noise.

Member Easom said he wonders if there is another avenue for them to pursue because there does not seem to be a resolution here as there is no proof of sale of wood.

Mr. Garger said the noise of construction vehicles is what is bothersome, noting that the wood cutting part of the business is the least of his problems.

Chairman Maxwell noted that the board has to deal with what is before it, which specifies no sale of wood.

Mr. Garger said he feels that §218-5 covers that.

Member Mulligan said that there should be a way of dealing with the noise such that abutters can have enjoyment of their property.

Member Easom suggested going to the Building Inspector about whether the situation/operation violates §218-5. He said he feels that that is the avenue, since Mr. Cataldo found no evidence of the sale of wood.

Member Mulligan agreed.

Member Easom agreed that evidence is difficult to obtain.

Mr. Garger said there is obviously a problem with noise, noting that a permit would help the situation out because of limitations on time to cut, etc. He also noted that he had a report that Mr. Pitre has only three siblings.

Discussion ensued regarding how Mr. Garger could continue his appeal.

Member Easom made a motion to act to uphold the BI's decision because there is no evidence of sale of wood. The motion was seconded.

Member Cadle said that he is inclined to vote against that motion because the operation appears to be commercial. He said he feels it is up to Mr. Pitre to prove what he does with the wood.

Discussion ensued regarding what a three to one vote would mean and whether the board could order the Zoning Enforcement Officer to issue a cease and desist.

Member Cadle said this needs to be resolved.

The motion to uphold the Zoning Enforcement Officer failed by a vote of three in favor to one opposed.

Discussion ensued regarding what this means. In essence, because the BI was not upheld, there is by default a zoning violation. Any aggrieved party has the right to appeal this decision, which needs to occur within 20 days of from the date the decision is filed with the Town Clerk.

Thomas Special Permit– 2-8 Hollis St., #1-17

The applicant agreed to a four-member board, asking for the ability to receive permission for a continuation based on a polling of board members as to their intent to vote.

Chairman Maxwell convened the hearing by reading the Legal Notice. She read letters from Marquis and Atty. Collins as agent for McElroy into the record.

Adam Costa, agent for the applicant, noted that there are multiple permits required, including minor site plan review, conservation commission review and HDC review. He then presented an updated plan, noting that it is 2-10 Hollis Street. He said he takes exception that this is at a dangerous intersection because the entrance is somewhat removed from Main Street and there is a second access on the other side of the property. He said the district is zoned for this type of use, which is allowed by special permit. He said the real estate office takes up much of the front building and the vet clinic will be in the rear building. He said the first floor will be renovated for clinic space and part of the second floor will be renovated for office space as associated use for the clinic. He said there would be 28 parking spaces on site and nine will be for the clinic, as required under the Town Bylaw.

Rob Oliver, engineer, presented a plan in colors showing the existing conditions vs. new, noting that there is a need for additional parking, which will be added in an area with gravel. He said there is no striping but he has the plan laid out for 28 total spaces. He said they would be in front of the Conservation Commission because there is a wetland to the rear of the property. He said runoff would need to be addressed by providing a rain garden, along with additional treatments. He said there would be a sign on the freestanding existing sign and on the building, noting that a dumpster with screening will be provided but otherwise only minor changes to the site.

Mr. Costa said HDC review would be required for parking and signage.

Mr. Garger asked about the wetlands and dogs relieving themselves.

Mr. Oliver said there would be a designated area for dogs to relieve themselves outside of the buffer zone and will be reviewed by minor site plan review and Cons. Comm.

Dr. Thomas said waste would be cleaned up multiple times a day to prevent smell and damage to the wetlands.

Member Mulligan asked about the scope of the business.

Mr. Costa said that it is just a day business with limited evening hours and some Saturday hours, noting that there is no overnight kenneling or emergency care.

Member Cadle asked whether there would be overnight facilities for very sick animals.

Dr. Thomas said there are clinics available to provide ancillary services for emergencies or overnight stays for sick animals and she will utilize them.

Member Mulligan asked how many animals per day would be going through.

Dr. Thomas said she has not come down to a number per day yet but will get that information for the board. She said the activity behind the building would be limited because of the location of the entrance.

Member Easom said that as a businessperson, she must have an idea of the number of patients per day.

Mr. Costa said there are 5200 cats and dogs in Groton, which would be about 10,000 visits per year. He said there are two existing clinics in Groton, one mobile only and one stand alone, noting that there is more than enough animals to keep all three clinics busy.

Member Easom said he figures 15 visits per day as half of the visits, noting that he wants to get an idea of the intensity.

Mr. Costa said this doesn't warrant a full traffic study but he looked at regional figures for trip density.

Mr. Garger said Sleepy Hollow vet clinic has been here for years, they have the Westford emergency vet and it seems adding one more vet is over doing it. He said Sleepy Hollow is away from a residential neighborhood so doesn't seem there is the need for another vet in that area, noting that he does not feel the town could support another vet.

Member Cadle said with all due respect, that is not function of this board, but up to the applicant to determine whether she has the data to make this proposal feasible.

Sherry Robinson, closest abutter on Main Street, said she is concerned about noise at night. She said she would like an avenue to complain if there are yapping dogs on Sunday night.

Chairman Maxwell asked about clinic hours.

Dr. Thomas said it is a work in progress but she is looking at drop off hours in the morning, so 8 am to 6 pm, maybe until 7pm, and 8 am to 1 pm on Saturday. She said the Westford emergency is truly an emergency clinic and not for well visits.

Member Easom asked whether the applicant is amenable to a restriction to no overnight boarding.

Dr. Thomas said she is okay with that and has been representing that. She said she is very aware of smell and noise issues and does not want that to be a problem.

Member Mulligan asked whether they are renting and whether any other tenants would be there.

Dr. Thomas said they would have the whole building.

Mr. Costa said they picked a building that needed the least renovations to the exterior, noting that he thinks this type of use fits in with village center business zoning.

Dr. Thomas said she wants to keep this small to accommodate the needs in town, noting that a lot of money is leaving Groton for vet care.

Chairman Maxwell said she wanted it in the record that they are going to the Conservation Commission and will leave/create a good vegetative buffer to Mayfield Drive.

Mr. Costa said there is no real outdoor use of the property other than the dumpster.

Dr. Thomas said she would treat dogs, cats and small animals on the site.

Member Cadle said he wants to know where the dumpster will be located.

Mr. Oliver showed the location, where on the original plan is marked as the handicapped spot. He said the handicapped spot would be located in front of the building and receive new paving.

Member Cadle asked about fire truck maneuverability.

Mr. Oliver said he is working with the fire chief but he initially said it fine as long as an engine can get in.

Mr. Costa said more site plan review is taking place tomorrow morning.

Member Easom asked about the two parking spaces shown on the plan that were not shown on the key.

Mr. Oliver said would be parking spaces, probably where the staff will be parking, in front of the dumpster.

Member Cadle said he is concerned that most of the clinic is in the 50 foot wetland buffer and asked about plans for snow removal.

Mr. Oliver said some snow would be pushed back onto the lawn. He said this is an existing facility and because they are not changing anything his is not sure the Cons Comm. will have concerns with snow removal. He said that if necessary, large amounts of snow would be taken off site.

Member Easom asked whether they wanted to close tonight or continue to further along in the permitting process.

Mr. Costa said they are willing to close tonight as long as they can adjust the site plan as required.

Member Cadle made a motion to approve a special permit to Dr. Claire Thomas for the application filed and subject to the following conditions: hours 8 am to no later than 8 pm, no overnight boarding, all Cons. Comm., HDC and site plan review conditions apply, and there will be a specific area designated to curb pets in accordance with the plan dated 2/28/17 and stamped by Dan Wolfe. The motion was seconded by Member Easom and passed unanimously.

WKT Special Permit– 24 Indian Rd., #2-17

Chairman Maxwell convened the hearing by reading the Legal Notice. She then read a letter in support of the proposal from Atty. Collins and an email from Tom Orcott, Water Superintendent.

The applicants opted to proceed with a four-member board provided with the option to request a continuation.

Brian Milisci, agent for WKT, LLC (Ron Whitmore), said he is asking for a special permit to construct a new dwelling at 24 Indian Road, noting that the existing dwelling is in serious disrepair. He said the soils are well draining and they have a plan for a title v septic system. He said the lot is small so it is more difficult to get a normal sized dwelling to work.

Ron Whitmore said the new dwelling would be a colonial style three bedroom with an attached two-car garage.

Mr. Milisci said they would be extending the water main to get town water, noting that none of the non-conformities will be made greater and the rear setback will be conforming.

Member Cadle asked whether they have permission for a septic system from the BOH.

Mr. Milisci said not yet, noting that they want a permit to allow placement of the house and then will go to the BOH.

Discussion ensued regarding some of the setbacks, frontage, etc.

Member Easom said that they are increasing non-conformity slightly but he thinks it is okay.

Mr. Milisci said this meets the criteria for a special permit.

Member Cadle made a motion to grant conditioned that BOH conditions are met and the water line is extended. The motion was seconded and passed unanimously.

Other business

Minutes and Bills

One Groton Herald bill was signed.

Chairman Maxwell made a motion to approve minutes from January 25, 2017. The motion was seconded and passed unanimously. All approved.

Member Cadle made a motion to adjourn at 9:20 pm. The motion was seconded and all voted aye via roll call.

Minutes approved 5/24/17.