



Minutes of Meeting

January 4th, 2022

7:00PM

Virtual (Zoom) Meeting

Board of Appeals members in attendance: Ken Kozik, Adam Hoffman, Scott Robb
Staff Present: Kristen Guichard, Planning Director and Zoning Enforcement Officer

Opening

Chair, Ken Kozik opened the meeting at 7:01PM. He read the guidelines for the virtual meeting. He called the roll. Ken Kozik- Aye, Adam Hoffman-Aye, Scott Robb- Aye

I. Regular Business

1. Approve previous meeting minutes

Adam Hoffman motioned at 7:04 PM to approve meeting minutes from 12/07. Scott Robb seconded the motion. Roll Call Vote: Ken Kozik- Aye, Adam Hoffman-Aye, Scott Robb- Aye.

2. Administrative Updates: None

II. New/Special Business

1. ZBA 21-02–Remand Public Hearing –62-64 Pope Rd Special Permit

Chair, Ken Kozik opened the public hearing at 7:05PM

Ken Kozik gave an overview with Alex Parra on the past history of last few hearings. The meeting was previously continued to allow the ZBA members to review the documents. Ken Kozik stated that the ZBA was able to read the settlement agreement and apology letter.

Ken Kozik asked the town council why the ZBA was in the meeting when the Select Board makes the final decision. Town Council stated the SB has no jurisdiction under 40A and cannot grant the special permit. She explained that only the ZBA can approve the special permit, and if they deny it, the court could possibly grant the special permit. They went over the settlement agreement and addressed questions the ZBA had.

Adam stated that he disagreed with the settlement agreement.

Residents' Comments- Terra F of West Acton, disagreed with the settlement agreement and thinks the permit should be denied, and continue to go to court. She asked about the fines the applicant has faced, in which Town Council answered was \$300 a day from the first day of complaint until the day the applicant filed for a special permit, fines accumulating to the low \$40,000s.

John Neale of 76 Pope Rd, asked if the applicant would need to get a separate permit to build a barn on the property where a second driveway was added. Ken Kozik stated yes. Leo- who is the applicant, said mediation went ok and he is as satisfied as he can be and wants to move forward.

Board Comments: Adam asked town council if the ZBA does grant the remand special permit, if they could condition it. Nina stated yes.

Adam Hoffman motioned to close Remand Hearing 21-02 at 7:39PM. Scott Robb seconded the motion. Roll Call Vote: Ken Kozik- Aye, Scott Robb- Aye, Adam Hoffman- Aye

Deliberations: Adam Hoffman stated he does not think the negotiation agreement is an adequate deterrent for the applicant, who has abused the town bylaws multiple times during the same project. He noted a condition should be applied that if the applicant violates any zoning bylaws in the future that he can no longer be allowed to be involved in any building project or receive any occupancy permits for two years.

Scott Robb agrees with Adam, and that a stronger message needs to be sent to the applicant.

Ken Kozik wanted to make clear that the special permit amendment was not denied based on any past infractions. It was denied because it did not fit into the mandatory findings in bylaw 10.3.5.

The ZBA members were all in agreement that they run a fair board did not feel comfortable with granting the special permit amendment after multiple violations of the bylaw within the project.

Ken Kozik motioned at 7:50PM to approve ZBA 21-02. Adam Hoffman seconded the motion. Roll Call Vote: Ken Kozik-No, Scott Robb-No, Adam Hoffman-No

2. ZBA19-06 –Appointment for Minor Amendment #2-12 Orchard Road Special Permit

The original permit for 12 Orchard Drive allowed for the larger reconstruction of a 2,150sf house to an increase of 3,522sf. The applicant then requested an amendment to downsize due to the high construction prices. They went through another public hearing for the amendment, which the Board granted 3,108sf. Applicant is now requesting an increase in 72 square feet more.

Adam Hoffman motioned at 8:01PM to approve Minor Amendment #2. Scott Robb seconded the motion.

Roll Call Vote: Ken Kozik- Aye, Adam Hoffman- Aye, Scott Robb- Aye.

Adam Hoffman to write the decision.

3. ZBA21-16- Public Hearing-110 Stow Street Special Permit

Chair, Ken Kozik opened the hearing at 8:02PM

Applicant Matthew Damon described the proposed project. His company Homelight Property Group buys distressed properties, renovates them and puts them up for resale for the hope to improve the quality of the neighborhoods. He purchased 110 Stow Street and wanted to tear down the structure due to extreme poor condition and construct a new home in its place. The new home would have an increase of 648 Feet. Matt referred to the uploaded documents and plot plan describing the condition of the current home and showing the plans for the new one. He stated that they meet all setback requirements but is seeking relief to expand the square footage on a non- conforming lot due to the frontage.

Board Comments: Ken Kozik asked if the applicant had pictures of the homes in the neighborhood. The applicant showed and compared information of neighboring homes and stated he believed it fits in with the character of the neighborhood. Board members agreed that this home is quite larger than the other homes and asked why the applicant cannot build with the same foot print of the original home which is still large. Applicant stated that building costs were high and to make a profitable investment, the house needs to be larger. He stated that he also misread the bylaws regarding size.

Kristen Guichard described what would be included in gross square footage.

Terra F of West Acton, stated her concerns with the house being too large and believes the application should be denied.

Sujith Xaivier of 112 Stow St, stated his concerns with the unhealthy trees on the property and the possibility of them falling on his house during construction.

Patrick Hern, Abutter – believes the trees on the property are a hazard. Thinks if the permit is approved, it should state the tree issues would need to be resolved.

Scott Seiber of 108 Stow St- Agrees with the tree issues and prefers a smaller house be built.

Adam Hoffman motioned at 9:00PM to close public hearing 21-16. Scott Rob seconded the motion. Roll Call Vote: Ken Kozik-Aye, Adam Hoffman- Aye, Scott Robb- Aye.

Deliberations:

8.1.5- All board members agreed that it increases the non- conformity.

10.3.5.3- Ken Kozik believes the house will be detrimental to the neighborhood due to the size. Adam Hoffman and Scott Robb do not believe the size is detrimental but all board members agreed that the proposed house does not fit in the context of the neighborhood because of the size.

Adam Hoffman motioned at 9:11PM to deny the special permit for 21-16. Scott Robb seconded the motion. Roll Call Vote: Ken Kozik- Aye, Adam Hoffman-Aye, Scott Robb-Aye

Scott Robb to write the decision.

Adam Hoffman motioned at 9:12PM to close the meeting. Scott Robb seconded the motion. Roll Call Vote: Ken Kozik-Aye, Adam Hoffman-Aye, Scott Robb-Aye.

Materials Used at the Meeting:

<http://doc.acton-ma.gov/dsweb/View/Collection-14360>

01/04/2022 Agenda

Minutes for 12/07/21

ZBA- How to participate remotely

62 Pope Rd Application Materials as follows:

62 Pope Road Application

Additional information from Stamski and McNary

Barn Architectural Plans

Apology Letter executed by Leo Bertolami

Copy of 62+64 Pope Rd 300SF

Legal Notice

Settlement Agreement executed by Leo Bertolami

12 Orchard Drive Application Materials as follows:

12 Orchard-3 Bdrm 1st Floorplan

12 Orchard-3 Bdrm 2nd Floorplan

12 Orchard- 3 Bdrm East Elevation

12 Orchard-3 Bdrm North Elevation

12 Orchard- 3 Bdrm South Elevation

12 Orchard- 3 Bdrm West Elevation

12 Orchard Drive Amendment Request

5201.PPL

Amended 1st Floor

Amended 2nd Floor

Final Decision 19-06 Grant Special Permit 12 Orchard Dr Stamped

110 Stow Street Application Materials as follows:

Revised Plans 12/22

Application

110 Stow St 300FT

Email 12-28-21

Picture of tree

Terra Email 12-30-21

Planning Dept Memo

Conservation Comments 12.1

Engineering 1-3-22

Fire Dept Comments 12.1

Health Dept Comments 12.1

Water Dept Comments 12.23