

**BOARD OF APPEALS
REGULAR MEETING MINUTES
JANUARY 19, 2011**

Members Present: Clayton M. Harrison, Chairman
Gerald Coutinho, Vice Chairman
Christopher Graham
Kimberley A. Fernandes, Clerk
Donna Lambert, Alternate
William Wyatt, Alternate
Absent: Kendal Tripp
Also Present: Ralph Souza, Building Inspector

Chairman Harrison called the Zoning Board of Appeals meeting to order at 7:00 PM in the Westport Town Hall, 816 Main Road, Westport, MA.

Barbara (Bastille) Rezendes – RE: A public hearing on the application request of Barbara (Bastille) Rezendes, 989 Elm Street, Somerset, MA for a variance from Town Bylaw Article 15 and Zoning Bylaw Article 2, Section 2.4.2.2 to allow a mobile home to be placed on property located at 0 Tickle Road, Westport, MA for a six-month period on an annual basis for recreational purposes. The property is located on Assessor's Map 20, Lot 34.

Sitting on Petition: Harrison, Graham, Fernandes, Lambert, Wyatt
Attending: Ralph Souza, Building Inspector/Zoning Enforcement Officer
Barbara (Bastille) Rezendes, (applicant/owner)
Mr. Rezendes (applicant's husband)
Abutters: Stephen and Sara Motta, 31 Tickle Road

Chairman Harrison called the meeting to order at 7:00 PM. with the reading of the public hearing notice. Mr. Harrison noted that no correspondence was received on this matter.

Mr. Rezendes stated the property has been in his wife's family for at least 100 years. There was a small cottage on the property but it burned down about 30 years ago. The property is located at the end of Tickle Road and it is considered undevelopable. Mr. Rezendes stated his family has been putting their 26-ft. camper on the lot to enjoy during the summer months. The camper is registered and insured. Also, during the summer when the family is there, a port-o-john is rented and the camper uses its own water supply. After the season, the camper is transported back to Somerset, MA to be emptied and placed in storage. There is a well onsite, it is capped and has never been used in a number of years and there is no intention of the well ever being used. The lot is basically a 5,600 sq.ft. parcel owned solely by his wife, Barbara. His wife and two siblings own the abutting lot. The lot was left to his wife when her uncle passed away.

Mr. Harrison stated the Zoning Board of Appeals only deals with the zoning aspect of the lot; as for being able to place a camper on the lot seasonally, that is under the jurisdiction of the Board of Selectmen. Mr. Harrison stated it would more likely be treated by the Selectmen such as the seasonal trailers are treated in the East Beach area.

Mr. Souza stated that while he was on another inspection in the area, he noticed a trailer on the lot. Mr. Souza did not receive any complaints that prompted him to this lot. Mr. Souza stated this is a similar situation as to East Beach area; the lot is considered undevelopable. Mr.

Rezendes stated he was not aware of the fact that a camper was not allowed on the lot until Mr. Souza advised him.

Mr. Coutinho stated the last sale date of the property was 1992, when it was transferred from Walter Sliwa; this is the date the property was transferred to Mrs. Rezendes upon her uncle's death.

Mrs. Rezendes stated the property is just a lot now with no dwellings on it; mostly, the family used tents to sleep in and enjoy the property. The fire that destroyed the cottage happened in 1976.

Abutter Stephen Motta stated he and his family has no problems with the Rezendes family putting a seasonal trailer on the property.

Ms. Lambert asked if the trailer had a pump-out agreement for gray water. Mr. Rezendes stated they do not pump out the gray water, it is brought back to Somerset to be emptied at the end of the season.

Ms. Fernandes stated that undevelopable usually means the property is too wet to build; what plan is in place if torrential rains cause flooding. Mr. Rezendes stated the lot is undevelopable due to the size of the lot, not wet conditions but if there was to be any flooding, as a protection for their asset, the trailer would be taken home to Somerset. On the lot, there is a gravel area on which the trailer is placed for the season.

Mr. Coutinho stated the only thing the Board could see, is a note on the Assessor's record and a written determination from the Building Inspector/Zoning Enforcement Officer, that the property is undevelopable.

Mr. Souza stated there is a 4-yr. window for intentional abandonment; the lot is undevelopable by minimum standards. The required size is 20,000 sq.ft with 100-ft. frontage. A variance is needed to apply to the Board of Selectmen for a seasonal trailer permit.

Mr. Wyatt stated this is an undevelopable lot and there are a lot of those throughout the Town; this could start something in future. Perhaps, people would be looking to divide their lots and ask for this type of thing.

Mr. Graham stated that each case would have to be looked at individually.

Mr. Coutinho stated that many of the lots in Town are undevelopable and legally, the lots could not be divided to do this. Mr. Coutinho stated that according to the Assessor's records, there was a house/cottage on the property that burned to the ground. Also, once a variance is granted, it is recorded with the Registry of Deeds and it will remain forever with the lot.

Mr. Harrison stated to Mr. Rezendes, should this variance request be granted it must be recorded at the Registry of Deeds after the appeal period and with no appeals being filed. Mr. Rezendes stated he understood.

Motion made by Ms. Fernandes to close the hearing at 7:31 PM. Second by Mr. Wyatt. The Board voted unanimously in favor.

Motion made by Ms. Fernandes to grant the requested variance showing a hardship of the lot being undersized and undevelopable per the Zoning Enforcement Officer; this proposal is not a detriment to the neighborhood; and approval of this variance does not derogate from the intent of the bylaw. Second by Mr. Graham. The Board voted unanimously in favor.

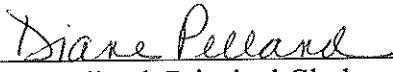
Correspondence

1. The Board discussed the material submitted by Attorney Quirk in regards to the court filings dealing with Excel Recycling. No action is needed at this time. No votes were taken.
2. **Motion** made by Mr. Coutinho to notify the Planning Board of the wording submitted by Attorney Quirk in regards to an amendment to the Zoning Bylaw 2.4.2.1 and to ask if the Planning Board would like to co-sponsor the warrant article with the Zoning Board of Appeals; and for the Planning Board to present it at Town Meeting; and if not, the Zoning Board of Appeals would sponsor the article and request a placeholder from the Board of Selectmen on the Annual Town Meeting warrant for the article. Second by Ms. Lambert. The Board voted unanimously in favor.

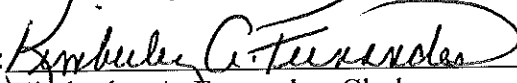
Motion made by Mr. Graham to adjourn the Zoning Board of Appeals meeting at 8:00 PM. Second by Ms. Lambert. The Board voted unanimously in favor.

Adjournment.

Respectfully submitted,


Diane Pelland, Principal Clerk
to the Zoning Board of Appeals

APPROVED:


Kimberley A. Fernandes, Clerk