

**BOARD OF APPEALS
REGULAR MEETING MINUTES
WEDNESDAY
AUGUST 17, 2011**

Members Present: Clayton M. Harrison, Chairman
Gerald Coutinho, Vice Chairman
Kimberley A. Fernandes, Clerk
Christopher Graham
Donna Lambert
Absent: Gary Simmons
Also Present: Ralph Souza, Building Inspector

Chairman Harrison called the Zoning Board of Appeals meeting to order at 7:15 PM in the Westport Town Hall, 816 Main Road, Westport, MA.

Reorganization of The Board

Motion made by Mr. Graham to appoint Clayton Harrison as Chairman. Second by Ms. Lambert. The Board voted unanimously in favor.

Motion made by Ms. Lambert to appoint Christopher Graham as Vice Chairman. Second by Mr. Coutinho. The Board voted unanimously in favor.

Motion made by Mr. Graham to appoint Kimberley Fernandes as Clerk. Second by Mr. Coutinho. The Board voted unanimously in favor.

Brenda Figuerido, The Paquachuck Inn - A public hearing will be held on the application request of Brenda Figuerido seeking an Administrative Appeal to a Board of Appeals decision dated January 13, 1989 to expand the property use for outdoor seasonal events. The expansion of use is requested for up to twelve events to be held between June 1st and December 31st – annually. The property is located a 2056 Main Road and also known on Assessors Map 58, Lot 4.

Sitting on Petition: Harrison, Coutinho, Graham, Fernandes, Lambert
Attending: Mary Pasquariello, Manager of the Inn representing petitioner
Abutters: Richard & Dorothy Tongue, 2048 Main Road
Jane Loos, 1893 Main Road
Albert E. Lees, III – 2065 Main Road
Jonathan & Nancy Paull, 1384 Drift Road
Nancy Burkholder, 1950 Drift Road
Christine Vezetinski, 1990 Main Road

Prior to opening the hearing Mr. Coutinho made a statement. Mr. Coutinho stated he filed a Disclosure with the Town Clerk on July 25, 2011 as follows: "As a Justice of the Peace, I have officiated at marriage ceremonies at the Paquachuck Inn on a few occasions. When this occurs, I am booked by the marriage couple and not the Paquachuck management. I, therefore do not think any conflict of interest exists in a ZBA hearing regarding the Paquachuck Inn." Mr. Coutinho stated he believes there is no conflict of interest but if anyone feels differently, please state so. Mr. Richard Tongue stated he felt there was no conflict either.

Mr. Coutinho noted for the record, that the representative at tonight's hearing is not listed on the application. Ms. Pasquariello stated that was correct, she was representing the applicant, Brenda Figuerido.

Ms. Pasquariello stated this appeal was filed upon the request of the Building Inspector. A permit for a tent was applied for and denied and that is when Mr. Souza stated that in order to get the permit, an appeal had to be filed with the Zoning Board due to a prior decision.

Mr. Souza stated that it really began when an ad was found on the internet advertising accommodations for 10 to 200 guests. Mr. Souza then stated that he looked up a prior zoning decision and it allowed for the use of seven rooms and only breakfast to the patrons. This was going way beyond the allowed use. The ad was dated September 2009. Mr. Souza stated that he and Lt. Ledoux of the Westport Fire Dept. found deficiencies at the Inn when inspected but which have since been corrected. The only remaining issue is the zoning; the expansion of a non-conforming use in a congested area. Ms. Pasquariello noted the Building Inspector was referring to an event page on the Paquachuck Inn's website; that information has been changed, along with the parameters for any events.

Mr. Harrison stated that in 1989, a decision was rendered by this Board for the use of seven bedrooms and food was limited to only guests and that limit was to breakfast only. Mr. Harrison then read aloud the decision. Mr. Harrison stated the decision was specifically worked out due to the location and size of the property.

Ms. Pasquariello stated for events consisting of more than 20 guests, the applicant must provide a shuttle from a remote location such as Village Commons, the Friend's Meeting House or the church parking lot. The Inn does not handle the parking arrangements, it is up to the renting party. Mr. Harrison stated the decision was however limited. Ms. Pasquariello stated she owns the Village Commons property.

Ms. Pasquariello stated to the Board, that she sent letters to all the abutters explaining what the Inn is trying to do and attempted to address some of their concerns; a copy of the letter was presented to the Board. Ms. Pasquariello stated that they are looking for twelve events each year; historically, there have been five events. Each event is usually 20 people, with up to 80 people but accommodations for up to 150 people can be hosted. Also, if anyone is booking a party, they must also book a room.

Mr. Harrison read the submitted letter into the record and noted that MA DEP correspondence received from the Board of Health was included in the file, although the Zoning Board does not have jurisdiction over Board of Health issues. Mr. Harrison stated that in the prior decision, the concerns over water were addressed however. Ms. Pasquariello stated there has been a hearing with the Board of Health after a Cease & Desist was issued.

Mr. Harrison questioned whether tent permits were under the Fire Department jurisdiction. Mr. Souza stated the Building Department issues the tent permit but both Fire and Building look at safety issues. The tent permit is located under the CMR's for temporary structures allowed with the proper permits. Mr. Souza stated he does not deal with port-o-johns only safety issues and depending on the size of the tents, there are other requirements that need to be met.

Mr. Coutinho asked that of all the events that have been held at the Inn, during any of these events has there ever been a time when all the required equipment doesn't fit on the property; and has the boat landing or right-of-way been utilized or have there been any

problems with it. Ms. Pasquariello stated the Inn uses the driveway for catering tents and we use the landing for steaming units for clamboils. Ms. Pasquariello stated she has no personal knowledge of a public landing or right-of-way. Mr. Coutinho asked if anyone used it or if there was anyone on site, should the need arise to clear the use of it. Ms. Pasquariello stated that sometimes she lives there but someone is always on the property; there has not been a problem yet.

Mr. Harrison stated there is no doubt that the use of the property is for seven bedrooms. Ms. Pasquariello stated there are nine bedrooms. Mr. Harrison stated since 1989, the property has had some construction such as a greenhouse in the parking area. Mr. Coutinho stated that seven rooms are for rental but you are advertising nine bedrooms; the owner is required to live on the premises. Ms. Pasquariello stated she stays in one room and another is used for employees; there is a 4th floor, which is a private quarter for the owner. Mr. Coutinho stated that once a variance is given, it is always with the land; all these years, it is clear that the allowances have been considerably exceeded. We are pointing out to everyone, this is not like policing a bylaw, this is in the variance. All these years, activities have been taking place that exceeds what was allowed. Mr. Coutinho stated that to his recollection, newspapers, coffee and pastries were sold there to others, other than guests. Ms. Pasquariello stated there have been events there for a while; we are zoned commercial not residential. Mr. Coutinho stated no, the Inn is residentially zoned, that is why the Inn is a non-conforming use. Ms. Lambert stated there are nine bedrooms and now there is a fourth floor, there is a chance for expansion; as for the DEP and the Board of Health, some issues were not brought before the Board of Health.

At this time, Mr. Harrison called for input from the abutters.

Ms. Jane Loos asked about residents at the Point who rent out their houses and then places port-o-johns on their property for parties. Mr. Souza stated he had no issues with the homeowner taking a tent permit for a party; again, it goes back to the Internet ad, a single-family dwelling is a one-time deal. Ms. Loos stated that individuals are advertising for parties, charging to rent and not pulling permits. Mr. Harrison stated those issues need to be addressed by the Building Dept. and the Board of Health but they also must be reported first. Mr. Souza stated that if he does not get a call reporting the incident, then he couldn't act on it.

Mr. Al Lees stated in reference to the parking, just tonight there are at least fifty cars at the end of Main Road, people listening to music on the wharf; this goes on all summer long on Wednesday evenings, to which he does not have a problem but he has trouble going in and out of his driveway and this causes more congestion than the Inn ever did. As for the use of the Inn, for the record, in 1972 Town Meeting zoned out multi-use for that area. We are now looking at an Inn, which is the centerpiece of the area, which is asking for only twelve events per year. This is no different than a resident having a party. There is so little activity at the Inn. Mr. Lees asked the Board to set the parameters and level the playing field, the Inn is run by the book and it would be a shame not to allow this request, providing that the Inn stays within the scope of reason.

Mr. Jonathan Paull stated he agreed with Mr. Lees. The Inn is open and bringing in money. They installed a new septic system and have met with all the new fire codes. Mr. Paull stated he gives Ms. Pasquariello credit for tightening up the ship at the Inn. She has made improvements and is working hard. Mr. Paull stated he has no problems with the request.

Ms. Pasquariello stated the Inn is such an historical building but it is also very expensive to maintain; this is why these events are needed so badly.

Ms. Nancy Burkholder stated she supported Brenda Figuerido, if she is going to observe the rules for commercial use; as for the well, that is a sad situation. As for noise, just this past July 4th there was music and firecrackers and none of that bothered her.

Ms. Christine Vezetinski stated she supported the twelve events. This is a large historical building and is part of the fabric of the Point. This is a vital commercial activity that needs the Board's support.

Ms. Nancy Paull stated what bothers her most is that there is illegal parking that happens at the Point always but it is not from the Inn. If the parking gets out of hand, we always have the option of calling the Police Department.

Mr. Harrison stated that Westport is comprised of many villages and Town Meeting made the choice in regards to zoning. The Board is not against things such as this request. Mr. Harrison thanked the abutters for their comments especially seeing as parking is a major issue.

Mr. Graham stated the Inn has been exceeding the previous variance over the past twenty years; a solution is needed. Mr. Coutinho stated this request is looking to expand a variance and as such a substantial hardship is needed but tonight, this board has not heard any hardship up to this point. Mr. Coutinho stated he understood the sentiment.

Attorney Dorothy Tongue stated she was in favor of this application. As for a hardship, the building is unique and it would be a travesty to lose the commercial use; without this type of request being granted, the Inn depending on income from renting seven rooms alone and then having to pay the taxes on the property, the heating bills and upkeep, the Inn won't be able to stay. There are a lot of factors that add up and it would help financially to be able to host these events allowing the existence of the Inn and in keeping the area the same.

Ms. Pasquariello stated that if it ever gets to the point where the Inn could not meet their bills and had to close, the property would revert to a private residence and lost forever.

Mr. Lees stated the Town Meeting created this hardship; prior to being an Inn, it was a bar, post office and store, which were all eliminated; this is not a self-induced hardship. Michael Sullivan, Economic Development asked if the general use of the property was abandoned for four years. Mr. Harrison stated he recalled it was an issue of discussion as to the use; modern day calls for parking plans and shuttle service. Mr. Coutinho stated it was abandoned at one time, back in 1986 or so, and that is when we were dealing with variances. Mr. Tongue stated that the Inn was closed for several years after his brother owned it, which at the time was a bar and his brother did not want to raise children in it. The Inn is a beautiful place for anyone getting married. The people down at the Point are a close community and the Inn can't make it without this request. Mr. Coutinho stated that he found this hearing interesting in that it is being held during the summer, when the seasonal residents are still here and not taken off for the winter months and everyone here seems to be in favor.

Mr. Graham asked the Building Inspector if there were any other permits needed other than the tent permits. Mr. Souza stated no, but my office does not have a parking plan on file and that is needed for potential parking areas. Fire protection has been installed and that is through the Fire Department. Mr. Coutinho asked Mr. Souza if he could foresee anything else from a safety standpoint, if this approval is given tonight. Mr. Souza stated that his office needed a layout plan for where the tent will be set up, in case of an

emergency, there has to be an egress, especially when a tent is involved. Mr. Coutinho asked if there was any issue with wind in regards to the tents. Mr. Souza stated that companies' tents are required to support at least 110-mph winds due to the fact that we are in a wind velocity zone. Ms. Pasquariello stated the Board of Health asked for similar conditions, such as a plan as to where the tent will be sited.

Mr. Graham stated that in Ms. Pasquariello's letter it is stated that large parties are around 80 people. Ms. Pasquariello stated the largest party was July 2nd consisting of 100 people. There have been two events of 75, one clamboil of 40, a rehearsal dinner of 20 and a very small wedding. The Inn's capacity without tents is seating inside for 20 to 30 people using the patio and outside with or without a tent, 100.

Mr. Coutinho stated that if there were a rehearsal dinner was for 20 to 25 people and no tent, would this be considered one of the twelve events. Ms. Pasquariello stated yes it would be one of the events we are asking for. Mr. Coutinho stated that due to no tent permit being required how are we going to keep track of the number of events that you are requesting. Ms. Pasquariello stated that as a courtesy, she would contact the Building Department. Mr. Coutinho stated the Board was looking at enforcement. Ms. Lambert asked was the max capacity was for the inside. Mr. Souza stated that without looking in his files, he believed the main room was for 14 people and in the other room was 18 but he would check and let the Board know.

Mr. Harrison called for any more input from applicant or abutters before closing the hearing.

None was received.

Motion made by Mr. Coutinho to close the hearing at 8:38 PM and open the meeting for Board discussion. Second by Ms. Fernandes. The Board voted unanimously in favor.

Discussion

The Board discussed the issues of parking, twelve events, the location of the property, the shuttle service for off-site parking, the number of guests and the use of a possible public landing/right-of-way.

Vote Taken

Motion made by Ms. Fernandes to grant an Administrative Appeal of the Zoning Decision dated November 3, 1986 based on the demonstration of hardship for this property as it being of unique historic value and character, and without granting the requested usage, the property maybe forced to close. This Administrative Appeal is granted with the following conditions:

1. Allowing up to twelve (12) indoor/outdoor events annually during June 1st through December 31st.
2. Allowing up to 100 guests maximum.
3. Events are to be hosted only by people also staying at the Inn as guests.
4. All tents require permitting through the Building Department and are to be removed within 48 hours of the event.
5. The Inn bathrooms are posted for Overnight Guests Only; any events hosting more than 20 people are required to provide permitted, handicapped accessible portable bathrooms. Units must be removed within 24 hours of the event.
6. No event will continue past 10:00 PM.
7. Adequate remote parking provided by a shuttle service to and from the Paquachuck Inn will be provided for parties of 20 or more guests.

8. A site plan showing the current parking, location of tents, outside port-o-johns and catering area are to be submitted to the Building Department prior to the event.
9. Also, during the hearing, it was reported that there is potentially a public landing / right-of-way adjacent to this property which may need to remain accessible to the public.

Second by Mr. Coutinho. The Board voted 4 in favor, 1-opposed (Lambert).

Correspondence – None.

Approval of Minutes – None.


Other Issues

Mr. Harrison noted to the Board that the next hearing date for the ZBA would be September 21, 2011 at 7:00 PM to hear the petition of Antonio & Darlene Arruda, 524 Sanford Road.

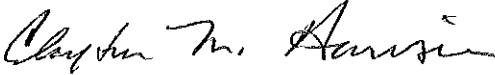
Motion made by Ms. Fernandes to adjourn the Zoning Board of Appeals meeting at 9:48 PM. Second by Mr. Coutinho. The Board voted unanimously in favor.

Adjournment.

Respectfully submitted,



Diane Pelland, Principal Clerk
To the Zoning Board of Appeals

APPROVED: 

Clayton M. Harrison, Chairman