

**BOARD OF APPEALS
REGULAR MEETING MINUTES
WEDNESDAY
FEBRUARY 25, 2015**

Members Present: Christopher Graham
Gerald Coutinho
Donna Lambert
Larry Kidney
Gary Simmons
Roger Menard
Also present: Ralph Souza, Building Inspector
Members absent: Heather Salva, Clerk

Chairman Graham called the Zoning Board of Appeals meeting to order at 7:00 PM in the Westport Town Hall, 816 Main Road, Westport, MA with the Chairman's Announcement that under MGL Chapter 30A, section 20(e) – the meeting is being recorded; and invited everyone to join in reciting the Pledge of Allegiance.

Public Hearing - Linda S. Glohs & Thomas J. Steinke, Trustees of the Bernard J. Steinke Revocable Trust U/D/T dated 2/21/02 and Linda S. Glohs & Thomas J. Steinke, Trustees of the Lillian S. Steinke Revocable Trust U/D/T dated 2/21/02 - RE: Applicant is seeking a finding under Westport Zoning Bylaw Article 4.1.3 for allowing the conversion of the existing Inn, building/premises, into a 3-unit condominium (each unit to have three bedrooms) because it is not substantially more detrimental to the neighborhood than the current, pre-existing non-conforming use/structure and due to the change from a 12-room Inn to a 9-bedroom condominium reducing the pre-existing non-conformity. The property is located at 23 Acoaxet Road and shown on Assessor's Map 89, Lots 90-91.

Hearing petition: Graham, Coutinho, Lambert, Simmons, Kidney
Present: Roger Menard, Associate member
Ralph Souza, Zoning Enforcement Officer
Attorney Richard Desjardins, representing Charles Baker, III
Abutters: None

The public hearing was called to order at 7:05 P.M. with Chairman Graham reading aloud the Public Hearing Notice. Chairman Graham explained the procedure for the hearing; first, the applicant would present their petition and then input would be taken from the abutters. Anyone wishing to speak must identify themselves by name and address.

Attorney Richard Desjardins stated he was representing Charles Baker, III, the prospective purchaser of the Harbor Inn. As part of the purchase and sales agreement, there had to be permitting by 2/16/15. The seller, as part of the agreement, had the legal right to proceed or not proceed by 2/16/15. Attorney Desjardins stated his client wanted to proceed but the seller did not. Attorney Desjardins stated he spoke with Ms. Pelland, the ZBA Clerk and was advised as to how to submit a letter to the Board regarding withdrawal of the petition; he also spoke with his client who agreed to submit a request for a withdrawal without prejudice. Attorney Desjardins stated he was here tonight with a request to withdraw without prejudice for the Board's consideration. Attorney Desjardins stated it is sad to see nothing being done with the property, whereas the Harbor Inn is no longer the vibrant inn it used to be and his client's proposal would have been a very good use; the present property is becoming dilapidated.

Mr. Coutinho stated he has not seen the actual application and asked Attorney Desjardins who actually filed the application. Attorney Desjardins stated the current owners did the filing in agreement with his client, the prospective buyers.

Mr. Coutinho asked when the last time the Inn was used, when someone could walk up and get a room. Attorney Desjardins stated he could not answer that; he did not know. Attorney Desjardins stated what he was aware of, was that all licenses associated with the Inn were kept current up until this year. Mr. Coutinho stated the reason he asked that question was if, in the future, an application were to come forward and the applicant was unable to show active business activity, whether through licenses, taxes, etc. then the Board would need to look at whether this was a legal non-conforming use because we have a bylaw in Town for abandonment of a non-conforming use. It clearly states, after four years of abandoning the non-conforming use, it is not to be re-established. For the benefit of everyone, the buyer/the seller/this Board/the Town, that fact will need to be clearly determined. Mr. Coutinho stated he knows very little about that business, except that as stated, it is deteriorating; the reason this is being brought up is because the big difference would be if it is brought back to this Board as a Finding, which is a legal non-conforming use change or as a Variance, which would then assume abandonment had kicked in and is no longer a legal non-conforming use; however, it is a large building, probably beyond a single family home (that type of thing), which zoning could then allow for a variance. Mr. Coutinho stated this is what should be investigated before being brought back; just because licenses have been kept up does not mean it is a legal non-conforming use, at least in his opinion. Mr. Coutinho stated he would be looking at the activity at that location for the last number of years, as an existing active Inn should this matter come before the Board in the future.

Motion made by Ms. Lambert to allow the petitioner to withdrawal without prejudice. Second by Mr. Coutinho. The Board voted unanimously in favor.

Motion made by Mr. Simmons to close the hearing at 7:25 PM. Second by Mr. Kidney. The Board voted unanimously in favor.

Minutes –Motion made by Mr. Simmons to approve the Regular Meeting Minutes of 02-11-15. Second by Mr. Kidney. The Board voted 4 in favor, 1-absent (Salva), 2-abstentions (Lambert, Menard).

Decisions – None.

Correspondence – No Actions Taken; Informational Only.

1. Notice of Application for Waterways License – Richard C. Armstrong, 140 Fisherville Lane.
2. Notice of Application for Waterways License – Keith Stamp, 14 Clyde's Way.

Other Business

1. The Board will begin to review and revise/amend the Zoning Board Rules & Regulations, which were last adopted on 5/29/96 with an amendment being done on March 1, 2013 for Article 2.0.5-Filing Fee.

Topics not reasonably anticipated forty-eight (48) hours in advance of the meeting – None.

Motion made by Mr. Simmons to adjourn the ZBA Meeting at 8:30 PM. Second by Mr. Kidney. The Board voted 6 in favor, 1-absent (Salva).

Adjournment.

Respectfully submitted,

APPROVED:

Heather Salva, Clerk of the Board

Diane Pelland
Principle Clerk to the Zoning Board of Appeals