

**BOARD OF APPEALS
REGULAR MEETING MINUTES
WEDNESDAY
AUGUST 12, 2015**

Members Present: Christopher Graham, Chairman
Gerald Coutinho, Vice Chairman
Gary Simmons
Larry Kidney
Roger Menard
Also present: Ralph Souza, Building Commissioner/Zoning Enforcement Officer
Absent: Donna Lambert
Heather Salva

Chairman Graham called the Zoning Board of Appeals meeting to order at 7:00 P.M. in the Westport Town Hall, 816 Main Road, Westport, MA with the reciting of the Pledge of Allegiance by all present.

Lucy & Quentin Lord - RE: An application request for an Administrative Appeal of the Building Commissioners' decision regarding 0 Old Bedford Road, Westport, MA determining the lot to be unbuildable under Zoning Bylaw Article 7.5. The property is shown on Assessor's Map 5, Lot 1M.

Hearing petition: Christopher Graham, Gary Simmons, Larry Kidney, Roger Menard
and Gerald Coutinho
Also Present: Ralph Souza, Building Commissioner/Zoning Enforcement Officer
Lucy and Quentin Lord, petitioners
Abutters: Joseph Miranda, 395 Old Bedford Road
Members Absent: Donna Lambert, Heather Salva

The public hearing was called to order at 7:00 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.

Chairman Graham announced that he wished to disclose the fact that he has known the Lord's his whole life but that he can and will be impartial during this hearing; he has no financial interest in this matter. Mr. Graham then called upon anyone attending the hearing as whether they had any objections to his hearing this petition. No objections were received.

Mr. Lord stated there is a dispute over the size of the lot with Mr. Souza. Mr. Lord stated taxes have been paid on a buildable lot; the deed says the lots are separate. Mr. Lord stated that both lots were bought in 1995. Mr. Lord presented a surveyor-stamped plan dated April 17, 1963, which shows the subject lot (1M).

Mr. Souza stated he received information from a realtor representing the Lords and information he obtained from the Assessor's; which he used to make his decision.

Mrs. Lord presented a copy of the deed which contained the two lots but under one deed.

Mr. Souza stated that under Article 7.5, it speaks to common ownership; as for tax purposes, the lots do not merge but for zoning purposes, the lots do merge.

Mr. Coutinho noted that in 2013, the two non-conforming lots were put into a trust; the parcel with the house and the second lot that shows in the deed causing common ownership. Mr. Coutinho stated he would like to see original deeds to the Lords, to see if the lots pre-dated zoning and under whose names the lots were recorded. Mr. Coutinho stated in regards to common ownership, zoning went into effect in the 1970's. Mr. Coutinho stated what the applicant is looking for maybe a variance to Article 7.5.

Mrs. Lord stated that when she purchased the lots, she was told they were grandfathered. Mr. Coutinho stated that would be true, if the lots were purchased under separate names. Mr. Menard stated that according to the classification of the lots on the tax bill; the property was taxed as developable and the other lot as a residence, so it was not taxed as a house lot. Mr. Coutinho stated we are not disputing that it is being taxed as a buildable lot. Mr. Graham stated the Building Commissioner does not have a problem that it is a buildable lot by size; his problem is the merging of the two non-conforming lots.

Joseph Miranda, abutter, stated his property floods all the time; if they are allowed to build on that lot then something will have to be done, if not, his property will flood even more.

Motion made by Mr. Simmons to accept this as a buildable lot under both names in the trust; and to allow 7.5 to be waived. Second by Mr. Coutinho. Discussion ensued. Motion is withdrawn.

Mr. Coutinho stated he was concerned whether this was legally correct. From the evidence and materials presented so far, it appears that the Building Commissioner did the right thing, thus, we probably would not be in a position to override his decision. Mr. Coutinho discussed whether or not, the Board had jurisdiction to vary Article 7.5. Discussion ensued. Mr. Coutinho suggested obtaining legal counsel for an opinion regarding the Board's jurisdiction.

7:45 PM

Motion made by Mr. Menard to continue the hearing to September 2, 2015 at 6:45 PM; at that time, a tax classification definition will be obtained from the Assessor's Office; the petitioner will present any prior deeds; and a legal clarification will be obtained from Town Counsel as to whether the ZBA can legally vary Article 7.5 for common ownership. Second by Mr. Kidney. The Board voted 5 in favor, 2-absent (Lambert & Salva).

Approval of Minutes – None.

Correspondence – None.

Other business

1. A discussion regarding fees ensued. It was noted that the fees for a Comprehensive Permit were last voted and effective March 1, 2003. It was also noted that \$100.00 from each lot will be for the GIS Maintenance. **Motion** made by Mr. Coutinho to increase the Comprehensive Permit (Ch.40b) filing fees, in conjunction with the Planning Board, as follows: \$550.00 for 2 lots or units to be increased to \$750.00 per lot and \$90.00 for each additional lot to be increase to \$200.00 per lot. Second by Mr. Menard. The Board voted 5 in favor, 2-absent (Lambert & Salva).

8:15 PM

Motion made by Mr. Simmons to adjourn the Zoning Board of Appeals Meeting. Second by Mr. Kidney. The Board voted 5 in favor, 2-absent (Lambert & Salva).

Adjournment.

Respectfully submitted,

Diane Pelland, Principal Clerk to the Zoning Board of Appeals

APPROVED: _____
Heather L. Salva, Clerk