

**Board of Appeals
Regular Meeting Minutes
September 15, 2010**

Members Present: Clayton M. Harrison, Chairman
Gerald Coutinho, Vice Chairman
Kimberley A. Fernandes, Clerk
Kendal Tripp
Christopher Graham

Absent: William Wyatt (Alternate)
Donna Lambert (Alternate) arrived late and left

Chairman Harrison called the Zoning Board of Appeals to order at 7:00 PM in the Westport Town Hall, 816 Main Road, Westport, MA 02790.

Manuel Soares, 42 Cleveland Street – RE: Public Hearing on an application request for a variance to keep and maintain two dump trucks/trailers, four pickup trucks and ten pieces of off-road equipment located at 42 Cleveland Street. Relief is sought from Zoning ByLaw Article 4.0 – Commercial Use not allowed in R/A District. The property is also known as Assessor’s Map 11, Lots 48-60.

Chairman Harrison called the Zoning Board of Appeals public hearing to order at 7:00 P.M. with the reading of the Public Hearing Notice. Members hearing the petition: Clayton Harrison, Gerald Coutinho, Kimberley Fernandes, Kendal Tripp and Christopher Graham.

Applicant present: Manuel Soares Also present was Dan Aguiar, SITEC Engineering representing the applicant. Attorney John R. Mitchell was present representing his client and abutter Albert Piva. Mr. Armand Garrant was present representing his wife.

Mr. Armand Garrant spoke on his wife’s behalf soon after the meeting was opened stating she had not received notice of any of the meetings including this one and that the meeting was illegal and could not continue. He stated the meeting needs to stop and the case should go to Land Court. Ilana Quirk intervened on behalf of the Board and explained the procedure to Mr. Garrant in reference to the Notice being sent out. Notices went out according the Certified Abutters List. Ilana Quirk suggested an informal break in order to confer with the applicants counsel and check on the Assessors Map and Certified Abutters List. Dan Aguiar, SITEC Engineer representing the applicant stated the abutters were notified according to the Abutters list in the Assessor’s office. Chris Graham suggested we move forward with the recess in order for Ms. Quirk to confer with the applicants counsel. No Vote needed as it was an informal recess.

Upon returning to the meeting after discussion with Ms. Quirk, Dan Aguiar requested a continuance on behalf of his clients in lieu of the fact that Mrs. Garrant had not been

notified of the meetings. He is also interested in knowing whether or not Mrs. Garrant has been receiving a Tax Bill since she's not on the Abutters List in the Assessor's office. Attorney John R. Mitchell representing abutter Mr. Albert Piva requested that if the continuance is considered there is some enforcement such as cease and desists as per Town By-Laws. He also stated that he did not feel a continuance should be granted because abutters were present and have been present.

Ms. Quirk explained the continuance request process and the ZBA enforcement officer's position on the matter.

Mr. Garrant requested a 60-day continuance because he was not going to be in the area until then. Mr. Coutinho stated that the Board has never scheduled a hearing based on the schedule of an abutter or applicant. Mr. Aguiar requested a continuance be granted for no more than 30 days as notice has been given to most and will be sent to Mrs. Garrant.

Motion made by Jerry Coutinho and Seconded by Kimberley Fernandes to grant an extension (continuance) to October 6, 2010 – 7:00 PM.

Motion made by Kimberley Fernandes to adjourn the Zoning Board of Appeals meeting at 9:15 P.M. Seconded by Jerry Coutinho. The Board voted 5 in favor.

Adjournment.

Respectfully submitted,


Kimberley Fernandes, Clerk

APPROVED:


Kimberley Fernandes, Clerk