

**BOARD OF APPEALS
REGULAR MEETING MINUTES
WEDNESDAY
SEPTEMBER 06, 2017**

Members Present: Christopher Graham, Chairman
Gerald Coutinho, Vice Chairman
Gary Simmons
Donna Lambert
Peter Borden
Constance Gee

Also present: Ralph Souza, Building Commissioner

Absent: Roger Menard

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 reciting of the Pledge of Allegiance.

Pledge of Allegiance

Chairman's Announcement - Under MGL Chapter 30A, section 20(e) – Meeting being recorded.

Weatherlow Farms, LLC, - Ryan Wagner – RE: An application request for an Administrative Appeal of Building Commissioner/Zoning Enforcement Officer's decision dated August 1, 2017; relief being sought to hold farm related events, specifically weddings and related commercial activities. The property is located at 845 Sodom Road and shown on Assessor's Map 60, Lot 4D.

Chairman Graham opened the hearing at 7:04PM with the reading of the Public Hearing Notice. Mr. Graham asked if anyone wished to speak on this petition, to state your name and address for the record.

Members Present: Christopher Graham, Gerald Coutinho, Donna Lambert, Gary Simmons, Peter Borden, Constance Gee

Also Present: Attorney Francis A. DiLuna, representing applicant
Ryan Wagner, applicant

Abutters Present: Susan Medeiros-Sherman & Frank Sherman, 871 Sodom Road
Carla Lee Samson, 956 Sodom Road
R. Michael Sullivan, 149 Cherry & Webb Lane & Board of Selectmen Member
Steve Medeiros, 920 Sodom Road
Edward Ferreria, 10 Whits End Drive
Manuel Ferry, 132 Narrow Avenue
Janice & Michael Silvia, 813 Sodom Road

At this time, Mr. Coutinho made a statement. Mr. Coutinho stated as a member of the Board, he was not sure if he had a conflict due to a financial interest, whereas he is a Justice of the Peace, appointed by the Governor to officiate weddings in the Town of Westport and elsewhere in the Commonwealth. Mr. Coutinho stated he would like to get an opinion from Town Counsel because he does officiate a lot of weddings in Town and he if there is a conflict situation, especially if he is hired to perform a wedding ceremony at Weatherlow Farms or if this matter should go to litigation. Mr. Coutinho stated right now, he does not have a personal or financial investment in the farm itself. Mr. Coutinho stated depending on the opinion received, he may have to recuse himself as a voting member. Mr. Graham stated if Mr. Coutinho has to recuse himself, we still have five members present tonight hearing this application. Mr. Coutinho stated he will still hear and participate on this application tonight pending an opinion being received.

Mr. Graham stated the Board has just been presented with a very large packet of information from the applicant's attorney, that none of the Board members have been able to review; also, Mr. Graham stated he felt it would be pertinent for the Board to conduct a site visit.

Motion made by Mr. Simmons to conduct a site visit on Saturday, September 9, 2017 at 9:00AM. Second by Ms. Lambert. The Board voted unanimously in favor.

Attorney DiLuna stated he was representing Weatherlow Farms on an appeal of the Building Inspector's decision which is set forth in his memorandum. Attorney DiLuna stated the issue that we are taking is the use of the property for weddings in a residential area with related commercial activities which are not permitted in a residential/agricultural district. This is an agricultural use as enumerated in Ch. 128 Section 1A and the Town's bylaw. Attorney DiLuna stated in the package that was presented, there is a memorandum from the Department of Agriculture Resources; the department actually promotes these types of activities on properties, agri-tourism activities. At this time, Attorney DiLuna asked Mr. Wagner to introduce himself, his background and speak on the use of the farm, in order for the Board to get a better understanding of what this application is seeking.

Ryan Wagner stated he purchased the farm in January, 2014 from the Medeiros Family. Mr. Wagner explained his background; doing a lot of conservation work, food security issues and animal rights. Mr. Wagner stated George Medeiros (the last farmer at the property) passed away in 2004, and the farm had largely been fouled with the exception of overgrown fields and cow-corn prior to his taking it over. Mr. Wagner stated we are now in the 3rd year of animal production; this year we will raise 50 head of cattle, about 100 head of lamb, 800 grain birds, 125 or so laying birds, a goat herd of about 150; and we are now in our 2nd year of flower production, which is a growing percentage of our business. Mr. Wagner stated we grow and sell flowers directly to designers and then we do our own design work primarily catering to the wedding industry within a 50-mile radius of the farm.

Mr. Graham asked if the hoofed animals were housed in the barn. Mr. Wagner stated we don't over-winter any animals; they are slaughtered in a USDA approved facility just north of Hartford, CT. Mr. Wagner stated he intends on transferring to the new facility in Westport, MA once it opens. Mr. Wagner stated we practice very heavy pasture outdoor rotation during the summer of the animals; the cattle is kept in outdoor paddocks during the day, similar to the lambs; all of our animals are pastured. Mr. Wagner stated when he took over the farm, many of the roads had to be rebuilt and many of the ponds had to be re-dug. Mr. Wagner stated he has put up perimeter fencing around the production fields, which is just shy of five miles. Mr. Wagner stated he has a little under 200 acres (100 of forest and 100 of field and pasture roughly). Mr. Wagner stated this is an APR farm with restrictions.

Attorney DiLuna stated the farm has received permits for any of the alterations, the construction of the barn and the retail facility under the APR. Mr. Graham asked if the Board has been provided with this documentation. Attorney DiLuna stated he believed the Board has copies of the APR but he was not sure if the Board had copies of the permits, but he would provide the Board with them. Attorney DiLuna stated the issue with the Building Commissioner's decision, is that term agri-tourism is a growing term; something that started 30-40 years ago in Europe and for the past 20 years has come to this country. Attorney DiLuna explained how agri-tourism has come to be; which includes the use of farms for weddings. Attorney DiLuna stated there are some qualifications for farms; a farm just can't do honeymoon/chapel type arrangements; the use of the farm in conjunction with agri-tourism has to promote the products of the farm; and in this particular case, the primary food served would have to be proteins and sources derived from the farm; and the farmer would also urge the caterers to use other products to be served from other local farms. Mr. Graham stated, the food served at a wedding must come from the farm; Attorney DiLuna stated yes, if it is chicken, it must be raised on that farm, it is lamb or beef, it must be the farm's lamb or beef. Mr. Graham asked what percentage would be from the farm. Attorney DiLuna stated there is a two way approach; ratios to qualify a farm are 25% of farm products during season or 25% provided annually with 50% coming from other MA farms. Attorney DiLuna

stated in this particular instance, the animals are slaughtered during September through the end of December; this is Weatherlow's principle harvest season. The farm sells much more than 25% of the farm's products over those months, qualifying it on the first tier of the test.

Mr. Coutinho asked whether or not, there was a DEP and local approval of a Public Water Supply related to the serving of food. Mr. Wagner stated the septic has been approved through the Board of Health and the final tests are in, with everything being positive, so we are waiting for final sign-off. Mr. Coutinho asked if they were allowed to have a Public Water Supply. Mr. Wagner stated yes, we have a 200ft no-touch zone. Mr. Graham asked if that could be provided to the Board.

Mr. Coutinho stated a brief summary was provided with the application, listing not only weddings but quite a number of other events. Mr. Coutinho asked Mr. Wagner to elaborate on what other events and what might be held on the farm realizing whatever events are mentioned might not be exclusive of other things; what does the applicant have in mind. Mr. Wagner stated in the letter to the Building Inspector, was laid out a list of potentialities; it is a long list, so if the Board has any specific questions, he would be happy to address them. Mr. Coutinho stated he was referring to the letter (dated 2016-with revision in 2017) from Joanne Bentley (architect for Weatherlow Farms); in the letter is stated, Farm to Barn Dinners (100 people), Work Shops (100 people), Lectures (235 people), Non-profit meetings (5-10 per year w-235 people), Weddings (farm-related experience w-15 per year). Mr. Coutinho stated these are examples, so what do you have in mind. Mr. Wagner stated he did not understand what Mr. Coutinho was looking for. Mr. Coutinho asked how about motorbike races; Mr. Wagner stated that is not on the list. Mr. Coutinho stated but motorbike races could draw people to the farm where you serve them lunch with farm-related products. Attorney DiLuna stated he was not sure if that would be consistent with the APR. Mr. Coutinho stated he was not sure either and he was not familiar with all the rules of the APR. Attorney DiLuna stated that is not something that the farm was interested in doing and more likely than not, if it was ever attempted to do it, would require a special permit from the ALPC. Mr. Coutinho questioned what about a large concert with 2,000 people; could it be done if this were approved. Attorney DiLuna again stated, he did not think that is something the farm would want. Mr. Graham asked if they would be serving alcohol at the weddings or concerts, etc. Attorney DiLuna stated that would require an alcohol license from the municipality. Mr. Coutinho stated that Ms. Bentley indicated in her letter that sometime in the future, they will apply for a liquor license but in the interim, an event that would wish to serve alcohol, Mr. Wagner would apply for a one-day liquor license from the Town.

Mr. Graham called for any comments from the public.

Susan Medeiros-Sherman stated the farm was owned by her grandfather bought in 1903 and my father (George Medeiros) signed an APR in 1984 (which was the second APR signed in Westport). The farm was sold in 2014 to the current owner, who when it was bought, stated he knew about the APR restrictions. The current landowner has done an outstanding job of bringing the farm back; it is beautiful. Ms. Sherman stated she has issues that the barn is not really a barn concern and her concern is that the APR guidelines are not being followed as they were set out to be. Ms. Sherman referred to the original APR signed in 1984 by her parents, paragraph A – no resident building, tennis court, swimming pool, asphalt driveway, road, parking lot, mobile home, utility pole, tower, conduit line or other temporary structures shall be constructed, placed or permitted on the premises except structures existing on the premises at the time of execution of this restriction. Ms. Sherman stated that some of her concerns have been answered today, appearing that the APR has been notified and has given permitting to all of this. Ms. Sherman also noted #6 – no use of the premises, other than for agricultural purposes shall be permitted except in accordance that which is set forth under section C. Ms. Sherman stated she agrees with agri-tourism but don't see how weddings are agri-tourism events. Ms. Sherman stated she went on the APR Program benefits website; the APR's main purpose is to save and protect productive agricultural land, making it affordable for farmers; nothing is mentioned about weddings, venues, etc. Ms. Sherman stated in our Right to Farm bylaws, there are clear definitions of farming. Ms. Sherman stated that under Ch.184, Section 31, Article 4 – speaks to the will of the owner. Ms. Sherman stated she was here tonight

because her father's last wishes were to keep farming alive; my grandfather, father and brothers have worked hard to keep farming alive.

Carla Lee Samson stated she was in favor of this proposal. Mr. Wagner has done a beautiful job, it is gorgeous. Ms. Samson stated she is a lover of the land and animals and the barn is gorgeous; what Mr. Wagner intends to do will not affect the land; his intentions are weddings, how will this harm anything; he is not asking to build houses. Ms. Samson stated she would prefer to see horses but this will benefit Westport because Mr. Wagner cares. Ms. Samson stated the sheep have portable shelters; he only wants to make money to keep the farm going. Ms. Samson stated she has lived there 29 years and hopes the Board will take into consideration that Mr. Wagner is only trying to do good.

R. Michael Sullivan (resident and BOS member) asked if the Board could provide some clarity as to the rules and regulations, and as to how the applicant is in conflict; he understood a Cease & Desist has been issued. Mr. Coutinho stated that is what we are trying to find out. Mr. Graham stated the Board is going according to the Cease & Desist letter from the Building Inspector. Mr. Souza stated he sought and received an opinion from Town Counsel, then reviewed by phone that opinion. Mr. Souza stated there are things that Mr. Wagner wants to do, for which he does not have a problem with and he has basically shown that the product will be used on the farm but there are weddings, possibly of 200 people, to be held on Sodom Road, which is a residential area; there are concerns of parking, traffic, noise; this is not a White's facility, this is a barn, an elaborate barn. Mr. Souza stated he and Town Counsel are having a hard time trying to grasp how weddings are related to the farm. Mr. Graham stated the Board is struggling with this, so we would like to do a site visit and would also like to ask the Town Administrator for permission to get an opinion from Town Counsel on a packet that was just submitted to the Board. Mr. Coutinho stated this is not a clear cut, black and white issue; the attorney for the applicant has submitted in a very brief way, quite a number of court cases that relate to this area we are talking about and if this was so black and white, there would not be a lot of court cases. Mr. Coutinho stated he was assuming that some of these cases would be beneficial to his client's proposal however, what we don't know is if there are other cases that go the other way around. Mr. Coutinho stated the legislature is not clear on this whole matter; agri-entertainment, agri-tourism and other activities that bring people to the farm for viability, is a wide spread area and we are only mentioning weddings but there are other activities, as was mentioned before. Mr. Sullivan stated there were two things he was concerned about; the Board has taken a position, by way of the Building Inspector issuing a Cease & Desist, but there is no clarity on what has been violated; this is not a good position to be in. Mr. Sullivan stated it is not a good position to be in to have a hearing because we don't know what we are testing his activities against. Mr. Sullivan stated he has seen what has been spent with Town Counsel on this, so he assumed, the Town had gotten to that point but it does not appear so. Mr. Coutinho stated the ZBA has not, the Building Inspector has. Mr. Sullivan stated he felt it was important that the Board and the applicant be told what they are here to overcome, otherwise, this is too general of a discussion. Mr. Sullivan stated to Mr. Coutinho, he appreciated his forth rightness of a potential conflict of interest but in keeping with that, he should not participate in the discussion (not just voting) until he gets guidance. Mr. Simmons stated in Mr. Souza's Cease & Desist letter, there is a whole paragraph explaining the reason we are here. Mr. Sullivan asked Mr. Simmons if he could explain why this hearing was happening. At this time, Mr. Souza read aloud this Cease & Desist letter. Mr. Souza then explained that the building permit was for agricultural use, later Mr. Wagner changed the use and then the Fire Department got involved because our codes overlap; and then again, Mr. Wagner added weddings and various venues to his application. Mr. Souza stated he was not saying to shut down the whole place, he was just having the venues held on until it can be sorted out. Mr. Sullivan asked if Town Counsel's opinion has been shared with the applicant. Mr. Souza stated if Mr. Wagner has shared my letter with his counsel, it is spelled out and his counsel would be able to explain it to him. Mr. Sullivan asked if there was clarity as to why we are here tonight.

Attorney DiLuna stated we have clarity on why we are here tonight; my issue is, this seems to be being clouded with respect to the enforcement of the APR visa-vis the enforcement of the zoning bylaws. The

appeal is specific to the ZEO's Cease & Desist Order which is predicated on the zoning bylaws of the municipality. This should not be confused as to whether or not this is a violation of the APR; that is something the DAR has jurisdiction over. The question before this Board is whether weddings and other activities having an agricultural flavor be conducted on Weatherlow Farms. We believe the Building Commissioner is incorrect and look to the Board to overturn his decision and say that these activities as defined under agri-tourism and as they are consistent with the legal memorandum issued by the DAR, that these activities are considered agri-tourism and are allowed on a farm.

Ms. Gee asked Mr. Wagner, it is fairly clear what the Building Inspector has acted upon, basically big weddings and events. When reading the state statutes that have been provided, it is very clear that this is a very fuzzy issue but an important issue for a Town like Westport. The state statutes really do leave it wide open for just about anything. Ms. Gee questioned when weddings are held for 235 people, is the applicant talking about having amplified sound systems, would this be outside or would it be confined to the barn. Ms. Gee stated this has been a huge issue with people near the winery; so you can see why people are questioning where is this going. Mr. Wagner stated he would not rule out amplified music, but he has not gotten that far yet; this is just for use of the barn; if we were to have amplified music, there is the Town's noise bylaw which we would abide by. Attorney DiLuna stated obviously, any use would have to be consistent with the Town's bylaws. Mr. Souza stated as information, the barn does not have a certificate of occupancy, it is not complete. Mr. Souza stated it is the lower level for the processing of the meat and product has been changed; it will be processed elsewhere and stored (freezer) on this level. Mr. Graham stated so the barn is not complete. Mr. Souza stated it is close but no certificate of occupancy yet. Mr. Graham stated so the barn is not designed in any shape or form to house cattle. Mr. Souza stated you would not see cattle in the upstairs of this barn.

Steve Medeiros stated there is no denying that Mr. Wagner has done a great job of making the farm aesthetically nice. He is glad that the Board is taking a hands-on view of the barn because the permit applied for was for a barn; this barn was never built as a barn; there are no stalls, drains, etc. It is beautiful and was designed as a venue; it was not designed for beef. Mr. Medeiros stated that is what has the neighborhood upset. Mr. Medeiros stated being part of a farmer is being a good neighbor; some of those skills need to be worked. Mr. Medeiros stated as an Assessor he is having a hard time assessing this as a barn.

Edward Ferreira (Chairman of the AgCom) stated some of his cows have gotten out and as a good neighbor, Mr. Wagner has come over, apologized, and brought a bunch of eggs, chicken and beef. Mr. Wagner has put up quite a fence since. Mr. Ferreira stated agri-tourism and agriculture is very difficult to be involved in; any type of activities really help but there should be some good monitoring of it also. Mr. Ferreira stated he worked with the Planning Board on the bylaw and everyone seemed to be comfortable with it. Mr. Ferreira stated speaking as an abutter, there were growing pains; as a member of AgCom, he is in favor of this but the Commission will be meeting to discuss this. Mr. Ferreira stated it is now a pleasure to drive by the farm.

Frank Sherman stated in speaking of good neighbors, he has a goat and some sheep on his deck but he did not get any eggs. Mr. Sherman stated his house is in the middle of this farm; he has spoken with Mr. Wagner and Mr. Wagner has told him that his house is in his way causing an inconvenience. Mr. Wagner is encroaching on my property line and is putting up a permanent fence. Mr. Sherman stated he assumed Mr. Wagner would have it surveyed to check the property line; he didn't. Mr. Sherman found old plot plans and went to Mr. Wagner and told him before he built the road, it was possibly on my property; he didn't. Mr. Sherman stated his house is 328ft to the barn. Mr. Sherman stated he found a survey property peg for the property line and discussed this with Mr. Wagner, who admitted he was on my property but never came forward to tell me. Mr. Sherman stated he found Mr. Wagner very misleading. Mr. Sherman stated we have to stop call this a barn; it is not a barn. Mr. Sherman stated when this was farmed by George Medeiros, all the animals were not slaughtered off; farming is 365 days a year, it is a part-time farm. He is bringing in cattle and just raising them for slaughter.

Ms. Lambert asked Mr. Souza, if the permit was for agricultural use. Mr. Souza stated as this was being built, things changed. Ms. Lambert asked what things changed the elements of the barn. Mr. Souza stated what changed was people in the barn and not animals; this was for an agricultural use building. Ms. Lambert asked if there is additional lighting, being a detriment to the abutters. Mr. Souza stated the detriments would be parking, music, etc.; as long as it is farm-related, he has no problem but the detriment will be the number of people attending. Ms. Lambert stated that agri-tourism is still in it's infancy stages and studies are still be conducted; any decisions made must be sensitive to the neighbors and good for the community. Mr. Souza stated also, at this time, there is no parking plan in place.

Michael Silvia stated his concerns are noise (will it be a band or what, will it be for weddings or concerts), traffic (this is a country road and weddings don't draw local people – this is an accident waiting to happen), will there be an alcohol license, what will the number of events be, will there be tents outside, will there be future expansion, will there be restrictions on certain events (weddings are not agricultural use); please remember, Westport is fishing and farming, keep it that way.

Manuel Ferry asked if the APR will sign off on these activities that are going on at the property, including the activities that are happening now. Mr. Ferry stated an APR is for 365 days a year. Mr. Ferry stated he is an APR Farm and he could not do on his farm, what is being done on this farm. Mr. Ferry stated you are supposed to be a steward of the land and every aspect is supposed to be accepted by the APR.

Mr. Coutinho asked who is the monitoring agent in Town for APR; do we have a monitor agent of events in this Town. Mr. Coutinho stated he did not think so. Mr. Coutinho also asked who kept the records on such events; these are the types of questions that need answers. Ms. Sherman stated that the APR used to come to the farm when her parents owned it; and they were very strict. Mr. Simmons asked Mr. Wagner, with these types of events, will there be a sprinkler system in this barn. Mr. Wagner stated no, it will not be sprinkled. Mr. Simmons questioned, with all those people (235), there will be no sprinkler system. Attorney DiLuna stated the purpose of this hearing is specific to zoning and nothing else.

Ms. Gee stated our own bylaws that were passed at Town Meeting, leave everything wide open; with reading the local bylaw on what is called agri-tourism, agri-entertainment and commercial activities, one would be hard-pressed for something you could not do. Mr. Coutinho stated almost anything to draw people to the farm. Ms. Gee stated with farms, who are tax exempt, trying more and more to sustain themselves with commercial venues, you have to wonder, when do other business people start look at tax exempt status also. Ms. Gee again stated, with the bylaws we have adopted, how can we say this is not allowed.

Following discussion, it was decided to seek Town Counsel opinion on Mr. Coutinho's possible conflict and to seek permission to allow Town Counsel to be present at the next continued hearing.

8:40PM

Motion made by Mr. Coutinho to continue this hearing to Wednesday, October 4, 2017 at 7:15PM in the Town Hall. Second by Mr. Simmons. The Board voted unanimously in favor.

William and Kimberly O'Donnell – RE: An application request for a Finding that the demolition of an existing single family residence and construction of a new single family residence on an undersized, non-conforming, pre-existing lot shall not be substantially more detrimental than the existing non-conforming use to the neighborhood. The property is located at 252 Howland Road and shown on Assessor's Map 88, Lot 149.

Chairman Graham opened the hearing at 8:40 PM with the reading of the Public Hearing Notice and asked that if anyone wished to speak on this petition, to state their name and address for the record.

Members Present: Christopher Graham, Gerald S. Coutinho, Donna Lambert, Gary Simmons, Peter Borden and Constance Gee
Members Absent: Roger Menard
Also Present: Ralph Souza, Building Commissioner/Zoning Enforcement Officer
William and Kimberly O'Donnell, petitioner
Robert Moran, Middletown, RI architect representing petitioner
Dennis Talbot, builder representing petitioner
Roland Oliver, builder representing petitioner
Abutters Present: Henry J. Robidoux, 243 Howland Road

Mr. O'Donnell stated we are here tonight to appeal the denial of our building permit to construct a two-level, single family dwelling at 252 Howland Road; pursuant to the zoning laws of the Town, we feel that the proposed house would not be more detrimental to the neighborhood. Mr. O'Donnell stated this will be a two-level, two-bedroom house with 1,675 sq.ft. of living area located on a non-conforming lot. Mr. O'Donnell stated the proposed structure has eight houses within 200 ft. that are similar in size and all of them are on non-conforming lots. Mr. O'Donnell stated that six of the eight houses have been built since 2001 and the seventh was given permits to expand since 2001. Mr. O'Donnell stated he is not seeking any variances for height, lot coverage or setbacks. Mr. O'Donnell stated the house has been approved by the Board of Health for a two-bedroom septic system repair by Mr. Len Potter.

Mr. Souza stated this is basically the same situation as before; there have been other houses that were built, torn down and rebuilt on non-conforming lots; some have come before this Board, some have not but on advise of Town Counsel, this lot does not meet the minimum requirement of 20,000 sq.ft. or frontage, so they have to come before this Board for a finding that the new dwelling will not be more detrimental than the previous dwelling they are taking down. Mr. Souza stated they have a one-level, Cape-style home to be demolished and replaced with a two-level home with a little more sq.ft. Mr. Souza stated in his denial letter, the proposed dwelling contains 1,675 sq.ft. of living area not including the proposed garage, porch and deck, which constitutes 1,196 additional square feet. Mr. Souza stated at the time, in his opinion, this was more substantial than the structure that is there on the property now.

Mr. Coutinho asked what is the total livable square footage. Mr. Souza stated livable square footage is 1,675 (post-dwelling), it does not include the garage, porch or deck. Mr. Coutinho referred to Exhibit A which shows the living areas of the neighboring properties and none of them are that small. Mr. Souza stated there are some houses in the area that are bigger. Mr. Simmons stated this is a neighborhood that had cottages at one time but have been torn down and replaced.

Mr. O'Donnell presented pictures of the houses in the neighborhood. Mr. O'Donnell noted that on the current property, there is an asphalt driveway that encompasses over 1,100 sq.ft. of the lot, we are removing it and replacing it with a clam-shell driveway; we would like to reserve the right to put something else at a later time but at this point, it will be clam-shell.

Mr. Coutinho asked if there was a picture of the current house. Mr. O'Donnell stated that if you look at 256 Howland Road, that is basically the style of what we have right now; a basic ranch.

Mr. Borden noted this property has a well, whereas the other houses don't have wells. Mr. O'Donnell again stated he does have the approval of the Board of Health for the repair of the septic system.

Mr. O'Donnell stated the abutters have been notified, and most of them have seen his plans and they don't object; as a matter of fact, two abutters are here tonight and others have submitted letters of support.

Mr. Souza stated that other than the fact that they are going from one-level to two-levels, as long as the applicant keeps basically the same square footage, Mr. Souza stated he does not have a problem with this

proposal. Mr. Souza stated the applicant really just needs a finding that it is not substantially more detrimental. Mr. Souza stated we are here on advise of Town Counsel for a finding by the Board.

Mr. Coutinho stated it is clear that the neighborhood has changed; Mr. Souza agreed. Mr. Graham asked Mr. Souza if it is for two bedrooms. Mr. Souza stated it is two bedrooms now, checking the Assessor's records and it will remain a two-bedroom house; it has it's own well; and it has been approved by the Board of Health for a two-bedroom septic system repair.

Mr. Coutinho stated the application indicates a 1,675 sq.ft. home with two-bedrooms; who calculated the square footage. Mr. O'Donnell stated his architect. Mr. Moran stated it includes all the living heated space, not the one-stall garage that is under the house. Mr. Coutinho asked if there was a full basement in the house. Mr. Moran stated yes. Mr. Coutinho asked what would prevent the basement from becoming a finished area. Mr. O'Donnell stated in the appeal letter, the downstairs is part of the second part of the build, not the initial build and the second bedroom will be located there. Mr. Moran stated this is a walk-out basement in the rear of the house. Mr. O'Donnell stated that would add an additional 825 sq.ft. bringing the total living space, when completed, to 2,500 sq.ft. which is still similar to the houses in the neighborhood, with some being larger than this. Mr. Coutinho asked how this construction was going to happen. Mr. O'Donnell stated the initial build and the permits we are asking for are for 1,675 sq.ft and the future plan, is to finish the basement floor. Mr. Coutinho asked if there would be an expansion of the footprint in the future. Mr. O'Donnell stated no, just finishing what is there but it would still be a two-bedroom. Mr. Coutinho stated even with the finish, it still is within what is in the neighborhood.

Mr. Graham noted letters of support were received from Amy & Joe Versaggi, 249 Howland Road and Daniel & Elizabeth Kraft, 3 Hillside Road.

Henry J. Robidoux, abutter, stated he has come to know the O'Donnell's over the last three years; the O'Donnell's are good neighbors and they care about their neighbors and help out anytime, so he would urge the Board to allow this request.

8:55 PM

Motion made by Mr. Coutinho to close the hearing. Second by Mr. Simmons. The Board voted unanimously in favor.

Discussion by the Board

Mr. Coutinho stated he did not see any issues with this petition at all.

Voting on Petition: Graham-Coutinho-Lambert-Simmons-Borden

Motion made by Mr. Coutinho that the Board finds the proposed project, including all the records and plans as presented, will not be substantially more detrimental to the neighborhood; in fact, it will enhance the neighborhood, where as the neighborhood is changing and this proposal goes right along with such change as shown in the other houses in the vicinity. Second by Mr. Simmons. The Board voted unanimously in favor.

The hearing is closed at 8:58 PM.

Action Items – None.

Correspondence – None.

Approval of Minutes – None.

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

Other business – None.

9:00PM

Motion made by Mr. Coutinho to adjourn the Zoning Board of Appeals meeting. Second by Ms. Lambert. The Board voted unanimously in favor.

Adjournment.

Respectfully submitted,
Diane Pelland, Principle Clerk
to the Zoning Board of Appeals

APPROVED: Christopher Graham, Chairman