

**Minutes of the Zoning Board of Appeals
July 16, 2008**

**Hearing: #08-05
Time: 7:35 pm
Section 5.14.2.5
Section 5.14**

Present: David Perry – Chairman, Joseph Daigle, Terry Girouard, Cheryl Anderson, Donna Brooks

1. David opens Hearing and introduces Board.
 - a. Reads Hearing notice
 - b. Explains rules
2. Appellant's lawyer introduces herself and explains request (Attorney Kristine S. Symonds).
 - a. Enters 1 sheet – Town's bylaw numbered 1 of
 - b. Explains reason for appeal of Building Inspector's denial
 - c. States there is no definition in the bylaws of this Town for a common driveway
 - d. Lot 2 is 3.86 acres and Lot 1 is 12.46 acres
3. Donna asks why this is considered a common drive.
 - a. Attorney answers
4. Donna asks Attorney for spelling of Attorney's card for ID.
 - a. Doesn't possess one at this time
 - b. Gives name etc. to clerk
5. Attorney continues with presentation.
6. David asks Attorney what she is requesting.
 - a. States a determination that the bylaw does not apply
7.
 - a. Cheryl asks about deed clarification.
 - b. Cheryl asks about additional.
8. David asks if Board has other questions.
 - a. None
9. David asks Planning Board members for input.
 - a. Chairman John MacMillan states they feel this is not a common drive
10. David asks Building Inspector for input.
 - a. States Planning Board accepted ANR plan with driveway 1000' feet long
 - b. States trouble will arise among future owners
 - c. States a can of worms will be opened for future lots
 - d. Stated he was looking out for the future owners and public safety
11. David asks Mike about easements.
 - a. Answered

12. David enters letter from Town Planner numbered 2 of containing 3 double sheets into record.
13. Mike states easements do not protect anybody and this should go back to the Planning Board.
14. Mike states the appellant should see a Variance.
15. Donna asks how wide the easement would be.
 - a. Unknown
16. Mike states there has not been a created plan and no basis for an overturned appeal.
17. Terry asks Planning members and Mike if they have spoken to try and resolve this matter.
 - a. Short answer – no
18. Donna asks why the drive isn't further down the lot toward Rindge Turnpike.
19. Attorney states the ConCom wanted it there.
20. Cheryl granted floor:
 - a. Incomplete packet
 - b. No abutter's list
 - c. No Assessor's maps
 - d. No tax card
21. Mike states that if something is not stated in the bylaw then it is not allowed and requires a Variance.
22. David reads 40A section pertaining to the Board's ability to direct Mike to issues a permit.
 - a. Mike states he would appeal our decision
23. Attorney states it does not apply to private ownership and land use – not zoning.
24. David asks if the whole reason for this hearing is to stay out of the wetland.
25. Joe from Planning Board speaks to their decision on the ANR Plan in question.
 - a. Just because an ANR is approved doesn't mean it's buildable
26. Attorney explains reasoning for location of drive.
27. Attorney explains that she is very specific when she holds a closing when easements are concerned.
28. Donna counters against scenario presented of children in the way of a common drive.
29. Attorney states she would have to go back to ConCom to get additional conditions if Board does not grant relief.
30. David calls for brief recess at 8:40pm.

31. David reopens at 8:50pm and explains the Board will continue until 9:15pm.
32. Mike states there is a way to implement a common driveway.
33. Attorney states reason was “safety” for placement of drives.
34. David asks about culvert on easement drive.
35. David turns Hearing over to abutters’ comments.
36. Kevin Salo, 171 Wilker Road – Directly across road.
 - a. Requests on driveway for both lots.
37. Cheryl asks Mr. Salo where his property is.
 - a. Abutter identifies his lot location.
38. David asks if any abutters have questions.
39. Mr. Salo states ConCom could not determine if there would be any disturbance.
40. ConCom has issued an order of conditions.
41. Attorney explains she is in close contact with the ConCom.
42. Mike states he is required by law to be notified of an appeal against him (Section15 – Chapter 40A).
43. Cheryl states concern of lack of complete package (heated) and wants to know who said the full package was not needed.
44. David wants to continue Hearing.
45. Cheryl and Donna do not.
46. David asks Mike if he wants a continuance.
 - a. No
47. Attorney attempts to clarify packet.
48. Joe suggests that a withdrawal without prejudice and pursue another course of action and attempt to work with the Boards and Inspector.
49. Attorney asks what solution we suggested.
50. David states we can’t do that.
51. David suggests continuing the Hearing.

52. Cheryl makes motion to continue.
Donna seconds
Vote: Unanimous to continue until July 30, 2008 at 7:30 (please post) at this location
53. Terry advises that he will not be available on August 6, 2008 – please do not set any business on that date.
54. Donna makes motion to adjourn.
Cheryl seconds
Vote: No vote
55. Interrupted by Mr. Wheeler and Building Inspector to revisit previous Hearing.
56. David advises he is excluding himself from this situation because he is the contractor on the job.
57. Mike states we are on day 40 of 100.
58. Joe takes over the Chairmanship.
59. Mike talks to Board and appellant.
60. Joe speaks to past situation.
61. Appellant walks out with threats.
62. Donna speaks heatedly to appellant.
63. Cheryl speaks with Mike about workings of Variances and Special Permits.
64. Mike explains.
65. Donna explains that if it doesn't appear in zoning it can't happen.
66. Cheryl speaks to acting or not acting.
67. David asks if he (Mike) could have issued Mr. Wheeler a permit.
 - a. Mike explains that he could not
68. Cheryl asks if we could revisit if no action has been taken.
69. Chair entertains motion to adjourn.
70. Donna makes motion to adjourn.
Terry seconds
Vote: Unanimous to adjourn at 9:46pm.

Respectfully submitted by Joseph Daigle, Clerk