

TOWN OF LANCASTER  
BOARD OF APPEALS  
Mary Rowlandson Elementary Auditorium  
Thursday, December 27, 2018

Present: Chair Jeanne Rich, Frank Sullivan, Scott Miller, Sarah Gulliver and Robert Baylis

Absent: Hannah Meyer, David Stadtherr and Matthew Mayo

Also Present: Legal Counsel for the Town Alex Weisheit, from Mead, Talerman and Costa

List of Documents:

- Board of Appeals Agenda: December 27, 2019
- Application: Spratt-Appeal of Building Inspector/Zoning Enforcement Officer's Determination, 290 Langen Road
- Application: Aldrich-Appeal of Building Inspector/Zoning Enforcement Officer's Determination, 290 Neck Road
- Application: Lidstone-Appeal of Building Inspector/Zoning Enforcement Officer's Determination, 290 Neck Road
- Memo dated November 28, 2018 from Raphaelson & Raphaelson, Attorneys at Law –re: Memorandum of Law in Support of Appeal of Zoning Enforcement Officer's Letter Dated October 9, 2018
- Application: Perron-Appeal of Building Inspector/Zoning Enforcement Officer's Determination, 290 Neck Road
- Letter dated December 27, 2018 from Vicky Bearce-concerning 290 Neck Road
- Affidavit of Todd Palmaccio dated December 26, 2018 – concerning 290 Neck Road
- Affidavit of Anita Palmaccio- concerning 290 Neck Road
- Two photos

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There being a quorum present, Chair Rich called the meeting to order at 7:00 PM.

The agenda was taken out of order.

**Continuation of Public Hearing, Comprehensive Permit, Goodridge Brook estates Development, Iqbal Ali, Crescent Builders, Inc.**

Robert Baylis made a motion that the public hearing for Goodridge Brook Estates Development be continued to January 24, 2019, at 7:00p.m. due to an anticipated lack of a quorum of voting members. No information or testimony will be accepted at this meeting. Sarah Gulliver seconded the motion. No discussion. VOTE: 4-0-1 (Scott Miller abstained).

**Public Hearing, Appeal of Building Inspector/Zoning Enforcement Officer's Determination-290 Langen Road, W.P. Spratt Corporation, Owner**

*Present: Henry and Sandra Duplease, applicants and Mr. William Spratt, owner 290 Langen Road*

Chair Jeanne Rich read aloud a Notice of Public Hearing thereby convening a public hearing for the purpose of considering an appeal of the Building Inspector/Zoning Enforcement Officer's Determination

concerning 290 Langen Road. The voting members are Jeanne Rich Scott Miller, Frank Sullivan, Sarah Gulliver and Robert Baylis.

Mr. William Spratt explained that the office trailer is for the bus company to use for their communication center. The original building permit allowed the office trailer but only for two years. This permit was in 2005. The Building Inspector has informed Mr. Spratt that office trailers are not allowed in Lancaster per the zoning bylaws and he has 30 days to remove it. He has asked for an extension to June 20, 2020 which is when the bus contract ends. Mr. Spratt explained there was a previous trailer located in the same spot however in 2005 it was removed and replaced. Scott Miller asked what the building permit stated as the two year limit was very odd. Sarah Gulliver asked how different this trailer is from the previous one and why it could not be relocated at the end of this school year. Robert Baylis asked if it was possible to do something this summer with the trailer. Mr. Spratt replied the permit gave him two years for the trailer, the summer is too short a time frame to move the trailer and all the communication equipment in it and that this trailer is the same as the previous one with the exception of a communication antenna on the top of it

Abutter Sandra Duplease handed a petition to the Board which was signed by many residents in town. The petition is asking that the trailer be removed immediately. She spoke about this being a country road and the trailer has a large pipe sticking out of the top, they are unable to resolve issues as a neighbor with Mr. Spratt.

Mr. William Spratt stated that their way of being neighborly was to call the DEP, Building Inspector, Board of Health and Conservation Commission and complain without speaking with him.

Abutter Henry Duplease stated that once the trailer was removed previously the new one should not have been installed and it is nonconforming.

Mr. Tony Rozetti spoke concerning this as a residential neighborhood with rules on what can transpire. He states he was present in Worcester Superior Court when the last suit was filed and there was a 7:00a.m. stipulation for starting.

Robert Baylis asked if removing the trailer will put a hardship on the bus company which in turn will put a hardship on the town as it may increase costs. Sarah Gulliver asked if the brick building could be used for the communication for the bus. Mr. Spratt said he is working on options with the bus company.

**A motion was made by Scott Miller to close the hearing. Sarah Gulliver seconded the motion. No discussion. VOTE: 4-0-0.**

**A motion was made by Robert Baylis to grant an eighteen month extension for the removal of the office trailer however a fence is to be erected on the street side of the trailer to block the view from the road. This is to be completed by February 1, 2019 and a building permit is going to be required. Frank Sullivan seconded by motion. No discussion. VOTE: 4-0-0.**

**Public Hearing, Appeal of Building Inspector/Zoning Enforcement Officer's Determination, 290 Neck Road-Ryan Aldrich, Owner of Ryan Aldrich Excavating LLC**

*Present: Ryan Aldrich*

Chair Jeanne Rich read aloud a Notice of Public Hearing thereby convening a public hearing for the purpose of considering an appeal of the Building Inspector/Zoning Enforcement Officer's Determination concerning 290 Neck Road.

Mr. Ryan Aldrich requested to withdraw his petition without prejudice. **A motion was made by Scott Miller to accept the withdrawal. Robert Baylis seconded the motion. No discussion. VOTE: 4-0-0.**

Mr. Ryan Aldrich presented a letter to the Board informing them that all the outside company vehicles have been removed from his property and will no longer be allowed to park there.

**Continuation Public Hearing, Appeal of the Building Inspector/Zoning Enforcement Officer's Determination-290 Neck Road, Robert Lidstone, Applicant and Abutter**

*Present: Mr. Robert Lidstone*

Mr. Lidstone is appealing the Building Commission/Zoning Enforcement Officer's determination that the business at 290 Neck Road is grandfathered and there are no restrictions to hours of business, size of business, no special permits needed and sewage installation which includes pumping out old septic to install new ones.

Mr. Lidstone spoke of the dirt, dust, truck traffic. He presented two photos of dirt being swept.

Attorney Justin Raphaelson presented a legal memo in which he summarized to the Board. He spoke of the 220-52 bylaw and MGL 40A, section 6. He explained the three tests to be performed in order to determine if the company is nonconforming and can continue unchanged. Exhibit A, the affidavits of the Hawkins from the 1940's clearly did not have traffic of 90 vehicle trips a day as there are now. The Lidstone's are woken up at 3 a.m. which is a substantial change to the neighborhood. There is an allowed rate of growth, some growth is allowed, however a substantial change by increase in traffic, by other companies, Heritage Lands., KJS, Lancaster Septic, those all are clearly substantial changes to the original excavating company.

He talked about a suit, Vokes vs. Avery in which the owner owned a cesspool company and changed the use which changed the character of the neighborhood. He said there are five issues which need to be addressed: Hours should be limited to pre zoning; it is an excavating company and should remain as what was there pre zoning, limit the noise and the septic truck needs to be removed.

Town Counsel, Alex Weisheit, explained the Board's function in this matter is to look at the scope of the operation, what has been happening and some change is allowed, what is reasonable.

Steven Harper presented a memo which was placed in the file, not read. He spoke of his relationship to Nat Hawkins.

Ryan Aldrich described the details of the company and how it operates on the site. He gave a brief history of the company as it relates to his grandfather who previously owned the company.

Todd Palmaccio presented two affidavits from himself and his wife Anita which he summarized. He said he wants Ryan Aldrich to adhere to the grandfathering and wants him to stay within the regulations.

Vicky Bearce presented an affidavit to the Board which she read into the record.

Robert Perron, abutter said he adjoins Ryan Aldrich's property and there has been a definite change in use from 2000-2018. He said there are more truck and materials coming in and out. He requested a definition of "grandfathering" changes over the last 10 years with other vehicles using his property.

Emily Kerrigan said she supports Ryan's business; the other trucks will not be there anymore.

Robert Lidstone stated Nat Hawkins never owned a septic truck. Steve Harper stated that the affidavit of Nat and Betty Hawkins states other vehicle and equipment so it is unknown if they owned some type of pumper at one time.

Sherry Cutler spoke about the water line work on Harvard, Packard and Neck Roads, with a lot of dust, traffic, blocked driveways, 3 years of construction, etc. but necessary work.

Jim Ford stated he respects the Lidstones and understands all neighborhoods have changed. Every neighborhood in town must change with the times. This business has to change to the times. Jim suggested this hearing be continued for 6 months to see if Ryan's statement of no more other companies subsides the issues.

Sue Smiley spoke of heavy tractors, trailers coming down the road, disconnecting at the railroad tracks and reconnecting, mailboxes being clipped by large trucks, having her septic pumped by Mr. Culley and Ryan driving excessively fast. Ryan said he does not drive fast.

Susan Franks states she is woken up at 6:00 a.m. to back up beeps. She also complained about the septic truck leaking.

Dean Day said he is employed by Ryan Aldrich and is the only one who drives the septic and tri axle trucks.

**Scott Miller motioned to continue the hearing until February 28, 2019. Sarah Gulliver seconded the motion. No discussion. VOTE: 4-0-0.**

**Scott Miller motioned to incorporate all testimony from the Lidstone hearing into the Perron hearing. Robert Baylis seconded the motion. No discussion. VOTE 4-0-0.**

**Public Hearing, Appeal of the Building Inspector/Zoning Enforcement Officer's Determination-290 Neck Road, Robert Perron, Applicant and Abutter**

Chair Jeanne Rich read aloud a Notice of Public Hearing thereby convening a public hearing for the purpose of considering an appeal of the Building Inspector/Zoning Enforcement Officer's Determination concerning 290 Langen Road. The voting members are Scott Miller, Frank Sullivan, Sarah Gulliver and Robert Baylis.

Mr. Perron is appealing the Building Commission/Zoning Enforcement Officer's determination that the business at 290 Neck Road is grandfathered and there are no restrictions to hours of business, size of business, no special permits needed and sewage installation which includes pumping out old septic to install new ones.

Chair Jeanne Rich requested the green cards be returned to the Community Development Office as they are part of the file. Mr. Perron state he would return them.

Mr. Perron states that the Zoning Board's function here is to uphold the bylaws and any change in use requires a special permit, his appeal is to make sure that the process is followed. He would like the Board to take the time to read his appeal with his concerns. If we are not willing to take the time to read it then he will read it into the record.

Town Counsel interrupted and questioned if this appeal was timely filed as it appears to be outside the 30 days from the date of the Building Inspectors letter. Scott Miller stated the Building Inspector's letter was dated October 9, 2018, the Perron appeal was date stamped by the Town Clerk on November 15, 2018. Scott Miller requested to note there is a discrepancy in the dating of the appeal. Mr. Perron wanted in the record that the letter he received from the Building Inspector was post marked October 16, 2018 which gave him to November 16, 2018 to respond. Town Counsel stated the Board's duty is to determine whether the Building Inspector made the correct determination that the business has a grandfathered protection.

Mr. Perron asked that all testimony in the Lidstone appeal also be allowed in his appeal as they are basically the same. He also questioned whether the Building Inspectors decision was reasonable given the nature of the business has changed and has been altered; this is unreasonable as there is an increase in the nature of the business.

Robert Baylis asked both parties, Mr. Lidstone and Mr. Perron if they would grant the Board an extension so that all documents can be reviewed by the Board members and an informed decision can be made. Both parties agreed and handed to the Board written extensions to continue the hearings to February 28, 2019 at 7:00 p.m.

**Scott Miller motioned to continue the Lidstone hearing until the February 28, 2019 at 7:00PM. Robert Baylis seconded the motion. No discussion. VOTE: 4-0-0.**

**Scott Miller motioned to continue the Perron hearing until the February 28, 2019 at 7:00PM. Robert Baylis seconded the motion. No discussion. VOTE: 4-0-0.**

**With there being no other business before the Board, Chairman Rich called the meeting adjourned at 9:31PM.**

Respectfully submitted,

Debra Dennis, Office Manager