**ZONING BOARD OF APPEALS**

MINUTES

Public Hearing – Regular Meeting

**July 19, 2018**

7:30 P.M. Main Level Meeting Room

**MEMBERS PRESENT:** Mr. Bowman, Mr. Peterson, Mr. Horan

**MEMBERS ABSENT:** Mr. Wyant

**ALTERNATES PRESENT:** Mr. Wildman, Mr. Gunnip

**STAFF PRESENT:** Ms. Hodza, Ms. White

**OTHERS PRESENT:** Mr. Fleischmann, Atty. Woermer, Mr. Rieghard, Mr. Churchill

**PUBLIC HEARING(S):**

Mr. Bowman called the meeting to order at 7:30 p.m.

SEATED: Mr. Bowman, Mr. Horan, Mr. Peterson, Mr. Gunnip, Mr. Wildman

**ZBA-1057: Appeal by Fleischmann, 219 Roxbury Rd, of a decision by the ZEO to issue a permit for installation of a driveway and fence on property owned by Tunis, 227 Roxbury:**

Atty. Woermer introduced himself and stated that he is representing Mr. Fleischmann in this matter.

Mr. Bowman asked for clarification as to what decision the applicant was seeking an appeal for as the application form mentions the Inland Wetlands Decision of July 27, 2016. He noted that the ZBA does not have jurisdiction over Inland Wetland Commission approvals.

Mr. Fleischman stated that he is appealing the decision to allow the installation of a fence and driveway along this particular strip of property and requesting that the Zoning Board of Appeals suspend any construction activity while several matters get worked out. He feels that there are inconsistencies in the approved 1989 subdivision map and that these should be addressed. Mr. Fleischman informed the Commission that they are not necessarily contesting the fence and the driveway but that the approved subdivision is null and void.

Atty. Woermer stated that the driveway serves lots 5 and 6. There are several issues. The first issue is that a piece and corner of the driveway is on Mr. Fleischmann’s property. The second issue is that the original subdivision plan that was approved in 1989. The Zoning Regulations state that a driveway may not serve more than two interior lots and must have a 50 ft. approach on the roadway. When this particular subdivision was presented to the Planning Commission they agreed that an easement would be created or a separate driveway and the subdivision map indicates the location of the separate driveway.

The Commissioners looked at the Final Subdivision Plan, developed by Tamara Sachs, prepared by Michael J. Riordan, June 30, 1989.

Mr. Bowman asked if the applicant is questioning a decision by the Planning Commission.

Atty. Woermer stated that the previous ZEO approved a new driveway and fencing

for the interior lot. The applicant noted that there was an Inland Wetlands approval for this proposed driveway. Atty. Woermer informed the Commissioners that his client is not opposed to the new driveway and fencing. However, part of this driveway goes over a small portion of Mr. Fleischmann’s property. He explained that there is a title impediment because the owners of lot 5 and 6 have been using the dirt road access that is on Mr. Fleischmann’s property which was meant to be temporary and not included in the final plan of the subdivision. Atty. Woermer noted that this dirt accessway was used for temporary access until the interior lots were developed. Once the interior lots were developed a separate driveway would have to be installed.

Atty. Woermer and Mr. Fleischman want the title to indicate that the proposed driveway with fencing will be the exclusive egress of lots 5 and 6. Atty. Woermer stated that there are other issues but in order for this driveway to be in compliance it can only serve two interior lots 5 & 6. The proposed driveway runs along and includes a tiny corner of Mr. Fleischmann’s property. They would like to move toward a resolution with the property owners of lots 5 and 6. The applicant is requesting a release of any language in the title that states that the dirt road on Mr. Fleischmann’s property is an easement serving lots 5 & 6. Atty. Woermer informed the Commissioners that the State D.O.T. has put in an apron for the proposed driveway.

It was noted that both lots 5 and 6 are developed. The Commissioners referred back to the subdivision map.

Atty. Woermer requested that the Planning Commission be incorporated into any resolution that is developed. They acknowledge that they would have to work out the details of the small portion of the driveway that goes over Mr. Fleischmann’s property.

Mr. Bowman stated that he would need to discuss this with the Commission’s Attorney. He asked the applicant if he was agreeable to have the apron partially on his property in order to get the whole driveway off of his property.

Mr. Fleischman confirmed.

Mr. Gunnip asked to see the deeds to Mr. Fleischmann’s property and possibly lots 5 and 6.

The Commissioners and applicant agreed to continue this public hearing.

There were no further questions.

**MOTION:** To continue the public hearing at the regularly scheduled meeting of August 23, 2018, for application **ZBA-1057:** Appeal by Fleischmann, 219 Roxbury Rd, of a decision by the ZEO to issue a permit for installation of a driveway and fence on property owned by Tunis, 227 Roxbury, By Mr. Horan, seconded by Mr. Gunnip, passed unanimously.

**ZBA-1058: Request of Cowles, 210 West Shore Rd, for a Special Exception/Section 12.1.1-Structure (Wetlands & Watercourse Setbacks), to tear down existing shed and rebuild with slightly larger footprint w/in 50ft of a water body:**

Mr. Rieghard of New Castle Homes was present to represent the property owner.

It was noted that all neighbors were notified and receipts were submitted to the Land Use Office.

Mr. Reighard stated that the property owner has an existing boat house that is falling apart and she would like to replace it with a larger one that will fit kayaks and boards. He informed the Commissioners that they are proposing to build it in the same style as the existing house.

The Commissioners looked at pictures of the existing shed.

Mr. Reighard stated the proposed shed would be about 72 sf larger than the existing shed and it would sit on blocks. He noted that the overhang would be over dirt. The existing shed is 10’ x 12’ and the proposed shed is 12’ x 16’.

The Commissioners looked at the back up documentation provided with the application.

The Commissioners requested accurate floor plans, exact size, existing and proposed elevations, and distance to the water and other property lines.

**MOTION:** To continue the public hearing at the regularly scheduled meeting of August 23, 2018, for application ZBA-1058: Request of Cowles, 210 West Shore Rd, for a Special Exception/Section 12.1.1-Structure (Wetlands & Watercourse Setbacks), to tear down existing shed and rebuild with slightly larger footprint w/in 50ft of a water body, By Mr. Horan, seconded by Mr. Bowman, passed unanimously.

**ZBA-1059: Request of Hendricks Churchill, LLC (24 ONR., LLC), 39 Sabbaday Ln, for a Variance/Section 17.4 (Increase in Nonconforming Structure), to modify roof framing of existing dormers within a rear yard setback:**

Mr. Churchill of Hendricks Churchill, LLC was present to represent the property owners of 39 Sabbaday Lane.

It was noted that neighbors within 200’ of the property were notified and receipts were on file. Steep Rock Association was also notified and provided a letter to the Land Use Office confirming no issues with the proposed plan (on file in the Land Use Office).

The Commissioners and Mr. Churchill reviewed the overall survey, photos, floorplans and elevations of the existing and proposed structure. Mr. Churchill indicated the rear yard setback and the existing structure that is located within this setback.

Mr. Churchill explained to the Commissioners that they are proposing to increase the pitch of the roof of the dormers and the rear dormer is mostly within the rear setback. They are proposing to increase the pitch of the roof on both the front dormer and the back dormer to allow for proper drainage and to properly insulate the structure.

Mr. Churchill confirmed that the roof line would not change. He noted that they will be removing the storage area at the rear of the structure.

There were no further questions.

**MOTION:** To close the public hearing for application **ZBA-1059:** Request of Hendricks Churchill, LLC (24 ONR., LLC), 39 Sabbaday Ln, for a Variance/Section 17.4 (Increase in Nonconforming Structure), to modify roof framing of existing dormers within a rear yard setback, By Mr. Horan, seconded by Mr. Wildman, passed unanimously.

**Meeting:**

Mr. Wildman stated that this is a small volumetric increase and by removing the storage area in the back the nonconformity will be decreasing. Mr. Peterson, Mr. Gunnip, Mr. Horan and Mr. Bowman agreed that this is a very small increase and Mr. Churchill provided excellent documentation for this application.

**MOTION:** To approve application **ZBA-1059:** Request of Hendricks Churchill, LLC (24 ONR., LLC), 39 Sabbaday Ln, for a Variance/Section 17.4, to modify roof framing of existing dormers within a rear yard setback per plan set titled Sabbaday Cottage, 39 Sabbaday Lane, prepared by Hendricks Churchill, Sheets SP.00-01, SK.101-102, SK.201-204, dated 06-19-18, by Mr. Gunnip, passed by 5-0 vote.

**CONSIDERATION OF THE MINUTES:**

**MOTION:** To approve the March 15, 2018 Regularly Scheduled Meeting for ZBA as submitted, passed by 4-0-1. Mr. Horan abstained because he did not review them.

**DISCRETION OF THE CHAIR:**

Mr. Bowman approved the invoice from Halloran Sage dated July 12, 2018.

Mr. Bowman read the resignation letter from Mr. Catlin dated May 24, 2018.

Ms. Hodza provided updates for the Washington Arts Association property and 3 Perkins Rd. She has requested that both property owners submit asbuilts for the Commission to review.

**ADJOURNMENT**

**MOTION:** To adjourn the meeting at 8:45 p.m., passed unanimously

**Recordings of this meeting are available in the Land Use Office upon request.**

**Filed Subject to Approval.**

**Submitted by:** \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Shelley White, Land Use Clerk

July 25, 2018