

April 4, 2019

To: Peter Bowman – Chair, Washington Zoning Board of Appeals
Fr: Wayne Hileman – Chair, Washington Planning Commission
Re: ZBA-1057 – Appeal by Fleischmann, 219 Roxbury Road

Dear Peter –

According to the minutes of the Washington Zoning Board of Appeals, the 18 Oct 2018 decision to sustain the appeal (ZBA-1057) submitted by Fleischmann, 219 Roxbury Road, regarding Zoning Permit ZC-10-30-17 was reached in part “because a revised Subdivision Plan was never submitted to the Town.” Subsequent to this decision, neighboring property owners (213-235 Roxbury Road) were served a letter by legal counsel representing the Fleischmanns (Atty. Woermer) indicating that the 1989 subdivision that created their respective lots was void because a condition of approval was not met at the time. Furthermore, the letter suggested that these property owners “consult your Title Company who insured your purchase and/or legal counsel” because of this “serious land use problem.”

Several of these property owners, understandably upset, contacted me and asked that I look into this matter. After a careful review of the materials, this is what I found:

Atty. Woermer was mistaken. In making his case for the Fleischmanns, he consistently referred to the [Final Subdivision Plan](#) developed for *Tamara M. Sachs* (‘the Sachs Subdivision’) on file in the Clerk’s Office, drafted by surveyor Michael Riordan on 30 Jun 1989 and stamped “1070”. Atty. Woermer noted that the Planning Commission, in their 22 Aug 1989 approval of the Sachs Subdivision, required that a revision be made as a condition of approval. Because this revision does not appear on the [Final Subdivision Plan](#), he asserted that the condition had not been met and the approval of the subdivision was thus null and void.

An inspection of the file and the minutes indicates otherwise. The Planning Commission’s minutes of 22 Aug 1989 clearly refer to commissioners reviewing the [Site Development Map](#) for the Sachs Subdivision, drafted by engineer Patrick Hackett and dated 14 Aug 1989—not the [Final Subdivision Plan](#). It was noted that proposed erosion controls for Lot #3 were incorrectly located on the [Map](#), and the Planning Commission, as a condition of approval, required that a “revised [Site Development Map](#) be submitted...within two days.” This was done; a properly revised [Site Development Map](#) was delivered to the Land Use Office the next day, stamped as ‘received’ on 23 Aug 1989 and initialed by the land use clerk.

It appears that Atty. Woermer conflated the *Plan* and the *Map*; they are two different documents created by different professionals to serve different purposes. In any event, the Sachs Subdivision was, has been and remains valid—the applicant complied with all regulations in place at the time and met all conditions of approval, and the property was developed accordingly. The pertinent documents have been and remain in the file, and they are available in the Land Use Office for all to see.

This letter shall constitute the official response of the Washington Planning Commission regarding this matter; the Commission shall take no action, as there is no action warranted. Please feel free to contact me with any questions; I am happy to appear before the Zoning Board of Appeals if necessary to help clarify the issue.

Best Regards,

A handwritten signature in black ink, appearing to read "Wayne Hileman". The signature is fluid and cursive, with a large initial "W" and "H".

Wayne Hileman
Chair – Washington Planning Commission

cc: Town of Washington—Board of Selectmen; Town Clerk; Land Use Administrator;
Enforcement Officer; Town Assessor

Lorenzo & Nathalie Gaggini, 213 Roxbury Road
Brad & Mary Fleischmann, 219 Roxbury Road
Mark Aurigemma & Brad Greenwood, 225 Roxbury Road
Martin Tunis & Dael Ray, 227 Roxbury Road
David Gillespie & Camille O’Hara, 231 Roxbury Road
James & Wendy Gorman, 233 Roxbury Road
Danielle & Anthony Amato, 235 Roxbury Road

Dr. Tamara M. Sachs