

TOWN OF TIVERTON
ZONING BOARD OF REVIEW
MINUTES

January 6, 2016

The following petitions were received and were heard by the Tiverton Zoning Board on January 6, 2016 at 7:00 p.m. at the Tiverton Town Hall, 343 Highland Road.

Members present: Lise Gescheidt (Chairwoman), David Collins, John Jackson, Richard Taylor, Wendy Taylor Humphrey and George Alzaibak (alternate).

Also present were: Anthony DeSisto, Town Solicitor, Mary Ann Escobar, Court Reporter and Neil Hall, Building Official.

1. A petition has been filed by Michael A. Kelly, Attorney for John & Marcy Scaduto of Bridgewater, MA appealing a Notice of Violation of the Tiverton Building/Zoning Official, Neil J. Hall dated September 2, 2015 regarding the expansion of a legal non-conforming structure located at 24 Shore Road, Tiverton, RI being Plat 806 Lot 154 on Tiverton Tax Assessor's maps and located in a R80 zoning district.

DECISION: Attorney Mineau appeared before the Board requesting a continuance. The Chair stated that they received a letter from Mr. Kelly's office dated December 31, 2015 requesting a continuance regarding a court excuse. Attorney Mineau stated that he believed in October of 2015 their office had filed a request for a variance and then after being informed that the preferred method for this type of relief would be a special use permit they had also filed in December an application for a special use permit. Since those two matters were going to be heard in February, he is asking that all three matters be heard on the same evening. Mr. Taylor voiced his concern with this request and wanted to hear this matter tonight. Attorney Landry appeared on behalf of the abutters and stated that he has no problem with the continuance. Mr. DeSisto also mentioned that it was also his belief that there may have been a problem with the proper notice of this petition. Mr. Collins made a motion to continue until the February 3rd meeting with the condition of no further continuances allowed in this matter. Ms. Gescheidt seconded. The Vote was unanimous. Voting were: Ms. Gescheidt, Mr. Collins, Mr. Jackson, Mr. Taylor and Ms. Humphrey.

2. A petition has been filed for Dadson Mobile Home Owner's Association by Stephen Delisle, President requesting a variance to Article XIV Section 5.a. of the Tiverton Zoning Ordinance in order to acquire additional land from Plat 410 Lot 126 through an Administrative Subdivision to allow the installation of an advanced treatment Onsite Wastewater Treatment System to replace existing substandard systems located at 301 Bulgarmarsh Road, Tiverton, RI being Plat 410 Lot 125 on Tiverton Tax Assessor's

maps extending or otherwise expanding a legal nonconforming use beyond that portion of the lot thus used which requires a use variance and located in a R40 and R80 zoning district.

DECISION: Attorney James Donnelly appeared before the Board representing the petitioner. He gave a brief summary stating that this Mobile Home Park has been in existence since the 1950's. He stated that the septic systems for these 102 mobile homes are starting to fail after many years and they wish to acquire the land adjacent to them in order to construct an Onsite Wastewater Treatment System to replace the existing failing systems they have now.

Marlene Beaulieu, Secretary and Past President to the Mobile Homeowner's Association, appeared before the Board and stated that they have already replaced a few septic systems that have failed and the Association doesn't have the money to replace each of the individual septic systems on this property. They have hired an engineer to come up with a better plan in order to create a single solution to the remaining mobile homes on this location. She has been in constant contact with the Department of Business Regulations regarding this situation and has had to go through a lot of paperwork and bureaucracy regarding keeping this mobile park afloat and emphasized that this will be the only way to address this situation. If they are not able to do this, their park will eventually be closed down and the residents would not be able to live in their homes.

Mr. Donnelly called upon Mr. William Smith to testify next in the proceeding. The Board accepted Mr. Smith's qualifications as an expert in his field, as he has been before this Board on numerous occasions in the past.

Mr. William Smith from Civil Engineering Concepts appeared before the board and stated that he has looked throughout the whole site in order to install this new system on the current land. He explained that unfortunately there was not a sufficient area, due to wetlands and ledge, in order to construct this state of the art facility, and that is why they had to look to the adjacent property for a solution. The Association has been in contact with that neighbor and they are currently in negotiations for purchasing 3.851 acres in order to build this system.

Mr. Smith described the system as follows: There will be pumping stations located in various areas in the park to collect waste water from 6 or 7 homes and pump it to a central tank and pump chamber which will then pump it up the hill to the new treatment system comprised of three large bottomless sand filters. Mr. Smith also stated that when they do this project, they wish to upgrade the water system and also add 12-13 fire hydrants to the park for fire protection. Also, there will be an electrical upgrade which will supply power to the pumping stations.

Mr. Taylor asked what will be done about the existing old individual waste water treatment systems. Ms. Beaulieu with Mr. Smith's concurrence stated they will be emptied, filled with sand and crushed in place.

A neighbor asked some questions regarding 8 Rod Way and wanted to know what was going on with that. Mr. Smith answered her stating that 8 Rod Way is on the easterly boundary of the Durfee property and in order for that to be used, it would have to be developed in accordance with regulatory requirements for roadways. If that were to be done, it would have to be done by the landowner. Not the town.

Mr. Alzaibak voiced concerns also regarding 8 Rod Way and now that they have this easement will they be able to build 20 houses back there now. Mr. DeSisto answered the same as Mr. Smith. This is not a town owned roadway. It would have to be developed and brought before the planning board by the owners in order to do this and a roadway would have to be done for anything to happen regarding that property.

Mr. Alzaibak expressed concern regarding the 40 foot road easement that will cross the new parcel and whether it might permit future development on Lot 126. Attorney Donnelly stated that historically access to Lot 126 has been via Cedarfield Rd., to Bulgarmarsh Rd. With the transfer of the new parcel shown on the site map as Area "A" a 150 foot by 40 foot easement will be formalized allowing access to and from Lot 126 via Cedarfield Rd.

The Board closed public comments and began to discuss this matter in order to deliberate. The Board came to the following conclusions after hearing tonight's presentation.

1. The public health and welfare will not be altered in anyway. This will actually be an improvement to the current failing septic systems they have in the park currently.
2. This is not contrary to the public interest. This will be an improvement to the public also due to the fact they are installing new water lines and 12 hydrants for more fire safety to the mobile home park.
3. If they were not able to proceed with this improvement, it would become a hardship. And this hardship was not due to anything the petitioner has done. The undeveloped land on this existing lot was insufficient to locate this system.
4. The relief requested is the least relief needed.

The Board also agreed that the following conditions must be met by the applicant.

1. There will be no further expansion of any dwellings on this property
2. The acquired piece of land shall not be used as frontage to the neighboring property.
3. The Board's approval will be contingent upon this petitioner receiving final approval from the Planning Board.

Mr. Collins made a motion to grant based on all the above conclusions and conditions. Mr. Jackson seconded. The Vote was unanimous. Voting were: Ms. Gescheidt, Mr. Collins, Mr. Jackson, Mr. Taylor and Ms. Humphrey.

3. Administrative Matters

a. Review and Approval of Minutes from the meeting of December 2, 2015. Mr. Taylor made a motion to accept the minutes. Mr. Alzaibak seconded. The Vote was unanimous. Voting were: Ms. Gescheidt, Mr. Collins, Mr. Jackson, Mr. Taylor, Ms. Humphrey and Mr. Alzaibak.

b. Discussions/Information on pending legal issues. No issues were discussed.

3. Adjournment. Mr. . Collins made a motion to adjourn. Mr. Taylor seconded. The Vote was Unanimous. Voting were Ms. Gescheidt, Mr. Collins, Mr. Jackson, Mr. Taylor, Ms. Humphrey and Mr. Alzaibak.

ZBR:MAE

C E R T I F I C A T E

I, Mary Ann C. Escobar, Registered Professional Reporter, and Commissioner for the State of Rhode Island, do hereby certify that the foregoing pages 1 through 4 are complete, true and accurate to the best of my knowledge, skill & ability.

I further certify that I am not interested in the event of the action.

IN WITNESS WHEREOF, I have hereunto subscribed my hand this 6th day of January, 2016.

Mary Ann C. Escobar, RPR

My Commission expires: September 30, 2016.

* * * * *
LEDGEWOOD COURT REPORTING
23 Last Street

Tiverton, RI 02878
(401) 625-5455