

MEETING MINUTES
Zoning Board of Appeals
February 21, 2019

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Members Present: Anthony Jarvis, Chairman; Paul Zielinski; Manuel Lopes; Alan Aubin; Nicole Parker

Members absent: Kathleen Bernardo

Chairman Anthony Jarvis called the meeting to order at 7:00 p.m.

First Order of Business: Pledge of Allegiance

Public hearing on the application of Ken Hamel for the property located at 0 Rosewood Drive, Ludlow, MA (Assessors Map 17, Parcel 3B, Zoning: Agricultural). The subject of the hearing is a Variance of 12 feet to the front yard setback with a front yard setback of 28 feet where 40 feet is required according to Ludlow Zoning Bylaw Table 2 – Table of Dimensional Regulations”.

Present for this hearing were Joe Chaves, John Bettencourt and Don Frydryk.

Mr. Jarvis: Mr. Hamel?

Mr. Chaves: nope, Mr. Hamel is not here today, Mr. Hamel is in St. Martin I believe. I'm Joe Chaves, this is John Bettencourt, we are the owners of the lot and I'm also an abutter. This is Don Frydryk, he was the engineer that oversaw the designing of the subdivision which was approved back in 2013 and the reason why we're here

Mr. Jarvis: we have an issue.

Mr. Chaves: what's the issue?

Mr. Jarvis: the application did not specify a representative. It just says Ken Hamel.

Mr. Chaves: I wish that somebody would have informed us of that when we submitted the application.

Mr. Zielinski: what we're we supposed to inform you of? We had no idea that

Mr. Chaves: we're the owners of record on the lot and the one that

Mr. Zielinski: this is the person who petitioned it, Mr. Hamel,

Mr. Chaves: okay.

Mr. Zielinski: if he wished to have a representative he'd have to fill this out here and have you sign, he didn't have you do that therefore we can't hear this hearing.

Mr. Jarvis: and notarized. It would have had to been signed and notarized or a letter stating from him that you were representing.

Mr. Bettencourt: I have a letter, an email, emails going back and forth

Mr. Jarvis: but nothing certified.

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Mr. Bettencourt: I mean, it's an email.

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Mr. Zielinski: there's nothing with the signature on it? From him?

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Mr. Bettencourt: it's via email.

Mr. Zielinski: no that's not gonna cut it.

Mr. Chaves: what's the alternative, I mean what's the

Mr. Zielinski: we can't hear this.

Mr. Lopes: when he filled out the application did he know he wasn't gonna be here?

Mr. Bettencourt: I'm not sure if he did.

Mr. Chaves: we're not sure about that.

Mr. Bettencourt: we found out that, you know, they had this thing and I'm not sure if they didn't know when the meeting was gonna be and it happened to be in the week that they're out of town so they asked us to come in for them.

Mr. Zielinski: can't hear it, you're not the petitioner.

Mr. Chaves: not at all?

Mr. Zielinski: You didn't file as the petitioner, you can't do it.

Mr. Jarvis: I mean basically it says in the information that if a representative is gonna be there they need to sign where the representative is and that wasn't done.

Mr. Lopes: and we can't even continue it then.

Mr. Zielinski: nope.

Mr. Jarvis: no, we can't open it.

Mr. Chaves: and what's the process going forward, I mean, do we have to

Mr. Jarvis: have to refile.

Mr. Chaves: re-apply and re-post?

Mr. Jarvis: yup. And there again, what is his position on this anyway?

Mr. Chaves: who's position, the?

Mr. Jarvis: Ken Hamel.

Mr. Aubin: we shouldn't even be talking about it.

Mr. Jarvis: well, true, that's right.

Mr. Aubin: we shouldn't even be talking about it.

Mr. Chaves: he's the purchaser, he's buying the lot subject to the lot being approved for building.

Mr. Zielinski: so he shouldn't be the one filing for it anyway, he doesn't even own it.

Mr. Lopes: the owner should be filing.

Mr. Chaves: well, here we are.

Mr. Jarvis: well the owner, I mean, the applicant, and I'd have to go back and double check, could possibly file as long as he's got a Purchase and Sale Agreement in hand.

Mr. Bettencourt: he does.

Mr. Chaves: he does.

Mr. Jarvis: but there again, we only have him, that's why I said, is Mr. Hamel here, we can't do anything without him.

Mr. Frydryk: so since he's not here you can't continue the hearing yourselves?

Mr. Zielinski: no.

Mr. Frydryk: why not?

Mr. Zielinski: because you're not the Petitioner.

Mr. Frydryk: well we're not asking for it, I'm asking if one of you can continue it since he's not here.

Mr. Zielinski: no we can't, he's not here.

Mr. Aubin: we can't question him. This is the form that we have, this is what we're basing, this is what we

Mr. Zielinski: he's the one that has to request the continuance. And you have no legal right to do that.

Mr. Frydryk: I'm not saying I'm asking.

Mr. Zielinski: yeah, so this dead in the water as far as we're concerned.

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Mr. Lopes: yeah, he's asking if we can do it without him, we can't.

Mr. Zielinski: no, absolutely not.

Mr. Jarvis: and if you're the owners, you're the ones that should have filed the petition, not him.

Mr. Chaves: they're the ones that pursued it with the Building Inspector, the Building Inspector recommended that they file to the Board of Appeals which they did.

Mr. Lopes: which is fine because they have a Purchase and Sale.

Mr. Zielinski: but he had no idea, he probably had no idea who owned the land though.

Mr. Chaves: he does.

Mr. Bettencourt: he has a Purchase and Sale Agreement.

Mr. Zielinski: well either way, we can't hear it.

Mr. Jarvis: we can't hear it tonight because he's not here.

Mr. Chaves: is there any way that we can move it forward for another week without posting, without going, starting the process all over again?

Mr. Zielinski: no.

Mr. Chaves: I'm asking Mr. Jarvis.

Mr. Jarvis: no.

Mr. Aubin: because he's the Petitioner, right? I mean, I'm not saying you guys aren't trustworthy but he's not here so he's gonna have to

Mr. Chaves: we really don't know why, why he has to be here because this was already approved as a building lot, you know, there's a clarification there, we just, I know that somebody reached out to legal counsel and we still don't have an answer. I guess, like you said, we're dead in the water before we even start but we'll come back to see you again I'm sure. Sorry that we put you guys out. You don't have anything else on the agenda today right?

Mr. Jarvis: we got plenty. Thank you. The hearing for 0 Rosewood Drive cannot be held because the applicant is not available, Mr. Ken Hamel failed to appear before the Board.

The Board continued their discussion about making changes to the ZBA application and process. They reviewed the applications used by the Town of Belchertown and the Town of Palmer.

Mr. Zielinski made a motion, seconded by Mr. Lopes, to enter into executive session for the purpose of discussing pending litigation for the Town of Ludlow and Way Finders, Inc. at 7:56 pm and not return to open session.

Mr. Zielinski, yes; Mr. Lopes, yes; Mr. Aubin, yes; Ms. Parker, yes; Mr. Jarvis, yes. Vote 5-0 all in favor.

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Chairman





Board of Appeals

Transcribed by:


Ann M. Converse, Administrative Assistant

