

**MEETING MINUTES
Zoning Board of Appeals
June 18, 2019**

Members Present: Anthony Jarvis; Kathleen Bernardo; Manuel Lopes; Joseph Wlodyka; Alan Rubin

Members absent: Nicole Parker

First Order of Business: Pledge of Allegiance

The Board continued a public hearing held on June 6, 2019 on the application of Sheila A. Marois, for the property located at 664 Fuller Street, Ludlow, MA (Assessors Map 8, Parcel 32, Zoning: Agriculture). The subject of the hearing is a Special Permit to allow the construction of a new two-car attached garage with a 15 foot 3-inch side yard setback where Ludlow Zoning Bylaw, Table 2 – Table of Dimensional Regulations calls for a 20-foot side yard setback.

Mr. Jarvis: at the end of the last meeting we opted to send for some information. (Mr. Jarvis read the correspondence sent to the Building Commissioner and the response received from the Building Commissioner). Having said that would the applicant come forward and have a seat. Do you have any other questions or concerns?

Mr. Cauley: no, the only thing was I tried to reach out to Justin last week and I was unsuccessful due to his schedule I guess, I tried to meet him on Thursday, he was unavailable, Friday he was off, and I actually met with him today, but his response was already submitted so it kind of was a moot point at that point. But in talking with him for two hours in the Building Department there was no persuading him as to being attached or slash attached/detached so, you know, I kind of was, you know, it was a gentlemen's talk and I says well in my opinion if you have to leave a building to go outside to go back in that's detached, if the dwelling is, can stand on it's own without being connected by the little platform or roof that's detached, but he says by Webster, the dictionary company, an attachment is something that is nailed or fastened to, I said well, you can't argue with Webster I guess. So that being said, I did speak with him in a little bit more detail about some other options to construct what we want to do and we have kind of come up with a plan B scenario which would not involve the Zoning Board, which would, you know, probably get what we need to do. But what now kind of concerns me is the language that he mentioned something about ten feet and I brought that up to him today which I was kind of hoping he would be here but it didn't seem like he would be, there is nothing in the building code that requires a ten-foot setback for a detached dwelling.

Mr. Lopes: ten-foot setback meaning the ten foot between

Mr. Cauley: ten-foot difference between

Mr. Lopes: the buildings, it's not a setback but it's a separation

Mr. Cauley: and I brought that up to him and says let me look, so we looked and we looked and we looked and we found nothing and the only thing that I found and that he found as well but his answer was already submitted and this might be just something I have to deal with him later not involving the Zoning Board was a structure, garages located less than three feet from a dwelling unit on the same lot, not less than 5/8 gypsum fireboard or equivalent applied to the interior side or exterior walls of that within this area.

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Mr. Lopes: can I ask where you're reading that from?

Mr. Cauley: yeah the building code, Massachusetts building code that we are currently using.

Mr. Lopes: okay.

Mr. Cauley: and that's why I questioned him on the ten foot and we couldn't find it anywhere so it might have been an old code because these codes change so often and they're as clear as muddy water sometimes, as we all agreed with different verbiage on different things. So that being said, I guess what the end result of this meeting is going to be a denial of our special permit, I can only assume and then I will go back to him with a revision of our building plan and get a building permit which will not involve the Zoning Board, I guess. I don't know.

Ms. Bernardo: you could withdraw without prejudice without forcing a vote also.

Mr. Cauley: because I know with his language the way he wrote it and I wish, I tried to reach him five times last week and I was unsuccessful so it was very frustrating.

Mr. Jarvis: it was a tough week for the building department last week as both

Mr. Cauley: which is fine but it puts us in a situation that my hands were tied and I couldn't do anything. I wanted to reach him and have a discussion with him where we could have, you know, not come to an agreement on something but come to some sort of an answer where I knew what direction to take where we could have, you know, moved on I guess.

Mr. Jarvis: which goes back to our response from our Town Counsel when I presented the information to her your best option would be to withdraw, ask to withdraw your request without prejudice, that way there it gives you time to look at, see whatever you want to do because if we have to take a vote and it's denied you can't come back for two years.

Mr. Cauley: we can't come back for a special permit

Ms. Bernardo: right

Mr. Cauley: correct but the way I talked with Justin today and that's probably what we're gonna do, withdraw without prejudice but I've come to a couple of different options that we won't even need to come back and see you fine folks.

Ms. Bernardo: which is great but you may not want to just permanently close that door for two years if you don't have to.

Mr. Cauley: no that's what I'm saying we'll withdraw this without prejudice, right, and that way it would leave that special permit open but our plan B and plan C will work fine it just makes it

Ms. Bernardo: not as fine as you wanted it.

Mr. Cauley: a little more difficult on a building standpoint and a little less attractive than what was proposed, which is a shame actually. And he agreed with me, it's just because it's the way the language is written

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Ms. Bernardo: agreed.

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Mr. Cauley: and it's not your fault, it's these people's fault and other people, you know what I mean, which is too bad because common sense just dictates, in my opinion, that a little deck with some nails into it, the structure is freestanding, you know, and I think most of us agree to that but I can't, we kind of can't fight city hall so.

Mr. Jarvis: well one of the things, the other thing is just outside the scope, something that we also have to look at, sometimes when something like that is approved, okay, you may have a year, two years, three years you may do nothing with it and then sell, the next thing the next owner comes in oh it's right here and they just enclose it with no permits or whatever. So that's one thing that we also have to look at that says you have the best intentions in the world but the next guy coming in is gonna do what he wants to do and now it becomes a problem.

Mr. Cauley: well on that respect somebody could do anything they want to do without a permit, period.

Mr. Jarvis: they're doing it constantly.

Mr. Cauley: exactly, but you're putting that on us that somebody could enclose that, I mean, who's to say that I could build a two-car garage five feet away and five years from now I could enclose it without a permit, nobody's, you know, unless somebody drives by while it's, nobody's gonna know, it happens every day.

Mrs. Marois: he'll drive by.

Laughter

Mr. Cauley: you know what I'm saying, but, you know, we're going down the proper course of action

Ms. Bernardo: yes you are.

Mr. Cauley: trying to do the right thing, trying to be upfront and honest, trying just to get it done so that she can be undercover but it's not gonna work apparently.

Mr. Jarvis: as you can reference that hearing prior to your hearing, that guy was trying to correct a problem that the surveyors messed up some years back and he's just trying to make it right.

Mr. Cauley: well I didn't chime in on that at all and I didn't want to open up that can of worms, but shame on the town for not following up on that stuff either, there was somebody that should have had checks and balances along the way of a neighborhood getting developed but we're not going there, you know what I mean, somebody looked the wrong way and just

Ms. Bernardo: and that was also what, fifty years ago?

Mr. Cauley: fifty years ago but that, fifty years ago things were done on a handshake, which is, but that's what happens

Ms. Bernardo: fifty years ago you could have done this.

Mr. Cauley: you could have built the neighborhood, here we'll just move the pin over here, you need five more feet

Ms. Bernardo: exactly

Mr. Jarvis: prior to 1954 there wasn't any zoning.

Mr. Cauley: prior to 1970 there really was no building code so, you know what I mean.

Mr. Jarvis: in any case.

Mr. Cauley: anyway. It was unfortunate I couldn't reach him but I did him, his answer was already in but there was no persuading him otherwise, even I brought up some different definitions of attached detached and he's there if you can find it in the building code that's fine but it's not, the building code is clear as muddy water, honestly, if you ever read it it's terrible.

Mr. Aubin: you should see some of the state building code, I mean that's what he's basing his decisions on.

Mr. Cauley: well he is, but it's terrible, if you ever read it, we go by this one and we go by this one here, the international, you know, and it's terrible. Then we got to deal with this all the time and it's, depends on who is having a good day and their interpretation of what they read and five of you could read something and you'll get four different answers probably.

Ms. Bernardo: that's why there are judges.

Mr. Cauley: right, and it's a process and its money and it's time and its inconvenience and it's frustrating and it's just, I guess it's the nature of the beast which is unfortunate because common sense should sort of dictate in some applications.

Ms. Bernardo: sometimes.

Mr. Cauley: I guess at this point we're just gonna withdraw without prejudice and we'll just kind of move on.

Mr. Jarvis: okay so you're requesting to withdraw without prejudice?

Mr. Cauley: yeah

Mr. Jarvis: can I have a motion to allow the applicant to withdraw the application for 664 Fuller Street withdraw without prejudice?

Ms. Bernardo: so moved.

Mr. Jarvis: is there a second?

Mr. Lopes: second.

Vote 5-0 all in favor.

Mr. Cauley: okay, thank you.

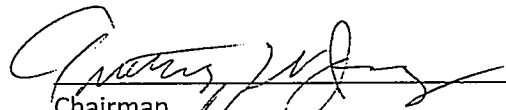
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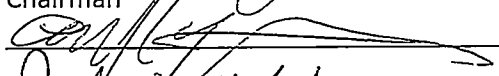
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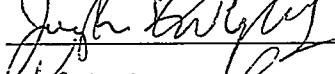
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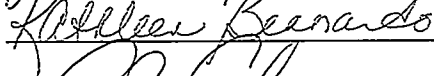
Mr. Jarvis stated that he would like to move forward with training for the Board. They discussed what topics the members would like included in the training. He will contact Town Counsel to try to set up training session(s) for the fall.

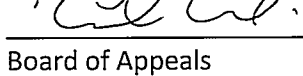
Ms. Bernardo made a motion, seconded by Mr. Wlodyka, to adjourn. Vote 5-0 all in favor.



 Chairman









 Board of Appeals

Transcribed by:



 Ann M. Converse, Administrative Assistant

