

# Town of Bellingham MA

10 Mechanic Street, Bellingham MA 02019

## Zoning Board Meeting Minutes 05/04/2017

Minutes of Meeting  
May 4, 2017

**Present at Meeting**

Brian Salisbury, Chairman  
Brian Wright, Vice Chairman  
Arturo Paturzo, Member  
James Dunlea, Member  
Peter Gabrielle, Member  
James Jeskche, Alternate Member  
Joseph Flanagan, Alternate Member

**Other Attendees:**

James S. Kupfer (JK) – Town Planner & Zoning Compliance Officer  
Laura Renaud (LR) – Zoning Clerk  
Jason Talerman (JT) – Town Counsel  
Mark Poirier (MP) – Deputy Fire Chief

**7:00 PM**

BS opened the hearing.

**New – 167 Blackstone Street**

Special Permit for a Family Apartment  
Sitting In: BS, BW, AP, JD and PD

AP motioned to open the hearing.

BS second.

All in favor to open the hearing.

JK read the legal notice. Mr. And Mrs. Milot, applicants and owners of the single family home explained they were in attendance as they would like to put an addition onto their home for their son. They provided a proposed plot plan showing the addition. They explained their son, Zachary Milot is in college. He is and will be in financial need for quite some time to come. They would like to help him out as much as possible. The home has been in existence under legal occupancy for 15 years. The floor area meets the requirements and no variance is needed. The septic system will have the required capacity and there is enough space for all the parking requirements. The building will be kept within the character of the neighborhood and there is no negative impact on the neighborhood. Ana and Chris Milot will continue to live in the single family home and Zachary will occupy the Family Apartment.

AP motion to close the hearing.

PG second.

All in favor to close the hearing.

AP motion to grant the Special Permit for a Family Apartment as requested and shown on the provided plan.

BS second.

All in favor to grant the Special Permit.

BS explained they must return to renew the permit in 5 years and after the 20 day appeal period they must register the decision at the Registry of Deeds. The applicants agreed.

**New – 24 Wrentham Street – Scott & Karen Rhodes**

Special Permit to re-establish pre-existing non-conforming structure  
Sitting In: BS, BW, AP, JD and PG

AP motioned to open the hearing.

BS second.

All in favor to open the hearing.

JK read the legal notice. Attorney Ambler was in attendance representing his clients, Mr. And Mrs. Rhodes. The Rhodes own the property of 24 Wrentham Street. They were notified by the Building Commissioner that they must acquire a Special Permit as the property had been abandoned for over 2 years and requires this to re-establish the property as a residential use. (Section 240-30 B & C) Attorney Ambler disagreed with the determination as he felt it was not a restoration, not a non-conforming building and there was no evident of abandonment. TA explained after the fire in 2006 the property was never re-established and the owners were using it as storage. Attorney Talerman (JT) explained when the house was built it was conforming but it became non-conforming after as the zoning changed and that made it non-conforming; the lot area and no frontage. It was abandoned and not used as a residence. He explained that having the owners apply for a Special Permit is the way to remedy the situation. Ron Lussier an abutter at 26 Wrentham Street disagreed that a Special Permit was the correct way to go as his opinion was the property was not abandoned but was uninhabitable as the electricity was cut off; the vents were ripped out, the side melted and stayed that way for over 10 years. He cited section 240-30b and felt a variance was more appropriate. The board asked what benefit was it if the owners were not allowed to fix it up. Mr. Lussier explained that he sold it in 2006 as an investment to allow Dean Plaza become more functional. There is a 10 foot wide easement that does not have 2 way capabilities. The board questioned the threshold of abandoned vs destroyed. JK explained that they looked at the quality of the structure in the present and TA determined it was in relatively

decent shape. The board considered the impacts if the property was left vacant, the traffic flow and safety to the town if left vacant, adequacy of utilities for a single family residence, the qualities of the natural environment if re-established and the potential fiscal impact to the town if left abandoned.

AP motion to close.  
PG second.  
All in favor to close the hearing.

AP motion to grant the Special Permit as needed to re-establish a pre-existing non-conforming residential structure.  
PG second.  
All in favor to grant the Special Permit.

**Continuance – 799-801 Pulaski Blvd. – John Wasylean, Jr.**

Special Permit for Earth Removal  
Sitting In: BS, BW, AP, JD and PG

JK stated the applicant requested in writing to continue the public hearing to June 1, 2017 as they were still working with the Planning Board.

BS motion to continue as requested.  
AP second.  
All in favor to continue as requested.

**Continuation – Old Farm Road Map 0007/0011 – Brookstone Development LLC**

Variance to construct a storage facility with insufficient frontage  
Sitting In: BS, BW, AP, JD and PG

JK read the continuation request. The board stated they would like the applicant to appear in person at the next hearing on June 1, 2017.

AP motion to allow the continuance with the applicant appearing in June.  
PG second.  
All in favor to continue.

**Continuation – 47 South Maple Street – Maple Brook Condo. Trust**

Appeal of the Development Plan decision by the Planning Board  
Sitting In: BS, BW, AP, JD and PG

JK read the continuation request. He supplied a brief memo and site plan and explained he and the Building Commissioner went on site and the memo explains their findings where the outdoor storage sits within the 100 foot buffer one.

BS motion to move to continue to June 1 and incorporate the findings.  
PG second.  
All in favor to allow continuing to June 1, 2017 at 7:00 PM.

**New – 599 South Main Street – Dan Mandeville**

Special Permit to allow retaining wall for mulch storage  
Sitting In: BS, BW, AP, JD and PG

AP motioned to open the hearing.  
BS second.  
All in favor to open the hearing.

JK read the Public Hearing notice and explained what was enclosed in their packages. The owner, Keith Mandeville (KM) was in attendance. He explained that he would like to add this bay to hold Black Mulch, which has been requested often by his customers. It would be 6 feet high and 33 feet long and 15 feet wide. He would be taking out the green house and it would stay in line with the existing bays, there would be no overheard and the trucks would back up to it as they currently do with the existing bays. There is 4 feet between bays as there is a conduit there. He felt it would look better. The green house would not be relocated but 3 light poles would be put in its place for security purposes. JK stated that the Building Commissioner and himself did go out due to concerns with parking and traffic and there could be some improvement. KM suggested moving the existing propane tank and using the left side of the property. JK stated that the applicant could work with TA and Mark Poirier (MP) of the Fire Department to create a more safe entrance and exit. TA stated he does need drawings to designate those areas and maybe put up barriers and signage. MP explained if he did move the propane tanks he would need permits and he asked the ZBA to hold off on that aspect. Don Martinis, BOS stated he was called by a few concerned neighbors in regards to vehicles dropping off materials. KM stated an 18 wheeler does drop off some and so does a small dump truck. It is around 10 to 12 times a month and they are in and out in 15 minutes during the a.m. or early afternoon. Don suggested he come back with a parking diagram and agreed it is a dangerous area. Abutters in attendance felt the business had expanded and another bin and more drop-offs of material would only make it more dangerous. The current bins already have overflow. They felt there was already a lot of dust due to the crushed stone and the idling traffic. Another danger is the propane tank with smoking going on within the property. KM stated he wants to make it better and safer and has plans to do that more in depth next year when his finances are better as his father was running it and didn't want any changes but he has taken it over and will work with the town to make it better and safer.

AP motion to close.  
BS second.  
All in favor to close.

Discussion: The board agreed they needed to make this a more safe area but this is a time sensitive business with a cost to put in the new bay. They wanted to make it reasonable for everyone involved. It was suggested the applicant sit with JK, TA and the Fire Department and discuss the best plan and come back at the next meeting but another month created a time concern. It was discussed if the board could make a decision subject to conditions and a time frame of improvements.

AP motion to close the hearing.  
BS second.  
All in favor to close the hearing.

Discussion: The board discussed the possibility of the applicant working with JK and TA to take care of any outstanding issues such as deliveries, parking, dust control, etc. prior to the bay being placed. If the Special Permit is approved they could give him 90 days to come up with a permanent plan. The concerns of the board and abutters could be reviewed during the 20 day appeal period time frame. The applicant stated the hours of operation would be 8:00 am to 5:00 PM 7 days a week.

AP motion to grant the Special Permit with the condition that a plan will be put in place within 90 days.  
BS second.  
All in favor to grant with the conditions discussed.

**New – 174 Maple Street – LMP Properties, LLC**  
Appeal of an order by the Building Inspector  
Sitting In: BS, BW, AP, JD and PG

AP motion to open the hearing.  
BS second.  
All in favor to open the hearing.

JK read the Public Hearing notice.

Attorney Gary Hogan (GH) was in attendance to represent the applicant, JD Raymond. Owner is LMP Properties. GH stated they are appealing the decision of the Building Commissioner to cease and desist their business operations due to the increase of bulk storage over the years. He stated there has not been an increase in use, the Building Commissioner did not have any proof of violations of the Zoning Bylaws relating to noise, air quality and storm water and the property does not need violate the scenic roads chapter of the General Bylaws. Carey Day (CD) an employee of JD Raymond and RJ Cobb (previous owner) was in attendance. He stated he took over all office duties in 2007. He explained there was a single family home at 169 Maple Street. It was taken down for the motor cross business which never happened. Prior to 2013 the bulk storage was a permissible use. CD explained that there are many differences between the previous owners and the current owners. It is a much safer operation now. The piles have been moved, a fence was put up with a gate (per Fire Department). Mr. Raymond runs his trucks fully legal. They use conveyors and vent and every night they walk around the pile and check hot spots. There is steam but no smoke. If the piles are compacted they can combust. The mulch is delivered in 3 months. They use 169 as storage and 174 as a maintenance area. The log piles were at 169 and we were asked to stop doing that and we did. BS stated he appreciated the new owners following the rules and regulations but he himself has noticed an expansion over time. The continual trucks coming and going and also the strength of the smell coming from that area has gotten worse. CD questioned how could they tell the odor was coming from their plant vs the others on Maple Street? JK stated at this time last year we (the town) requested a Special Permit be applied for and it didn't happen. BS stated he has seen an increase in the operations and have received numerous complaints. He felt a Special Permit would be helpful to keep it all under control. GH stated this was a permissible use up to 3 years ago and it is a non-conforming use and unless that is substantially increased then a Special Permit is not required. JT stated that if there has been a substantial change to noise, pollution, etc. then the Special Permit is required. GH stated that the cease and desist is a threaten to render the property non-useful when they feel it is a permissible use. JK explained him and TA went out and took a reading. The standard for the state was used, which is 70. It was over 70 when taken in February 2017. GH stated a lawnmower would be over that level. Don Martinis, 334 Maple Street had concerns about the time the logs are delivered, the amount of trips of the different trucks, and the water usage as he recalled seeing a water trucked hooked to a town fire hydrant last year. He stated it in an unsafe area for that operation. There were many questions from abutters: safety of operations and suggested looking into OSHA logs, insurance records or the Safety Officer. They questioned if a permit is needed for the loaders to cross the street and if so are there any time restrictions? JK stated if on a public way the equipment must be registered. Also, the 18 wheelers going through that narrow roadway were of concern. One abutter, Mr. Gately of 6 Pine Street, felt that in the past 8 months he has noticed a reduction in the piles and less odor. He felt the impact has lessened not gotten greater. BS stated the board needed to determine if the business has expanded. TA stated the reason everyone is there is because of the cease and desist. He stated it was his opinion the piles are larger and the noise is louder. They need to work together to remedy the situation. John Raymond, owner stated he came in a year ago and spoke with Jim. I understood we could lose our status if the Special Permit is not granted. There is not any more substantial business taking place, an occasional truck leaves early, when the site here gets congested we go to one of our other sites. What we are doing there now is all we can do by the rules and regulations of the state. We want to be a good neighbor and we don't want to lose our existing rights. TA stated they wouldn't lose their existing rights and JT explained it would always be a pre-existing non-conforming use. And no one wants to run them out of business. He suggested if the board could do a site visit before the next meeting. The applicants' attorney, GH requested a continuance in order to have a dialogue with the town to address the issues in question. JK stated that all the Town Departments will come together and see what works best. Safety is the main concern.

AP motion to continue as requested to June 1, 2017.  
BS second.  
4 in favor to continue-1 opposed.  
The hearing will be continue to June 1, 2017 at 7:00 PM

Other Business:

**Minutes – April 6, 2017**  
AP motion to accept as amended.  
BS second.  
All in favor to accept the minutes as amended.

Meeting Adjourned 10:15

Approved 6/1/2017