



BOARD OF APPEALS
TOWN OF FOXBOROUGH
40 SOUTH STREET
MASSACHUSETTS
02035

**Foxborough Zoning Board of Appeals Minutes
March 18, 2010**

Members present: Chairman Erik McKenzie, Member Neil Forster, Alternate Kevin Penders, Alternate Lee Estabrook (at 7:10 p.m.)

The Chairman opened the meeting by introducing Kevin Penders who was recently appointed as an Alternate by the Board of Selectmen.

7:00 p.m. Francis L. Bedard requests a Special Permit to conduct an automobile detailing business as a Home Occupation pursuant to Foxborough Zoning By-Laws, Section 3.2 - Accessory Uses. The property at 7 Bassett Street is located in an R-15 Zoning District and is not located in any restrictive overlay zoning districts. Atty. Mark Stopa represented the applicant who was also present. Member Forster disclosed that he is co-counsel in a Superior Court Case with Atty. Stopa, but this would not be a conflict. Mr. Bedard rents the home at 7 Bassett Street and has permission from the owner to pursue this Home Occupation. He would like to be able to open an auto detailing business in his garage, he would only have one car at a time and it would be limited to cars and small trucks only. Mr. Bassett stated that if the business ever got to more than one car at a time, he would find a different location. The work would be seasonal, from May to November and all work would be done in the garage. The work would be by appointment only, there will be no retail sales and the only sign would be on this personal vehicle in the driveway.

Atty. Stopa explained that auto detailing is cleaning and shining a vehicle to make it look showroom new, there is no painting involved in the process. No vehicles would be stored overnight. He would like to operate 9-5 Mon - Sat. He would be the only employee right now, if business picks up, he might hire 1 part timer to help him out.

Joan Stafford of 3 Bassett Street wanted to know if commercial vehicles would be allowed. No, the application is for cars and small trucks only. She feels allowing this business will devalue the neighborhood. She also noted that the nearby church has services at 4:00 on Saturdays.

Mr. Estabrook arrived at 7:10 p.m.

Atty. Stopa stated that the applicant was willing to change the hours of operation to Mon-Fri 9-5 and Sat 9-3.

A motion to close the Public Hearing was made by Member Forster and seconded by Member Penders. The motion carried 3-0-0.

A motion to approve the request for a Home Occupation at 7 Bassett Street with conditions in regards to hours was made by Member Forster and seconded by Alternate Penders. The motion carried 3-0-0.

7:10 p.m. Alicia J. Zadroga requests a Special Permit to conduct a hair salon business as a home occupation pursuant to Foxborough Zoning By-Laws, Section 3.2 - Accessory Uses. The property at 410 South Street is located in an R-40 Resident Zoning District and is not located in any restrictive overly zoning districts. Ms. Zadroga and her fiancée were present. Ms. Zadroga explained that she would like to have a hair salon in her home. She has been a hair stylist for ten years in Wrentham. A sink and a color tank will have to be installed in her home. There will be no changes to the outside of the house; all clients would be by appointment only. She has a driveway that will fit six vehicles; they have three cars in the family right now. She would like to be open Tues – Saturday, 3-8 Tues, 10-8 Wed and Thurs, 10-5 Fri and 10-4 on Sat. Some clients take up to two hours if they are having a coloring.

Joanne Frazier of 406 South Street is opposed to the application due to the increase in traffic with cars coming and going. She does not want a precedence set and others in the neighborhood having home occupations. She doesn't want her to have a sign in front of the house; she feels this will lower the value of her property. The Board members explained that anyone in town has a right to a home occupation; this would not set precedence.

Ms. Zadroga explained that there would only be two clients at a time and that no one would park on the road. They do still need to go to the Board of Health to get approval of a tight tank for the coloring.

The Board members felt that not having a sign could be a safety issue; people need to know what they are looking for.

A motion to close the Public Hearing was made by Member Forster and seconded by Member Estabrook. The motion carried 3-0-0.

The Board discussed the hours requested, having three nights might be too much for the neighbors, the hours on Tuesday were requested to be changed to 10-5.

A motion to approve the request for a Home Occupation at 410 South Street with conditions in regards to hours and an unlit sign no greater than 1' x 2' was made by Member Forster and seconded by Alternate Estabrook. The motion carried 3-0-0.

7:20 p.m. Continued Public Hearing of Sage Realty Trust's request for a Comprehensive Permit to construct 44 townhouse units of which 11 units will be affordable on land known as Assessors Map 20, Parcel 409 in an R-40 Zoning District and Zone II Water Resource Protection Overlay District.

Alternate Chris Karvonen is unavailable this evening, he will be reviewing the minutes and signing an affidavit as allowed under the Mullen Rule.

Paul Cusson of Delphic Associates represented the applicants; James Pavlik of Outback Engineering, the engineer of the project was also present. A notice was received today that the abutters have hired an attorney in order to resolve the issue with the fencing and berm on their properties. They will be taking a sitewalk on March 29th at 3:00 p.m., Town Planner Marc Resnick has volunteered to go with them.

Jim Coogan from Maguire Group went over his comments for the Board; this is a preliminary design so he looks for red flags that need to be resolved in the future. He has concerns with detention basins #2 and #3; he would like to know what would happen to the overflow. He feels that the vernal pool needs to be analyzed pre and post construction to minimize any impact; he feels that the pool should not get any of the overflows. Verification of the soil types will be needed also. Mr. Cusson had no issues with any of the comments presented.

Mr. Cusson stated that the plans have been updated showing the setbacks and where the buildings will fit in the "building envelope" drawn around the setbacks. He stated that no building will be closer than 20 feet to the next one. The "building envelope" does not include stoops, decks, etc and only shows the building footprint. He has also relocated some of the affordable units to space them out, no two affordables are located next to each other. A phasing plan has been added, there will be two phases.

Robert Boette of the Conservation Commission stated that he checked the high water level this weekend after the heavy rains and wanted to know if this would be taken into consideration. The applicant stated that the high water level was marked on Mon or Tues. Jane Pierce, Conservation Manager, stated that the highest flood line needs to be used. The elevation in 2002 was 307.8 feet, it is much higher now. The applicant stated that they are meeting with DEP next week to discuss this. The applicant and the ConComm differ on the wetlands line and the vernal pool line. The applicant stated that the wetland line could be agreed on, but the vernal pool line is yet to be determined. Town Planner Marc Resnick wanted to know if the vernal pool line is a variable elevation or a set level. Ms. Pierce stated that the pool line is variable depending on the time of year, but the largest observed area of flooding need to be used.

A discussion on the waiver they are requesting, Ms. Pierce stated that they are looking for a 30 foot waiver from the line; Mr. Cusson stated that some places that waiver will be less than 30 feet. Ms. Forster wanted to know if a 20 foot waiver would be better.

Resident Ernie Hirsch stated that the land has been changing in that area and he has observed the water table higher than it's ever been. It has definitely changed since 2002. The applicant stated that he cannot make the conditions any worse than what they now are; they should make it better by capturing the water that would drain onto abutting property.

Karen Kelly of 11 Wayne Drive stated that the Army Corp of Engineers has said that there's a stream in the area.

Mr. Resnick stated that the ConComm and the applicant's engineer keep going back and forth in regards to the vernal pool; he feels that the higher elevation needs to be shown on a plan so we can see how much of a waiver is being requested. The drainage from the new streets will be collected in detention basins, this will be looked at again in the final design; the ZBA is looking at a preliminary prospective only and need to decide if the stormwater is functional. One of the abutters in the rear currently collects all the drainage, Mr. Resnick feels that this area should be defined so when the grading is designed it will no longer flow to the property.

Mr. Forster stated that he is not concerned with the buffer around the pool so much as the water proceeding through there, he would like to be sure that the grading of the runoff will benefit the abutters. He would like to see a topographical plan.

Lee Estabrook of Morris Street stated that even though the pool is higher, his drainage is still working.

Andrea Randall stated that all the neighbors want to make sure the Board understands that there is a lot of water in the area right now.

Judy Johnson of the Conservation Commission stated that vernal pools are certified based on function, the creatures that inhabit it migrate out so the 100 foot buffer is necessary to the sensitive resource areas around pools.

Ed Marchant reminded that Board that they get a peer review of the applicant's engineering through the Maguire Group. Mr. Forster is still concerned with protecting the neighbors. Mr. Cusson stated that he will submit additional information, but feels a lot has been submitted already.

Mr. Resnick has started drafting conditions and has received back some comments and will incorporate them before presenting them to the Board. Once the fencing and berm issues have been resolved with the neighbors, it will be included in the decision, ConComm comments will be reviewed also. He expects to have the revisions done by Friday March 26th.

Mr. Cusson noted that the For Sale 40B regulations have changed in the past few years, local preference is no longer allowed, and he will forward the draft to Mass Housing to see if they have any comments.

The ConComm asked if duplexes had been considered, Mr. Cusson stated that there is no marketability for them right now.

The applicant grants the Board an extension from April 15, 2010 to May 21, 2010.

The hearing was continued to April 1, 2010 at 7:00 in the Selectmen's meeting room of the Foxboro Town Hall.

The meeting was adjourned at 10:00 p.m.

Respectfully Submitted,

Diana Gray