



**Town of Rowley
Massachusetts**

ZONING BOARD OF APPEALS

39 Central Street, PO Box 275, Rowley, MA 01969
Phone 978.948.2657 Email zoning@townofrowley.org

April 19th, 2018 Meeting Minutes

Those present: Chairman Donald Thurston, Clerk Thomas Heidgerd, Member Robert Clewell,
Member Donna Thibodeau, Member David Levesque, Lisa Lozzi.

Public attendees: Sheet is attached.

I. Call to Order

7:03 pm. Chairman Thurston calls the meeting to order and reads the Agenda for the record.

II. Misc.

- Approve February 15th, 2018 Minutes
Chairman Thurston asks for a motion to accept the minutes as presented.
Levesque so moves. Heidgerd seconds. All in favor.
- Approve March 15th, 2018 Minutes
Chairman Thurston asks for a motion to accept the minutes as presented.
Heidgerd so moves. Clewell seconds. All in favor.
- Vote to approve #18.09 Applicant's Withdrawal Form
Chairman Thurston reads Withdrawal form for the record and asks for a motion to accept.
Heidgerd moves to accept 'withdrawal' form as amended to read 'with' prejudice. Clewell seconds. All in favor.

III. Cont'd Public Hearing

- 7:14 pm - #18.10 – 5 Railroad Avenue – Steve Pierro
Members working on this case are Chairman Donald Thurston, Thomas Heidgerd, Robert Clewell, Donna Thibodeau and David Levesque. Chairman Thurston reads Planning Board letter of 4.18.18 for the record. Chairman Thurston mentions the site visit conducted at 5 Railroad Ave attended by Board Members Chairman Thurston, Heidgerd, Clewell and Thibodeau as well as the project engineer on 4.5.18 @ 10 am.

Chairman Thurston reads for the record bylaws 7.6.1.3 & 7.6.4.3 which makes reference to acquiring a 'site plan review'. Clewell states considering the fact that it's an existing use and the use isn't being expanded, says he believes all the Board Members thought the Planning Board was going to do the site plan review if at all. Chairman Thurston states because the PB is asking for relief for zoning, that's why they are asking the ZBA. It's whether the ZBA wants to do a full blown site review or not. Chairman Thurston states that what the Board Members have already done is adequate. Board Members agree a site plan review is not necessary.

Chairman Thurston asks for a motion. Clewell so moves stating a full site plan review is not necessary in this case. Levesque seconds. All in favor.

Chairman Thurston questions the area inside dimensions of building and asks what the total area is presently. Mr. Nolan says 3,650 for entire building. With 910 sq. ft. more. Chairman Thurston says it is 25% right on the mark. Chairman Thurston asks the audience if there are any further questions or concerns and Katherine Haley says it's too big for the neighborhood. Heidgerd says it barely modifies the site and utilizes the existing area. If it weren't for the encroachment in the front, the applicant wouldn't be in front of the ZBA. There's really no change that traffic can or can't get to. It's a very unique lot and says he doesn't have any problems.

Heidgerd says he moves the Board Members approve the application as submitted and draft an approval Decision with conditions relevant to 7.6.3.1. Clewell seconds. All in favor.

- 7:38 pm - #18.07 – Ocean Avenue

Chairman Thurston reads ‘continuance’ memo for the record and asks for a motion to accept. Heidgerd so moves to accept request. Thibodeau seconds. All in favor.

- 7:40 pm - #18.06 – Marion Way

Chairman Thurston reads ‘continuance memo for the record and asks for a motion to accept. Heidgerd so moves. Thibodeau seconds. All in favor.

- 7:42 pm - #18.05 – Wethersfield Road

Attorney Lisa Meade stands before Board Members and reiterates the matters of the case. She explains getting feedback from PB, FD, PD, Engineers and has since made changes. She explains and visually shows the Board the changes that were made depicted on the easel picture board. Condition of no more than 60 students and all improvements related to parking being completed before opening of school in the Fall.

Chairman Thurston mentions the Planning Board letter regarding ‘use’ and says he has questions wants to hear from Town Counsel concerning this case due to the Planning Board question about ‘uses’. Says he understands the PB doesn’t want to proceed until the ZBA has determined for them the issue of two principal uses.

There is much discussion between Board Members and Attorney Meade on the ZBA’s issue of the cease and desist vs ‘uses’.

Clewell questions parking and afterschool events. Meade talks of parking regulations for staff vs students.

There is more discussion on closing the hearing regarding the cease and desist order amongst Board Members and Chairman Thurston says he doesn’t want to close the hearing until a response is given from Town Counsel.

Heidgerd moves that the Board accepts the applicant’s proposal to overturn the inspector of buildings cease and desist issue regarding the daycare center issued in August because the applicant is now a valid non-profit educational institution and they have a right to locate anywhere in town. Clewell seconds. Chairman Thurston calls for a roll call vote. Thibodeau-Yes, Clewell-Yes, Heidgerd-Yes, Thurston-No, Levesque-No. Motion denied.

Attorney Meade asks for the Board Members reconsideration to allow a withdrawal of the motion and continue the hearing. Says She would prefer not to have to do make an appeal. Says she respectfully requests a withdrawal of the motion and has the meeting continued. Board Members Chairman Thurston and Levesque agree to vote to reconsider.

Levesque makes a motion to reconsider what the Board Members just voted against (the inspector of buildings cease and desist order). Clewell says and therefore move to continue rather than make a decision and seconds. All in favor.

IV. Adjourn

Chairman Thurston asks for a motion to adjourn. Clewell so moves. Levesque seconds. All in favor. Meeting adjourns at 8:39 pm.

Respectfully Submitted by Lisa Lozzi

Minutes accepted at the _____ meeting.

Documents and exhibits provided/used at meeting and are available in the ZBA office:

Meeting Agenda

Sign-in Sheet

2.15.18 Minutes

3.15.18 Minutes

18.09 Withdrawal Form

Comments from PB of 4.18.18

Email from Nolan – Site Visit info and requested existing site plan.

GLc39 §23D Certification Form – (Member Levesque)

Continuance email – Collier – Ocean Avenue

Continuance email – Decoulos – Marion Way

Email consisting of a Town Counsel request from D.Eagan, K.Baker, Thornton

Email from Brian Cummings of 4.17.18 regarding 18.05 including attachments (state of Mass)

Email from Joel Quick regarding 18.05 including attachments (police & Fire dept. letter and ZBA letter)

Site Plan 18.05

ZBA Continuance form for 18.05