



**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](mailto:zoning@townofrowley.org)

**October 19<sup>th</sup>, 2017 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**

7:02 pm. Chairman Thurston calls the meeting to order and reads the Agenda for the record.

**II. Misc.**

Approval of Minutes – September 21<sup>st</sup>, 2017

**Chairman Thurston asks for a motion to accept the minutes as corrected (attorney name only)  
Clewell so moves. Levesque seconds. All in favor.**

**III. Public Hearing**

7: 07 pm. #18.04 Rowley Public Safety Buildings

Board Members working on the case are Chairman Donald Thurston, Clerk Thomas Heidgerd, Member Robert Clewell, Member David Levesque and Member Donna Thibodeau. Chairman Thurston reads the Public Hearing Schedule and opens the hearing for the record. Chairman Thurston reads the application for the record. Chairman Thurston asks the Board Members if anyone has any conflict of interest on the case and the response is no.

Deborah Eagan, Rowley Town Administrator introduces herself and introduces Mr. William Murray of Places Associates and says he will be conducting the presentation. Mr. Murray produces plans for Board Members to view and continues to explain an overview regarding the Town Public Buildings project.

Mr. Murray says he wants to document for the record; the offset from the front and produces his report. The front requires 50' (on sheet C-4 of plans) and are requesting a special permit to allow it to be 36' (right of way line-not edge of pavement) because of the position of the existing building. Says the goal of the entire project is to keep the project as compact a project as can and as close to the road as can so not to impact the ball field.

Discussion on a waterline, (existing and new) sprinkler, the sewage system and the project is less than 3% rendering impervious while still in under 15% total.

Questions and discussion concerning the generator and amount of diesel stored on site, dual wall, less than 1500 gallons, a dual wall belly tank. Generator will be 100% operable for both buildings with 24 hr. continuous operation on full load. It will be enclosed located in back on portion of site and the Fire Chief will have the ability to set the timer.

Mr. Murray states the goal of this project is to get the facilities built and if bids come in then other things are potentially possible. Says the architects and designers have kept the cost down. There are no frills on this project.

Thibodeau questions the floor plan and Murray says keeping the footprint; suitable for septic system and ledge was found.

**Levesque makes a motion to accept application as presented. Clewell seconds. Heidgerd adds an addendum to the motion to accept the analysis of the situation subject to any further review and would not see that a special permit is required for that particular process and would accept their comments. All in favor. Heidgerd motions to close the hearing. Clewell seconds. All in favor.**

#### **IV. Cont'd Public Hearing**

##### **7:45 pm #18.03 – Michael Sabatini – 239 Main Street**

Board Members working on the case are Chairman Donald Thurston, Clerk Thomas Heidgerd, Member Robert Clewell, Member David Levesque and Member Donna Thibodeau.

Chairman Thurston reads Attorney Diluna's letter/decision for the record. (hand received this evening from Town Counsel Tom Mullen)

Town Counsel says there are many permits and requirements that don't have anything to do with the ZBA and says he'd be more than happy to rework the 'decision' submitted and received tonight by Attorney Diluna.

Heidgerd says the ZBA is not trying to define agri-tourism/business; only to find based on our reading the state law which what is acceptable. However, the ZBA certainly upholds all the variables requiring additional permitting that the Inspector of Buildings has outlined for us.

Town Counsel says if he were to revise he would say the ZBA is overturning the cease & desist order only to the extent that it purported to forbid agri-tourism use as a zoning matter and as a zoning matter you are affirming the right of the applicant to conduct that use provided that the threshold set forth in 40A§3 are adhered to. And to the extent that the cease and desist order forbade the use of a structure, such as the barn, and until certain other requirements were met, you are not lifting, you are not affecting, the cease and desist order. Heidgerd feels content to draft a decision along the lines as Town Counsel has suggested and Town Counsel says if the Board wants him to revise, he'll run it by Attorney Diluna to be sure there's no problems with it and when both are satisfied will email to the Board.

Mike Sabatini speaks and says he appreciates Member Mr. Clewell making the comment to close tonight.

**Clewell moves to close the hearing. Levesque seconds. All in favor**

**Clewell moves to grant the partitions in so far as it relates to zoning and that Mr. Heidgerd and Town Counsel Tom Mullen cooperate in the drafting of the final decision consistent with everything that was discussed this evening. Levesque seconds. All in favor. The Ayes have it.**

#### **V. Public Hearing**

##### **8:13 pm #18.05 – Margaret Henry - 121 Wethersfield Street**

Board Members working on the case are Chairman Donald Thurston, Clerk Thomas Heidgerd, Member Robert Clewell, Member David Levesque and Member Donna Thibodeau. Chairman Thurston reads the Public Hearing Schedule and opens the hearing for the record. Chairman Thurston reads the applicant application and the Attorney's letter for the record.

Applicant's attorney Lisa Meade stands before Board and begins reading from her sheet. Says she and her client are before the Board to appeal the cease and desist order and requests the Board overturn the decision of the Building Inspector.

Applicant's Attorney hands letters of support (2) to the Board Chairman as well as a color plan (11x14) explaining the parking/traffic direction. Chairman Thurston says applicant was told she could have daycare/preschool when first started. Curious why huge septic system. Says applicant was told at time that was all she could have.

Chairman Thurston reads letters of support (2) for the record. Heidgerd mentions BOH comment. Chairman Thurston reads PB comment and opposition letters (3) for the record.

Gentleman of 135 Wethersfield Street speaks in opposition.

Mark & Sharon Fish speak in opposition and submit a neighborhood petition sheet to the Board. Much discussion from abutters and their concerns. Chairman Thurston reads a list of fifteen (15) neighborhood signature petitioners in opposition for the record. Majority from Wethersfield St.

Chairman Thurston asks Town Counsel Tom Mullen if the ZBA is in a position to turn case over to the Planning Board and the response is yes. Town Counsel says the ZBA definitely has the authority to require a site plan review by the Planning Board on account of the parking issues heard about. Until there is site plan review by the Planning Board and compliance by the applicant with whatever is required under site plan review by the Planning Board, doesn't think the cease and desist order should be lifted. The ZBA could issue a Decision saying so and be done with the matter of tonight.

Clewell says he thinks that what comes out of the Planning Board would be evidence the ZBA would want to hear before the Board Members vote. So wouldn't close the hearing. Says before he votes, would like to see what evidence is presented or conclusions come out of the Planning Board. Says under Rowley's bylaws a non-profit for educational purposes is allowed provided a site plan has been approved. A site plan is a pre-condition to allowing a nonprofit to use it. They are not separated.

**Clewell moves to continue the hearing to Dec 21. Heidgerd seconds. All in favor.**

**9:15 Meeting recess is taken.**

**9:34 pm #18.06 – Mr. Frangos –Marion Way – 40B – Daniels Street**

Board Members working on the case are Chairman Donald Thurston, Clerk Thomas Heidgerd, Member Robert Clewell, Member David Levesque and Member Donna Thibodeau.

Chairman Thurston begins reading the Public Hearing Schedule and opens the hearing for the record. Chairman Thurston reads the applicant 40B application for the record.

Mr. James DeCoulos is the attorney for Mr. Frangos and is in attendance to answer questions. Mr. John DeCoulos, Engineer explains the project along with easel pictures for the Boards viewing.

Chairman Thurston has questions concerning the purchase and sales document and requests the original from the Attorney who says he will get it.

Discussion on the road, lead in road, control of sight. Chairman Thurston asks if changes can be made to the plans and answer is yes and asks if prepared to negotiate with the ZBA. Attorney says area consists of 6.6 acres.

Chairman Thurston says he's concerned with end of road. Not adequate for the Fire Dept. and the Highway Dept. Attorney says they are in control of site and could make changes to accommodate what the ZBA wants.

Chairman Thurston reads FD, PB & BOH comment letters for the record.

Heidgerd tells applicant's Attorney to complete the Right to First Refusal process before going any further with case and requests a current funding letter. (existing is dated 2015)

**Heidgerd motions to continue the hearing until December 21<sup>st</sup> ,. Levesque seconds. All in favor.**

## **VI. Adjourn**

**Levesque moves to adjourn. Heidgerd seconds. All in favor. Meeting adjourns at 10:54 pm.**

Respectfully Submitted by Lisa Lozzi

Minutes accepted at the \_\_\_\_ November 16<sup>th</sup>, 2017 \_\_\_\_\_ meeting.

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

Meeting Agenda	18.05 PB Comments
Minutes of September 21 <sup>st</sup> , 2017	18.05 Sean Dowie Letter of 10.19.17
Sign-In Sheet	18.05 Nicholas George Letter of 10.12.17
18.03 Attorney Made Decision	18.05 Opposition Petition Signature Sheet
18.03 BOH Comments	18.05 Janet Blanchette Letter of 10.3.17
18.04 Application – Town of Rowley	18.05 Ida Haynes Letter of 9.19.17
18.04 BOH Comments	18.05 Mark & Sharon Fish Letter rec 10.19.17
18.04 PB Comments	18.05 MTC Letter of 10.12.17
18.04 Graham Assoc letter of 10.11.17	18.05 Parking Layout Sheet
18.04 Graham Assoc letter of 10.19.17	18.06 Request to Continue Hearing Form
18.04 Places Assoc email of 10.3.17	18.06 PHP Form
18.04 Permit Set of Plans of 9.6.17	18.06 PB Comments
18.04 Issued for Bid Plans of 10.12.17	18.06 FD Comments
18.05 Request to Continue Hearing Form	18.06 HD Comments
18.05 PHP Form	18.06 BOH Comments
18.05 Application – NS Montessori School	18.06 Application – Marion Way
18.05 BOH Comments	18.06 Plans