



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)

### September 21<sup>st</sup>, 2017 Meeting Minutes

Those present: Donald Thurston, Thomas Heidgerd, Robert Clewell, Donna Thibodeau, David Levesque, Lisa Lozzi.  
Public attendees: Sheet is attached.

#### I. Call to Order

7:06 pm. Chairman Thurston calls the meeting to order and reads the Agenda for the record.

#### II. Misc.

Approval of Minutes – August 17<sup>th</sup>, 2017

**Chairman Thurston asks for a motion to accept the minutes. Clewell so moves.**

**Levesque seconds. All in favor.**

#### III. Cont'd Public Hearing

##### 7:10 pm # 18.01 – 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.

Applicants Attorney requests to continue the hearing until November 16, 2017 and to render a final decision on December 21<sup>st</sup>, 2017. Chairman Thurston reads for the record Attorney Diluna's letter of continuance. **Chairman Thurston asks for a motion to continue the hearing. Clewell so moves. Levesque seconds. All in favor.**

#### IV. Public Hearing

*At this point Chairman Thurston states Ms. Henry's attorney has asked for a withdrawal and therefore this case is heard now.*

##### 7:15 pm 18.02 – Margaret Henry - 121 Wethersfield Street

Applicants Attorney Lisa Mead stands before the Board and states she is seeking to withdraw without prejudice her clients (Montessori School) special permit application. Says she will be filing an appeal on the cease and desist order and is waiting on the assessors list which should be received in a few days. Chairman Thurston reads 'withdrawal' letter for the record. Clewell comments with making it clear the Board will 'allow' applicant to withdraw.

**Clewell says he would move to allow as amended. Heidgerd seconds. All in favor.**

##### 7:20 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 begins reading the Public Hearing Schedule and opens the hearing for the record. Chairman Thurston reads his Disclosure form, the attached sheet, and continues reading the PHS to completion for the record. Chairman Thurston reads applicants application for the record.

Applicants attorney requests the admissions for case #18.01 be included in case #18.03 (package of information including a series of informational seminars, etc.) and continues to explain what the information consists of. Also submits a supplement to the application and reads the Building Inspectors cease and desist order for the record. Says the language violates the zoning bylaws and

agriculture is allowed in every district as set out in the bylaws. Says agriculture is intended for commercial business. This historic covenant allows it to be operated as a farm.

Says we (Attorney & Applicant} respectfully request that you overturn the decision of the Building Inspector and allow agri-business to occur at the Bradstreet Farm.

Chairman Thurston mentions there are many letters from town depts that the Board has had a chance to read and says he doesn't think this is a cut and dry case as the attorney has indicated.

Heidgerd in his opinion says this is not the hearing for trying to define what agri-business is or agri-tourism is. This is not the time to debate. Attorney Diluna says this is a zoning matter.

Clewell says our bylaw doesn't define agri-tourism and our oath is to uphold the bylaw. Asks what the ZBA is being asked to do. Says would prefer something more specific of an idea of what events the ZBA is being asked to approve. Says he's asking what you (applicant) would consider what you want to do.

Attorney Diluna says he wants to be able to have functions where food is served for a recreation event, wedding, corporate, or party. Want to be able to put a tent up to conduct the activity if necessary. Daycare is not in focus at all. Farm product and activity being conducted-event food must come from farm or local farm. Promoting the farm product. Clewell says as long as tied to farm product – promotion and consumption. Party with local farm product or Bradstreet Farm product.

Heidgerd says there's a lot of room for interpretation what an event or function is. I'm not comfortable with a carte blanche scenario and Attorney Diluna says Rowley doesn't have a permit for this type of activity. The exemption 40A s3 is only a zoning exemption. It doesn't give any carte blanch – all that is controlled by building code. Number of people is controlled. There are other parameters controlled.

Clewell says from a zoning point of view I would like to know what you're (applicant) asking and its perfectly acceptable if you say *you want to do whatever we can do if we meet all the other codes; we want to do whatever we want because it's on a farm;* and therefore it's a magnet to draw people in to the farm.

Heidgerd asks the Inspector of Buildings to talk a little bit about his concerns. Mr. Ward says letter was written after seeing an event. When he looked at the advertisements on Facebook, there were already functions being booked. Says his hands were tied. *Town was up and arms. Serving liquor- no licenses and with a Town owned driveway. Too many issues.* Says he didn't mean 'farming' in the Cease and Desist order. Says he meant about the events. *The barn should not be allowed for functions because there's a whole myriad of problems and issues that have to be looked at before the barn can be used. I have nothing against farming – but when the public is in a building, I have concerns. I'm protecting the public; that's my job. That's why the letter was generated.*

*Town Counsel Attorney Mullen says Chap40A sec3 may not impose a special permit on agriculture such as sale of food on the premises provided 25% is produce on the premises. Can't have a special permit because of the Dover Amendment. I think it's important for all of us to understand that there are a lot of issues here not even before this board. Mr. Ward will never issue an occupancy permit unless he's convinced the building and fire codes are complied with. There's a historical preservation restriction which is on record and it requires that virtually any change in the interior and exterior to the barn be approved in advance by the historic commission. You've heard about alcohol-that's the selectmen's issue. It seems to me the only issue before your board is purely from a zoning perspective. Can something like the wedding functions we've heard about be conducted on the premises. You want to make it clear you're only ruling on zoning. Not on the other things. You're not overturning the building inspectors cease and desist order to the extent that is based on building code, fire code, etc. You might rule, and I'm certainly not telling you how to write your decision, that certain agri-tourism is allowable under 40a section 3. You could specify weddings, etc., provided you meet that statutory and comply with all other town applicable regulations.*

*Weddings, private parties are not violative if the statutes minimum is observed. Issue a decision that says weddings, private, parties are not violative if the statutory minimums are complied with. Would advise not to reverse to the extent that is worthwhile and to put in the decision the laws that which have to be complied with. They can have weddings, parties, functions as long it's not violative with the statutory minimum. Going to sustain the cease and desist unless you comply with the Town departments necessary permits such as the occupancy permit.*

Laura Gradstein speaks to the Board. Says she came down to support this activity. Says what Mike is trying to do is right on the money. He's bringing people to the farm. Says you have a gift here.

Applicant speaks and says he's trying to take the position from a second person and attends seminars and workshops which teach farms how to have functions (weddings) on the property. Says this is not an idea; it's what the state is teaching and how to do it. We're working hard to do precisely what they're saying.

Attorney Diluna says applicant is willing to submit a list of functions anticipated at the Bradstreet farm. We're not asking for exemptions, just an acknowledgement that agri-business can be conducted at the Bradstreet farm.

Clewell asks if Attorney Diluna would consider submitting a proposed order. Board members support the request. Heidgerd asks if it could be submitted in two weeks. Attorney Diluna agrees.

Heidgerd says what the ZBA is agreeing to is asking Mr. Diluna to provide the ZBA with a pro forma statement that the ZBA could consider implementing to help have a closer view of what it is your concerns are without necessarily spending time with debate. It's not an uncommon event where the zoning board asks the applicants attorney for helping the Board.

Attorney Diluna requests a continuance to the next ZBA meeting of October 19, 2017.

**Heidgerd motions to continue the hearing until next month. Levesque seconds. All in favor.**

## **V. Adjourn**

**Levesque moves to adjourn. Thibodeau seconds. All in favor. Meeting adjourns at 8:38 pm.**

Respectfully Submitted by Lisa Lozzi

Minutes accepted at the October 19<sup>th</sup>, meeting. (with typo corrections made to Mr. Diluna's name.)

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

Meeting Agenda

Minutes of August 19, 2017

18.01 ZBA Postponement Form

Public Employee Disclosure Form

Sign-In Sheet

18.01 App Lawyer Submittal (4pgs)

18.01 App Lawyer Submittal (RFC)

18.03 ZBA Postponement Form

18.03 Applicant Application

18.03 Town Dept Comments from BOH, CC, BOS, RHC, FD,

18.02 App Lawyer Submittal Letter of 9.18.17 to Withdraw

18.02 ZBA Withdrawal Form

18.02 Applicant Application

18.02 Town Dept Comments from BOH, CC, BOS