



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

May 18th, 2017 Meeting Minutes

Those present: Chairman Donald Thurston, Thomas Heidgerd, David Levesque, Donna Thibodeau, Robert Clewell, and Administrative Assistant Lisa Lozzi. Peter Carpentier is not in attendance.

Public Attendees: James Kroesser, Sandy Patrican, April Ferraro, Michael Sabatino, Marjorie Thurston, Brian Patrican.

I. Call to Order

Chairman Thurston calls the meeting to order and reads the Agenda for the record.

II. Misc.

- **Approval of Minutes – December 16th, 2016**

Chairman Thurston asks for a motion to accept the minutes. Heidgerd so moves. Clewell seconds. All in favor.

At this time Chairman Thurston appoints Associate Member Donna Thibodeau to sit on tonight's Board meeting.

- **Financials Review**

Board Members review financials and approve to have Lozzi purchase a laptop computer for monthly meetings.

- **ZBA Rules – Vote**

Chairman Thurston asks for a motion to accept the New ZBA Rules. Clewell moves to accept the ZBA Rules as presented. Levesque seconds. All in favor.

At this time Chairman Thurston appoints Robert Clewell as acting Chairman, recuses himself from the ZBA Board and proceeds to sit in the public attendee's area.

III. New Business

- **7:10 pm # 17.05 - Donald Thurston – 237 Main Street**

Members acting on this case are Acting Chairman Robert Clewell, Thomas Heidgerd, David Levesque, and Donna Thibodeau. Acting Chairman Clewell reads the Public Hearing Procedure and opens the case for the record.

Mr. Thurston stands before the Board and explains what he wants to do. Says the steps are rotting and they need to be replaced. Gives the Board pictures to view. Says the reason the Inspector of Buildings sent him to ZBA is because he's encroaching on the 50' setback and what he plans to do will be classified as 'new construction'. (Changing from brick to wood constitutes 'new construction' per the Inspector of Buildings). Mr. Thurston says it will basically be the same footprint of 17' wide x 8' long.

Mr. Thurston introduces the contractor, Mr. Sabatini, to the Board and mentions the work is approved by Rowley Historical Commission. Says he is grandfathered and that neither the house nor the stairs is coming any closer to the street.

Acting Chairman Clewell reads the BOS, BOH, FD, PB, and the HC dept. comments for the record. **Levesque moves to approve applicant's application as presented. Heidgerd seconds. All in favor.**

7:22 pm - At this time Mr. Donald Thurston returns to the ZBA Board Meeting as Chairman.

- 7:27 pm # 17.06 Meridian Associates – 420 Newburyport Turnpike

Members acting on the case are Donald Thurston, Thomas Heidgerd, David Levesque, Robert Clewell and Donna Thibodeau. Chairman Thurston reads the Public Hearing Procedure and opens the case for the record. Chairman Thurston reads the Meridian Associates letter and the applicant's application for the record.

Mr. James Kroesser, Attorney for the applicant, comes before the Board and states he represents Sandy Patrican & Brian Patrican. He displays his picture board for the Board Members for viewing and says what is proposed is a 40k sq.ft. building which will be an addition to an existing building. The building itself is under the 35' height limit. The 'mechanical' building which will sit on top of the building is 5' above the 35' height limit thus bringing this case before the ZBA. The penthouse is 10k sq.ft. (25% of the overall building) Continues to discuss the bylaw in question and states the bylaws aren't very clear. Says he thinks the BI is making a 'restrictive' interpretation of the bylaw. Says there's nothing in it other than mechanical equipment which will be accessed by tradespeople.

Chairman Thurston asks what the exact purpose of the room is and Thibodeau asks if there's a layout of the mechanical room and Mr. Patrican says no and that the best way to describe it would be it's going to look like the boiler room of a battle ship. Thibodeau asks if it will look like existing Bio-Lab mechanical penthouses and Mr. Patrican says yes. Says they are (the tenant) outfitting the building now and would like to increase the amount of equipment and have it enclosed so they can service it in the winter and also so it will be more sightly.

Brian Patrican introduces himself and says the building is just for mechanicals-no heat-no ventilation-no a/c – (tenant) wants to maximizing the usage in the building. Sandy Patrican says there really isn't a lot of extra room on the site for putting all this stuff on the ground without using up a lot of valuable parking space.

Chairman Thurston asks if they've met with the Planning Board and the response is yes. Heidgerd asks if the subject of 'height' came up when they went to the Planning Board and Mr. Patrican says no because they didn't have a 'tenant' at the time. Heidgerd states this was approved by the Planning Board without the super structure on the top and Mr. Patrican says yes. Heidgerd asks so every approval was based on a 35' flat roof? And Mr. Patrican answers yes.

Chairman Thurston reads the PB, BOH, BOS, IB and FD memos for the record.

Lengthy conversations and discussions are spent regarding habitable vs non habitable, bylaw interpretations, initiated Board restrictions, and/or Board conditions between Board Members and applicant's Lawyer.

Chairman Thurston says he sympathizes with applicant's problem but is hesitant to allow. Says the 35' is there for a reason. Levesque says he agrees with Chairman Thurston.

Lawyer for applicant says he wants to know about exploring and talking about a variance.

Clewell requests a recess and recess is taken at 8:22
Public Hearing resumes at 8:28pm.

Lawyer wants to go forward with a variance and mentions a dimensional variance. Chairman Thurston tells applicant's lawyer they don't qualify for a variance in the town of Rowley. It is very difficult to get. Heidgerd says a variance in Rowley is very restrictive and only granted under very specific topographical issues.

Clewell says he's happy to not vote on anything and would be happy to table it. Says he wants to make sure the ZBA is the granting authority.

Lawyer says he would like the ZBA to not deny anything and would rather continue the hearing. Clewell says he would not oppose a continuance with a request to amend.

Chairman Thurston suggests continuing the hearing until next month and says the Board is not denying anything tonight or voting on anything tonight.

Clewell says if the applicant wants to continue to allow to amend he so moves. Levesque seconds. The ayes have it – all in favor.

IV. Adjourn

Levesque moves to adjourn. Clewell seconds. All in favor. Meeting adjourns at 9:05 pm.

Minutes accepted at the _June 15th, 2017___meeting.

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

Meeting Agenda

Sign-in Sheet

Minutes of December 16th, 2016

Financial Sheets

ZBA Rules – New Book

Dept. Comments from BOH, PB, BOS, FD, BI, HC

#17.05 Case Docs

#17.06 Case Docs