



TOWN OF WAYLAND
MASSACHUSETTS
01778
BOARD OF APPEALS

TOWN BUILDING
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Meeting Minutes

Tuesday, December 12, 2023

A public hearing was held on Tuesday, December 12, 2023, in-person and remotely, on the following application(s) at the time indicated:

Attending the meeting at 6:33 pm in-person and via Zoom, Wayland members were in attendance: Chair Joshua Wernig, Aida Gennis, Adam Hirsh, Doug Levine, Hunter Perry, Shaunt Sarian, Thomas White. Also in attendance: Mike Crisafulli (Building Commissioner), Manny Oliver (Building Department), Amy Kwesell (Town Counsel), and Robbie Bullard (IT Support). Audio and video recorded by WayCam.

Joshua Wernig opens the meeting and reads the following:

One may watch or participate remotely with the meeting link that can be found at <https://www.wayland.ma.us/public-body-meeting-information-virtual-inperson-and-hybrid>

Pursuant to Chapter 2 of the Acts of 2023, this meeting will be conducted in person and via remote means, in accordance with applicable law. This meeting may be recorded which will be made available to the public on WayCAM as soon after the meeting as is practicable.

When required by law or allowed by the Chair, persons wishing to provide public comment or otherwise participate in the meeting, may do so by in person attendance (if allowed), or by accessing the meeting remotely, as noted above. We request public comment be limited to two minutes per person.

Everyone in attendance should be aware that face masks are now optional for Town Buildings according to the new Face-Covering Guidance dated February 24th, 2022. <https://www.wayland.ma.us/home/news/face-masks-optional-town-buildings>

Joshua Wernig reviews the agenda and gives instructions to all present.

Public Comment:

None.

Review/Accept Minutes of August 8th, 2023:

Members review the minutes of August 8th, 2023. There are no changes.

Doug Levine moves to accept the minutes dated August 8th, 2023. Thomas White seconds. Voted (5-0-1). Chair Joshua Wernig abstains, due to not being present at the meeting in question.

Topics not reasonably anticipated by the Chair 48 hours in advance of the meeting, if any:

None.

At this point, approximately 6:40 pm, Adam Hirsh joins the meeting.

Joshua Wernig reads the legal description:

Continued: Application of **The Wayland Planning Board**; for any necessary approvals, findings, special permits and/or variances as may be required in order to appeal the Building Commissioner's determination for approval of building permits under the Town of Wayland Zoning By-Laws including but not limited to; Chapter 198-401.1.2.1, 198-104, 198-205.1, and 198-205.3. The properties are located at **1-5 & 7 Launcher Way & 80, 90, 92, 100, 102, & 104 Oxbow Road** which is in the R-60 Zoning District. **Case #23-20.** (Cont. 11.14.23)

In attendance for the application are: Dan Hill (Member, Planning Board), Annette Lewis (Chair, Planning Board).

Mr. Hill reviews the application. He says he has been on the Planning Board for ten years, and this is the first time that he has seen one Town board challenging another Town board or official. He says that their conflict derives from a narrow legal issue.

Mr. Hill says that the federal government sold the Launcher Way property in approximately 2019. These were very small houses with attached garages, that were built for army service people. He says the Town had hoped to build affordable

housing on this property, but they were outbid by a private company, Forge. Mr. Hill says the appraisal they used was based on a Town bylaw, passed in 2018, that limits the amount of expansion that can be done on a preexisting nonconforming property with 6 or more rental units.

Mr. Hill contends that the bylaw he cites applies to the property. He says its use by the government exempted it from most zoning requirements at the time, but now that it has transferred out of government use, all relevant zoning regulations apply.

Mr. Hill says that, in Spring 2023, building permits were issued that allowed garage units to be converted into living spaces, leading to an increase in gross floor area in excess of the limits set down in the bylaws. He says that the Planning Board previously met with Forge and informed them of the limitations in the bylaws, but that they proceeded with their plans regardless. The Planning Board is therefore appealing the building permits for these rental units.

Mr. Hill addresses the contention that the Planning Board's appeal is not timely. He says that the Board was never informed that the building permits were issued and that, in fact, they assumed such permits would not be issued after their conversations with Forge and with the Building Department. He says they are filing their appeal outside of the typical 30-day appeal window because they were unaware of the plans.

Questions from Members:

Joshua Wernig asks if the applicants can clarify what notice they believe was required when these building permits were issued. Ms. Lewis says that they received neither actual nor adequate notice. She says that none of the usual Boards were notified. She says that, once she was made aware that plans were moving forward, she saw that there were no permits posted on the property, as required by the State Building Code.

Joshua Wernig asks Town Counsel for clarification on the appeal process and the timeliness of the application. Ms. Kwesell says the 30-day limit on appeals is in place, regardless of notice given. She says the application before the ZBA should be dismissed, as it is not timely. She notes an alternative method that the applicants might pursue for remedy: requesting an enforcement action from the Building Commissioner. If the Commissioner denies the request, the Planning Board can appeal the decision to the ZBA within 30 days afterward. She says that, at such time, the Planning Board could present evidence that they did not receive sufficient notice.

Ms. Lewis asks why their appeal of the foundation permit, which was filed within the 30-day period, cannot be addressed. Mr. Wernig says that the ZBA does not have jurisdiction over this issue; Ms. Kwesell confirms, saying that the foundation permit is issued under the State Building Code.

Mark Bobrowski, attorney representing Homes by Forge, cites a previous legal finding that the 30-day appeals period is in place, with no stipulations.

Mr. Hill asks Town Counsel what the time limit is on their seeking an enforcement action. Ms. Kwesell says that it is her opinion that, because this is a lawfully issued building permit, the applicants have 6 years to make their request. Mr. Hill and Ms. Lewis agree to withdraw the appeal.

Joshua Wernig moves to accept the withdrawal, without prejudice, of Case #23-20. Adam Hirsh seconds. Voted (7-0-0 by roll-call vote).

In the interim between cases, a member of the public asks to comment. Chair Joshua Wernig allows this.

Lewis Wolfson, Wolfson Management, has questions about a property on Damon Street. He says that an “Approval Not Required” determination was given for work on the property, but he believes it requires a special permit. He also questions some of the use of the property. Joshua Wernig suggests that Mr. Wolfson consult the Building Commissioner if he believes that an enforcement action is required.

Joshua Wernig reads the legal description:

Continued: Application of **Henry MacLean (applicant) on behalf of Elizabeth Demers & Ralph Pahlmeyer (owner)**; to construct a Single Family dwelling with an in-law suite within a new connecting barn/garage while remaining in existing home & utilizing existing barn during construction, existing home & barn to be removed after construction. The property is located at **23b Bayfield Road** which is in the R-20 Zoning District. **Case #23-15.** (Cont. 9.12.23, 10.10.23, 11.14.23)

In attendance for the application is: Ralph Pahlmeyer (owner).

Mr. Pahlmeyer updates on the application. He says that they have been working to get a new septic system design done. He says that these plans will be submitted to the Board of Health within the next week. He requests a continuance until January.

Joshua Wernig moves to continue Case #23-15 until January 16, 2023, at 7:00 pm.
Doug Levine seconds. Voted (7-0-0 by roll-call vote).

Adjourn:

Doug Levine moves to adjourn the meeting; Adam Hirsh seconds. Voted (7-0-0 by roll-call vote).

Meeting adjourned at 7:24 pm.

Date Approved _____

Prepared By _____