

**Minutes
Topsfield Zoning Board of Appeals
Town Hall
Board of Selectmen Meeting Room
June 25, 2019**

Chairman Bob Moriarty called the meeting to order at 8:03PM. Board members present included Chairman Moriarty, David Merrill, Gregor Smith, Jody Clineff and Kristin Palace. Dave Moniz was absent. Donna Rich, Community Development Coordinator, was also present.

Visitors: Rahul Shreyakar, Andrzej Galka, Rob Martin, Jennifer Tougas, John Anderson, attorney.

Public Hearing:

215 Washington Street and 221 Washington Street – Andrzej Galka – Clerk David Merrill read the Legal Notice to open the Hearing. Chairman Moriarty recognized Andrzej Galka, who made a statement relative to the history of the relationship between him and his neighbor, Rob Martin. Attorney Anderson presented testimony in defense of Galka's receipt of a Notice of Violation at 221 Washington Street, Cease & Desist and Notice of Violation at 215 Washington Street, Cease & Desist from the Building Inspector, Glenn Clohecy that he illegally was running a construction/landscaping business on the property that is located in the Inner Residential and Agricultural Zoning District (IRA). Anderson stated that a Business Certificate was issued, signed by the Building Inspector, Glenn Clohecy, for the landscaping business. The Board clarified that the Business Certificate specified under conditions that it was for "Home Office Use Only". In addition, the letters dated March 12, 2019 Building Inspector, Glenn Clohecy expresses what use is not permissible under "Home Occupation", section 6.01 of the Table of Uses in the Bylaw, and the definition was also quoted. Anderson contended that the construction material on the properties was for the construction of a garage and an addition to the Galka home. The Board asked if a Building Permit had ever been requested/granted. Anderson stated that due to a land dispute with neighbor, Martin, this project had been placed on hold.

The Board had a discussion relative to the two 40'x40'x90' containers that have resided on the premises of both properties for a number of years. Galka and Anderson both quoted that the materials stored in the containers were windows, a generator, items for the expected building of an addition and garage on the property. The contents of the containers were reviewed as being potentially used for construction purposes use at other locations.

It was noted that the Zoning Bylaw states that containers are only permitted for 3 months, with a potential 3 month extension, if authorized by the granting authority of the Planning Board. The exact locations of the containers on both 215 Washington Street, and 221 Washington Street were reviewed.

The inventory of vehicles on the property was reviewed; they include a bob cat, tree transporter, stump grinder and a dump truck. In the letters dated March 12, 2019 Building Inspector, Glenn Clohecy states that “transportation of construction equipment to and from the Property and storage of such equipment on the Property....is offensive to the residential neighborhood....” Anderson defended the vehicles as being required for a wooded residential property of 3.7 acres, but also admitted, as did Galka, that they were used in the landscaping/construction business.

The Board discussed the two properties at 215 Washington Street and 221 Washington Street as being merged. The Building Inspector’s letter of March 12, 2019 indicates that “215 Washington Street is an undersized lot under the current zoning bylaw” and further states “the merger of these two lots is further evidence by your interchangeable use of both lots for your construction business.” Anderson defended this by stating the two properties are taxed separately and purchased at different times. Also noted was the fact that 221 Washington Street does not have the correct amount of frontage, and therefore would not have been a buildable lot unless it had been merged.

Chairman Moriarty asked if there were any comments from the public; there were none.

Chairman Moriarty said there are a number of issues addressed here tonight. First, the Building Inspector states the lots are merged for zoning purposes. Galka testified that the containers and construction vehicles are located on both 215 Washington Street and 221 Washington Street, recognizing that the property was being utilized as one lot. The Board all agreed in favor that the lots at 215 and 221 Washington Street are merged as one.

Second, the storage containers have exceeded the 6 month permit period and do in fact contain construction items. The Board members agreed that the containers are not for personal use.

Thirdly, the equipment/vehicles noted previously are in fact connected to the construction/landscape business and are not permitted on the properties.

Gregor Smith made a motion to close the Public Hearing, seconded by Dave Merrill; so voted: 5-0.

Gregor Smith made a motion to uphold the enforcement of the Building Inspector’s letters of March 12, 2019 for 221 Washington Street and 215 Washington Street of Cease & Desist, seconded by Dave Merrill; so voted: 5-0.

Public Hearing:

23 Ipswich Road – Anthony Franciosa- Clerk David Merrill read the Legal Notice to open the Hearing. Chairman Moriarty recognized Anthony Franciosa. Mr. Franciosa stated that he is requesting a finding for the property at 23 Ipswich Road because the size of the lot is short by 3,000 square feet. The Board reviewed the plans for the proposed 2,300 square foot dwelling.

Gregor Smith made a motion to close the Public Hearing, seconded by Dave Merrill; so voted: 5-0.

Gregor Smith made a motion to approve the Finding of the construction of a dwelling at 23 Ipswich Road on a non-conforming lot of 17,075 sq. ft., seconded by Dave Merrill; so voted: 5-0.

Minutes

Dave Merrill made a motion to approve the minutes of May 28, 2019, as written, seconded by Gregor Smith; so voted: 4-0-1. Kristin Palace abstained.

At 10:09pm Dave Merrill made a motion to adjourn, seconded by Gregor Smith; so voted: 4-0.

Respectfully submitted,

Donna C. Rich
Community Development Coordinator

Per the Open Meeting Law, the documents that were either distributed to the Zoning Board of Appeals before the meeting in a packet, or at the meeting were:

1. Agenda
2. Draft meeting minutes of May 28, 2019
3. Application for 215 Washington Street and 221 Washington Street
4. Application for 23 Ipswich Road

Approved as amended at the November 26, 2019 Zoning Board of Appeals meeting.

Pursuant to the 'Open Meeting Law,' G.L. 39, § 23B, the approval of these minutes by the Committee constitutes a certification of the date, time and place of the meeting, the members present and absent, and the actions taken at the meeting. Any other description of statements made by any person, or the summary of the discussion of any matter, is included for the purpose of context only, and no certification, express or implied, is made by the Committee as to the completeness or accuracy of such statements