

ZONING BOARD OF APPEALS MINUTES OF OCTOBER 14, 2015

A regular meeting of the Zoning Board of Appeals was held on Wednesday, October 14, 2015 at 7:00 p.m. in the Main Meeting Room, Town Hall. The following members were present: Matt Zuker, Chairman; James DeCelle, Vice Chairman; Craig Hiltz, Clerk; and, Tim Foley, Associate Member.

Mr. Zuker opened the hearing at 7:00 p.m.

7:00 p.m Daniel Cummings, 11 Old Farm Road, Case No. 11-15 Continued Hearing: Mr. Zuker stated that the applicant is requesting a Special Permit for the removal of fill and grading. Mr. Cummings was present and addressed the comments made by Margaret Walker, Town Engineer in a letter dated August 10, 2015. Ms. Walker asked the applicant be required to provide the quality of fill being removed. Mr. Cummings stated that the quality of fill will be clean and sandy. Ms. Walker asked that the Board consider requiring the applicant to have the plan re-stamped as the contour lines appear to have been added after the plan was stamped. Mr. Cummings stated he talked to his engineer, Continental Land Survey, LLC and the plan was re-stamped and now shows the re-contouring. Ms. Walker requested that erosion control be proposed and shown on the portion of the lot being regarded to prevent migration of sediments offsite and into the street. Mr. Cummings stated the updated site plan shows erosion control as requested. Ms. Walker asked that the applicant provide the Board with the means by which the land will be stabilized after the re-contouring is finalized. Mr. Cummings stated the contractor will be bringing in loam to allow them to have a useable back yard. They are planning to hydro seed and that is also shown on the plan.

In a letter dated August 19, 2015, Landis Hershey, Conservation Agent, stated the site is not subject to the MA Wetlands Protection Act of the Walpole Wetlands Bylaw; however, the activity does fall under the Stormwater and Erosion Control Bylaw under the Fast Track Permit which requires no application of hearing, just minimum erosion and sedimentation control requirements for projects less than 40,000 s.f. Further, she stated there are two requirements that shall be met upon applying for a building permit: 1) siltation and erosion controls shall be employed prior to the commencement of construction on the site, siltation controls shall be placed to prevent soils or other eroded matter from being deposited onto adjacent properties, right-of-ways, public storm drainage system or wetland/watercourse; and, 2) adequate erosion and sedimentation control measures shall be implemented and maintained in their proper effectiveness during the entire construction phase for a project. Such erosion control measures shall be monitored on a daily basis or as needed and be reinforced or replaced when needed per judgment of the site foreman, owner, and/or Conservation Agent. Such erosion and sedimentation control devices shall remain in place until the site has become stabilized with an adequate vegetative cover.

In a letter dated August 12, 2015, the Board of Health requested that the onsite septic system be flagged prior to work being done so that there is a clear indication where it is located and that construction vehicles will not accidentally drive over it. Mr. Cummings stated that the contractor is aware of where the septic system, but they did flag it.

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Mr. Cummings stated that the transportation route will be Old Farm Road to Pine Street to Route 1. Further the planting plan is now shown on the site plan and also the area affected by loam and seeding.

Mr. Zuker told Mr. Cummings that he took good notes at the last meeting as he did a great job addressing the Board's previous concerns. The updated plan and the input from Kenny Jones make the Board's job easier. Mr. Hiltz stated it appears all the board's issues have been addressed and also the comments received from other boards.

There were no public comments or neighborhood opposition.

Mr. Cummings asked what happens now. Mr. Hiltz stated if a Special Permit is issued by this Board, there is a period of time for the decision to be written and filed with the town clerk and then there is a twenty day appeal period. He also informed Mr. Cummings that once the hearing is closed, the Board cannot take any further information during the deliberation process.

There were no further questions. Mr. DeCelle moved to close the public hearing. Motion seconded by Mr. Zuker and voted 4-0-0 (Zuker, DeCelle, Hiltz, Foley).

Mr. Zuker stated that the applicant has addressed Section 5-D.6. A-E of the Zoning Bylaw, which provides: A) Whether the activity is injurious or dangerous to the public health or safety or harmful to the amenities of the vicinity of the Town. It was determined that there is a minor amount of grading in the backyard at 11 Old Farm Road for a residential purpose. Also, there are provisions for erosion control; B) Whether the activity requires the transportation of materials over particular public streets on which undue congestion or hazards will be created, or on which undue injury to the roadway surface will be sustained. It was determined that due to the small amount of fill required there will be no undue congestion of hazards created or undue injury to the roadway surface. Further, there are no concerns with public safety; C) Whether the activity shall result in significant negative impacts to the natural environment. Erosion control will be established along with loam and seeding. It was determined that run-off will be improved from what it is presently. D) Whether the activity will result in a change of topography or cover disadvantageous to the most appropriate use of the land. The Board determined that there will be a minor change in topography in a residential neighborhood and that this is a better use of the land; E) Whether the activity will be terminated within one (1) year. Based on input from the applicant and his contractor, the Board determined that the activity will not take more than a year to complete.

Mr. Hiltz moved to grant a Special Permit to Daniel Cummings, 11 Old Farm Road finding that the criteria of Section 5.D of the Zoning Bylaw has been met in order to allow removal of fill and grading to match remaining contours. Motion seconded by Mr. Foley and voted 4-0-0 (Zuker, DeCelle, Hiltz, Foley).

Minutes: Mr. Zuker read an email dated October 14, 2015 from Susanne Murphy requesting that the September minutes be tabled until the October 28th meeting as she feels they are incorrect. The board agreed.

Adjournment: Mr. Zuker moved to adjourn. Motion seconded by Mr. DeCelle and voted 4-0-0 (Zuker, DeCelle, Hiltz, Foley). The meeting adjourned at 7:35 p.m.

Respectfully submitted,

Craig Hiltz, Clerk

Minutes accepted: 10/28/15