



**TOWN OF DIGHTON**  
ZONING BOARD OF APPEALS  
Meeting Minutes

April 20, 2016

Members Present:

Peter Caron                      Kenneth Pacheco  
Robert Adams Sr.      Greg Logan  
Zachary Caron

**Call to Order:**

Chairman Peter Caron called the meeting to order at 7:00 P.M. and read a letter from newly appointed Selectman Brett Zografos. Brett regrettably resigned from his zoning board position.

**Old Business:**

**Case # 02-16    0 Winthrop Street    Special Permit 2 Family Dwelling:** voting members

**Kenneth Pacheco   Robert Adams Sr.   Zachary Caron**

**Discussion:** Clarification of address, Fairway Drive; nearest home 900' feet; trees planted along Fairway Drive by the developer years ago; direction the house will face; driveway access; storage; the house being built on a slab; commercial business wanting to rent a unit they would not need to come to the zoning board because the house is located in a business district.

The applicant stated that he had revised the plan and he would now be building the 2 family home with a full basement. It would no longer be built on a slab. The house will face Winthrop Street but access through its frontage on Fairway Drive.

It was moved by Kenneth Pacheco seconded by Zachary Caron and VOTED to approved with the condition that the house be built with a full basement.

Kenneth Pacheco: No reason to deny

5-18-16

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**Robert Adams Sr.:** The topography of the land is the hardship. It would be difficult for a business to prosper.

**Zachary Caron:** It is allowed in a business district with a special permit

**Chairman Caron** stated, the neighbors should call the board of health and complain about the trash from the Mobil Station.

**Case #03-16 1209 Somerset Avenue Signage Variance**

**Chairman Caron** explained that Brett Zografos was a voting member on this case and would need to be replaced. Brett Zografos was with Kenneth Pacheco. Mr. Pacheco explained that he had previously recused himself from this case and from any case pertaining to this address. He added that he was in favor of this variance request.

**Discussion:** Ken had attended all meetings and also the site visit. It was decided that the board would check with the applicant to see if they would mind if Kenny was added as a voting member.

**It was moved by Kenneth Pacheco seconded Robert Adams Sr. to continue this case until May 18, 2016.**

**All in Favor**

**Aye**

**Case #06-09 Stoney Ridge Estates Release of Lots:**

**Voting members Greg Logan Peter Caron Zachary Caron**

**The developer, Bisher Heshim** requested the board consider releasing the 3 lots currently being held in phases 1 & 2 and hold lots in phases 3, 4, or 5 instead. This way he could finish the roadway and sidewalks to allow the neighborhood to be completed. He stated that after phase 1 & 2 were completed all construction vehicles would be required to turn left and enter Waterford Circle from the left leaving phases 1 & 2 a completed neighborhood.

**Atty. Marguerite Mitchell** stated that the covenant for phases 1 & 2 would be replaced with an alternative guarantee or cash bond, before those lots that are being held could be released.

**Discussion:** The 3 lots currently being held in the covenant; the need for an alternative guarantee or "cash bond" before the lots could be released; safety concerns for the public living in a construction zone; construction access through lot # 11 to the Pines; moving the lots being held in phase 1 & 2 into

phase 3; the release of the remaining lots being held in phase 3; the covenant for phase 3, 4, & 5.

The developer did not want to post the cash bond for the release of the lots in phase 1 & 2. He also has safety concerns for the residents in phases 1 & 2. He requested the board consider releasing lots 21, 22, 23, 24, 51, 52, 53, 54, & 55 in phase 3.

It was moved by Peter Caron and seconded by Zachary Caron to close the public hearing.

It was moved by Peter Caron and seconded by Zachary Caron to release lots 21, 22, 23, 24, 51, 52, 53, 54 & 55 in phase 3.

Vote

Unanimous

**New Business:**

**Case # 04-16 0 Elm Street Variance for Insufficient Frontage:**

**Vice- Chairman Kenneth Pacheco** read the legal notice posted in the Taunton Daily Gazette. Voting members picked were:

**Peter Caron      Zachary Caron      Kenneth Pacheco**

**Trustee of the property, Steve Dumenigo** presented the case. He explained that the property has frontage on Elm Street and also on County Street. It is a large lot with 11+ acres. The property has been determined to be in the flood plain and is in the AE 15 flood zone. He stated in the center of the property a natural spring flows down and creates a lot of wetlands that make percing the property challenging. He has only been able to perc the property on the Elm Street side.

**Discussion:** the lack of frontage and whether it was self-created; 60' feet frontage and how that would change the characteristics of the neighborhood; the wetlands; location of the percs; previous zoning board denial for this property;

**Abutters:**

**Neil LaFrance 2925 Elm Street:** requested to see the location of the perc test that were performed. He explained that he didn't want a house in his

backyard that in 2002 this property was before the board and they wanted to build a house right behind his house. It was denied in 2002. He said that the applicant might have an environmental hardship but that shouldn't be a reason to allow a home in his back yard. He wanted to go on record as opposed.

**Mr. Dumenigo** showed that board a plan with the abutting properties that showed the actual frontages of the other homes in the neighborhood and he explained that 1 house on such a large piece of property would not be a detriment to the neighborhood. He pointed out other neighboring parcels that also had less than the required frontage. The board explained that those houses were built before zoning laws were introduced and were not on pork chop shaped lots that place a home in someone's backyard.

**It was moved by Kenneth Pacheco seconded, by Zachary Caron and VOTED to close the public hearing.**

**It was moved by Kenneth Pacheco seconded, by Zachary Caron and VOTED to take the case under advisement.**

**All in Favor**

**Aye**

**Case #06-09 Stoney Ridge Estates Proposed New House Style**

The developer presented a new house that he would like the board to consider for Stoney Ridge Estates. He explained that many interested buyers were interested in the same style house, the Fairfield. He explained that he could build a similar style home, called the Bristol that will have a slightly little larger footprint and a little more square footage.

**Discussion:** The board asked about the number of bathrooms, the size of the deck, and the number of bedrooms, and the options listed on the plan. The developer stated the house would have 2 ½ baths, a 12x12 deck, optional glass shower doors, offer both 3 & 4 bedrooms and the optional items on the plan would be offered to both the market rate and affordable buyers.

**It was moved by Zachary Caron seconded by Peter Caron and VOTED that this would not be a substantial change.**

**It was moved by Peter Caron and seconded by Zachary Caron to approve the “Bristol” house plan upon the Building Commissioners review and approval.**

**All in Favor**

**Aye**

**Discussion:** The developer explained that he would like to be able to put foundations in on the lots being held by the town in phases 1 & 2 so that the water and gas lines could be installed so that the sidewalks and roadway could be finished. The Board said that a cash bond or other form of guarantee would need to be made.

**Public Input:**

**Vice-Chairman Kenneth Pacheco** asked about the status of solar farm applications and what part the zoning board will have in the process until the bylaw is changed in July. He stated that he thought at the April meeting it was decided that the zoning board would hear some solar requests and act on them until the by law was changed.

**Chairman Caron** explained that there were 2 solar farm applications in the pipeline and after researching zoning by laws the zoning board will only hear the cases that a variance is required. The board read the solar by law and discussed how they each interpreted the law. They then discussed the change in the solar by law that would take place July 1<sup>st</sup> 2016.

**Robert Adams Sr.** stated that at the March meeting the Board took a vote not to send a letter to the Planning Board relinquishing the ZBA’s inclusion in the hearing process. He stated that had researched the town’s solar zoning bylaws and his interpretation is that the zoning Board is the special permit granting authority for solar farms. He referenced section 4620 that states in a residential area solar farms would fall under the special permit process in section 5300 of the town bylaws and read them to the Board. 5310 states that unless specifically designated otherwise the board of appeals shall act as the special permit granting authority.

The Board discussed the bylaw and there was a difference of opinion in the interpretation of the law.

**Robert Adams Sr.:** Stated that the zoning board is charged with a responsibility and he doesn’t want to neglect their responsibility. If this is

taken from us you might as well eliminate the zoning board of appeals all together.

**Discussion re:** residential solar applications and who should hear the cases. Chairman Caron explained that the planning board should hear all cases unless they need a variance. Then they would need to come to the zoning board for a variance.

**Kenneth Pacheco:** read from the bylaws ..... except where there is an installation in a residential district. Said installation shall be subject to a special permit process set forth in section 5300.

**Robert Adams Sr.:** I don't want to shed our responsibility.

**Kenneth Pacheco** asked what is proposed in the town meeting warrant.

**Peter Caron:** The planning board will handle all large scale solar farms on industrial or residential land. The zoning board will hear small scale solar applications. He also stated that he was notified that Kenneth Pacheco had scheduled a meeting to discuss the bylaws with the planning board and he would not be able to attend so he canceled that meeting.

**Adjournment:**

It was moved by Kenneth Pacheco seconded Robert Adams Sr. and VOTED to adjourn the meeting at 9:30

Vote:

UNANIMIOUS

Respectfully Submitted  
Rosalind Grassie