



ZONING BOARD OF APPEALS MINUTES

March 25, 2015

The Lunenburg Zoning Board of Appeals held a public hearing on Wednesday, March 11, 2015 at 7:00 PM. The hearing was held at the Lunenburg Town Hall, 2nd Floor Conference Room, 17 Main Street, Lunenburg, MA.

The applicant Sharon S. Vincent, 43 Oak Avenue, Lunenburg, MA 01462 was seeking a Special Permit for Dimensional Variation to maintain the grandfathered status on a parcel of land located at **53 Oak Avenue, Lunenburg, MA 01462.**

Board Members present: Raymond Beal, Chairman, Donald F. Bowen, Hans Wentrup, Alfred Gravelle, Paul Doherty and James Besarkarski (present but not voting).

Others Present: Sharon & Gary Vincent and Brian Swift, abutter to the property.

7:00 PM Chairman Raymond Beal opened the hearing and explained the procedure to the audience. Lisa Normandin, Board secretary read the application into the public record.

Mrs. Vincent indicated that she purchased the vacant parcel abutting her home in 2002 as an investment and to take control of any development that could possibly occur as a result of an upcoming sewer line that was proposed on Oak Avenue. She felt that she had done her due diligence to insure that the status of the property would remain a buildable lot after she took ownership. The deed was drawn up listing the husband and wife as owners of the parcel not knowing that it would no longer enjoy single lot status. A few months after purchasing the parcel she learned that having the same ownership as the abutting home created a problem with regard to maintaining the grandfathered status of the vacant parcel. Six months later Mrs. Vincent had the deed corrected and the property was then listed in Sharon Vincent's name only. Mrs. Vincent maintains that she thought the matter was cleared up; however, when she approached the Building official in 2015 she realized that this was not the case.

Raymond Beal indicated that he had a conversation with the building commissioner regarding the merger doctrine and that he did some research prior to the meeting and accessed a document with regard to Grandfathered lots and plan protections. This document was prepared by Donald J. Schmidt with the Department of Housing and Community Development in November of 2009. In this document it outlines in section 1B that the substandard building lots must be combined to form one lot that will meet or

RECEIVED & FILED

MAR 31 2015

LUNENBURG TOWN
CLERK OFFICE

more closely approximate the minimum lot area and frontage requirements of a local bylaw. Mr. Beal pointed out that the existing home occupied by the Vincent's in indeed a conforming lot so the merger doctrine does not apply. It is a standard lot, therefore, does not force the merger as one is parcel conforming and one is not. He also feels that since the Board has the authority to grant a Special Permit for Dimensional Variation for the lot size, we should decide upon granting that permit. Mr. Beal explained that in (RA) residence A zoning district the bylaw requires that a lot be 40, 0000 square feet with 100 feet of frontage and the required lot width through building is 175 feet.

Paul Doherty was in agreement with Mr. Beal and the Building Official in that the common lot merger doctrine does not apply. Alfred Gravelle felt that the only issue before the Board is" is it a grandfathered lot or not" and grandfathered lots are protected.

Sharon Vincent was confused about the fact of whether or not the special permit for dimensional variation should be considered or not. He also feels that since the Board has the authority to grant a Special Permit for Dimensional Variation for the lot size, we should decide upon granting that permit.

Donald Bowen asked several questions regarding the assessment of the property. Ms. Vincent indicated that the property record card was changed in the assessor's office and it changed the amount of land and the assessed value as well. She said that the classification is noted as potentially buildable land at the assessor's office and the change in lot area and value was an administrative error. Raymond Beal agreed that the record that he examined differed from the amount of land outlined in the Assessors records (actual 26,136 square feet). Ms. Vincent indicated that it has since been corrected in the assessor's office.

Hans Wentrup was curious to know why the Building Official felt that the common lot merger doctrine applied in this case to the subject property. Raymond Beal explained that he thought that, at the time the Building Official and the Town Counsel discussed it, the assumption was that there were two substandard lots.

Alfred Gravelle asked Mrs. Vincent why she approached the Building official in the first place. She replied that the new school is currently being constructed directly across the street from the property. An abutters meeting was held regarding the proposed crosswalk in that area. She wanted to provide input at the meeting because she did not want to be prohibited from where her driveway may be located if a home was built there in the future.

Brian Swift, 63 Oak Avenue an immediate abutter to the property felt that the property owners made an investment in the property and felt that the Vincent's should be able to move forward with the property.

Chairman Beal polled the Board and asked if they agreed that the merger doctrine does not apply. Alfred Gravelle, Donald Bowen, Hans Wentrup and Paul Doherty all agreed that it does not apply in this case. He next asked the Board members if they felt that the Special Permit for Dimensional Variation should be acted upon, he suggested that if it was approved the applicant would not have any problems moving forward if the decision was ever challenged. Mr. Beal felt that it is clearly within the Boards powers to do so.

While the Board members agreed that the merger doctrine did not apply in this case, the members were not all in agreement that a Special permit for dimension variation was needed. Raymond Beal and Alfred Gravelle were in agreement that the approval would serve to be an affirmation of the grandfathered status.

Raymond Beal reaffirmed the fact that if the Special Permit for dimensional variation were to be granted this was in no way indicating that the parcel was considered a building lot. A building permit would be sought through the building department and would be handled by them.

The Board voted unanimously to approve the Special Permit for dimensional variation.
Hearing Adjourned at 8:20 P.M.

Minutes submitted by Lisa A. Normandin, Board Secretary


Approved by Chairman of the Board