



TOWN OF WILBRAHAM

Zoning Board of Appeals
240 Springfield Street
Wilbraham, Massachusetts 01095

MINUTES OF THE WILBRAHAM BOARD OF APPEALS MEETING THURSDAY, FEBRUARY 28, 2019

In Attendance: Edward Kivari Jr. – Chair
Betsy Johnsen, Associate
Charles Pelouze – Associate

Staff: John Pearsall, Planning Director
Lance Trevallion, Building Commission
Nicole Moriarty, Administrative Assistant

The meeting was called to order at 5:40 PM by Chairman Kivari.

1. **Approval of Minutes**

Chairman Kivari called for a motion to approve the minutes of November 29, 2018 as submitted and the Board unanimously agreed.

Materials referenced: Draft of the ZBA's Meeting Minutes from 11.29.2018 submitted to the Board members by Nicole Moriarty, Administrative Assistant.

2. **Public Hearing**

Transfer of Special Permit for Used Car Business - 2030 Boston Road, LLC , 2030 Boston Road
(Digitally Recorded)

Chairman Edward Kivari opened the public hearing at 5:45 PM and read the legal notice into the record. Attorney Nick Amanti of Fitzgerald Attorney at Law was present at the public hearing representing the Petitioners Mike Trombley and Glen Garvey members of 2030 Boston Road, LLC. Attorney Amanti informed the Board that the Petitioners purchased 2030 Boston Road this past December from Mr. Kenney and they are requesting a transfer of the previously special permit issued to David Kenny & Wilbraham Auto Sales authorizing the operation of a used car business as a pre-existing nonconforming use pursuant to Section 3.3.1 of the Wilbraham Zoning By-Law. The Board stated that the Petitioners would need to exercise the use of the special permit within two years of the special permit transfer decision or the use would be deemed abandoned.

MOTION (PELOUZE, KIVARI, JOHNSEN): I move that the Wilbraham Board of Appeals grant the transfer of the existing special permit that was issued to David Kenny & Wilbraham Auto Sales on June, 1, 2001 authorizing the operation of a used car business located at 2030 Boston Road as a preexisting nonconforming use pursuant to Section 3.3.1. of the Wilbraham Zoning By- Law and to include all the terms and conditions of the previously issued special permit. Approved (3-0).

The hearing ended at 5:55 PM.

Materials referenced: Legal Notice stamped by the Town Clerk 1.29.19 & Special Permit to David D Kenny & Wilbraham Auto Sales stamped by the Town Clerk 6.1.01 and Plan of Land drawing prepared by: Paul S. Smith Surveying, received by the ZBA office 12.14.18.

3. **Variance Request for Existing Pool Shed - Danio Residence, 4 Oak Ridge Road**

(Digitally Recorded)

Chairman Edward Kivari opened the public hearing at 6:00 PM and read the legal notice into the record. Attorney John Soja was present at the public hearing representing Petitioners Irving and Mary Danio of 4 Oak Ridge Road. Abutting property owners Paul and Wendy Labbe of 3 Arbor Lane were also present. Attorney Soja informed the Board that Petitioners met with the Planning Board in November and they conditionally approved a Nonsub plan revising the common side lot line configuration to rectify an encroachment of their pool shed, fence, and pool filtration system. Attorney Soja stated that due to the new configuration they currently have less than the minimum setback distance from the property line that is required under the Wilbraham Zoning By-Law and therefore request a variance.

MOTION (PELOUZE, KIVARI, JOHNSEN) I move that the Wilbraham Board of Appeals grant the variance request pursuant to Section 15.5.2 of the Wilbraham Zoning By-Law to allow an existing residential accessory building (pool shed) to remain located on the Danio property at 4 Oak Ridge Drive in the side yard area with the setback distance between the existing building and the newly proposed reconfigured property line having less than the minimum side yard setback distance required under the provisions of Section 4.4.8 (B) of the Zoning By-Law. Approved (3-0).

Materials referenced: Legal Notice stamped by the Town Clerk 1.29.19, notes and photos Received from Attorney Soja 2.28.19 and Site plan drawing prepared by: Paul S. Smith Surveying, received by the ZBA office 1.11.18.

The hearing ended at 6:10 PM

4. **Miscellaneous Information**

A. Caselaw Materials – *Kneer v. ZBA of Norfolk*, 93 Mass App. CT. 548 (2019)

The Board reviewed the document without any issue.

Materials referenced: "Merger," She Wrote! By Bob Ritchie, Esq. (5 pages).

Having no further business, the meeting was adjourned at approximately 6:30 PM.

Submitted:

Nicole Moriarty 3/28/19
Nicole Moriarty, Administrative Assistant

Approved As To Form And Content:

Edward Kivari Jr., Chairman

Date: 4.4.19