

Zoning Board of Adjustment

January 17, 2017

Memorial building

7:00 pm

These minutes are to be considered draft minutes only until approved by the board at their next meeting.

Members Present: Susan Chiarella, Peter Abair, Justin Hastings, Rick Corbett, Bryan O' Day, and alternate Jim Bednar

Others Present: Susan Hankin- Birke, Fred Tatro, Dick Hendl, Ryan Peterson, Abby Peterson, Whit Smith, Mike Chiarella, Don Hill, Leigh Callaway, Tamara Butcher, Shawn Tanguay, and Janet Roberts.

Susan opens the meeting at 7

Approval of Nov 1st minutes- Justin made a motion to accept minutes, second by Bryan and all in favor.

Christine Austin hearing- 140 Woodcrest Shores- Appeal from administrative decision relative to the selectman's notice of Violation of Article 111, Section 3.13A of the Town of Springfield Zoning Ordinance- using house as a two dwelling unit.

Susan opened the meeting at 7:05 and explained that she would be recusing herself from the hearing. Bryan O' Day also recused himself. Justin Hastings chaired the meeting, and Jim Bednar was asked to serve on the board as an acting member.

Justin asked Susan Abair if all notices were sent. Susan verified.

Susan Hankin-Birke (attorney) approached the board on behalf of her client Christine Austin. She explains that she is there appealing a Cease and Desist notice given by the selectmen, stating Christine Austin is using her house as two separate units. Susan states that is not the case. She states her client, Christine Austin home shares with another woman. They have one kitchen and a wet bar. She showed the board pictures from inside the home. She states that Christine Austin and her house mate share the dwelling. She also states it's significant for her to share a dwelling with someone else due to some health issues. She emphasizes that there is only ONE dwelling, one kitchen, one oven. She is asking the board based on the evidence that she has provided to reverse the decision made by the selectmen.

Shawn Tanguay approaches the board - he explains that he is legal counsel for the Board of Selectmen. He states that the issue at hand is whether or not the unit is being used as two separate dwellings. He recommends to the Zoning Board of Adjustment that they continue the hearing and have a site visit and it would put the matter to rest.

Susan Hankin-Birke addresses the board stating she feels her client has been scrutinized enough, and the select board has presented no evidence other than rumors and hearsay of neighbors regarding this issue, and the fact that there may be too much traffic on the road. Susan states she has been in front of the select board before regarding the rumors with no evidence backing them.

Shawn readdresses the board stating again he believes a site visit is the only way to put this matter to rest. He said the traffic on the road has nothing to do with this case, it is strictly whether the house is being used as two separate dwellings.

Dick Hendl of Woodcrest addresses the board. He states he wouldn't rely on just pictures as pictures can sometimes be deceiving. He feels it's not unreasonable to have a site visit as well.

Susan Hankin-Birke read the permit that was given “under no circumstances can Christine Austin create an in-law apartment” She feels pictures speak for themselves and a site visit inside the home is unduly prying.

Shawn Tanguay speaks again saying the issue at hand is exactly what is the house being utilized for.

Peter Abair asks what difference it makes. It is one building not two houses.

Again, Susan Hankin Birke states there is only one kitchen and not two.

Shawn Tanguay states that the ZBA needs to decide whether there is a violation of the Zoning Ordinance and what is the overall use of the house.

Susan Hankin-Birke states there is a house sharing agreement on file, it is not two apartments. Jim Bednar asked if certain spaces were specified in the house sharing agreement. Susan states that the bedrooms are specified. The house sharing agreement is a legal document.

Shawn Tanguay adds that the ZBA has a right to request a copy of the house sharing agreement if they so choose.

Janet Roberts asked if you can get from the bottom floor to the top without it being separate from inside the building. Susan states yes you can get from bottom floor to the top.

Mike Chiarella added that he has been inside the house and it is exactly the way that Susan Hankin-Birke has described it. Mike also states that it really concerns him that the Select board would issue a letter like they did without having any actual facts or evidence. He feels that someone needs to read the Ordinance because the two dwelling unit part of the Ordinance is hinged on kitchens. Justin reads the definition of dwelling/units.

Justin asked if the site visit is out of the question. Susan Hankin Birke states that of course the board has a right to order it, but she feels it’s extremely an invasion of privacy, when they have heard the testimony of herself, and someone in the public who has been inside the house, as well as the select board has brought forth no facts or evidence other than rumors to the contrary of what she has stated.

Shawn Tanguay states that he feels once again a site visit should be done in order to see what the house is being utilized as.

Susan Hankin-Birke asked where is the evidence to prove anything other than what she has said. Where are the facts??

Peter Abair asked Whit Smith, Zoning Coordinator, if he had been out to this residence. Whit stated that he had not.

Peter does not feel that there is evidence to prove anything other than what Christine’s attorney has provided. He also sees no reason for a site visit and feels it’s an invasion of privacy.

Rick Corbett and Jim Bednar also stated they felt no reason to have a site visit either. Jim Bednar makes a motion to close the hearing, second by Peter all in favor.

The board goes into deliberation.

The board reviews plans and pictures given and based on the testimony of the attorney and someone who had been inside the house, Jim Bednar makes a motion to reverse the administrative decision by the select board to cease and desist and that Christine Austin is not in violation of the Zoning Ordinance. Second by Peter Abair, all in favor and decision unanimous. (Peter yes, Rick yes, Justin yes, and Jim yes)

Misc. Business- Susan Chiarella states that the board is looking for alternates to sign up. She also states that good progress was made by Whit regarding ADU language and definition of structure.

She feels that the ZBA instruction to applicants needs some work. Too long and too confusing.

Whit also brings up that the fee schedules for the planning board and zoning do not mesh. The ZBA discussed their fees and feels they are on track.

Meeting adjourned@8:30

Submitted by,

Susan Abair