



TOWN OF SALISBURY  
*Office of the* BOARD OF APPEALS  
5 BEACH ROAD  
SALISBURY, MASSACHUSETTS 01952  
978-462-7839

July 14<sup>th</sup>, 2015

7:00 P.M.

**MINUTES**

**Members Present:**

Susan Pawlisheck, Derek DePetrillo, Linda Tremblay, Beth Gandelman, Joseph Stucker, Kevin Henderson

**Case 15-10 for 6 18<sup>th</sup> Street West was not seen at this meeting and continued by request of the Building Inspector.**

**New Business**

**Case No. 15-09**

**Arthur Lazos**

**91 North End Boulevard (Map 33 Lot 38)**

Request for an Appeal of the Building Inspector's decision to issue a Building Permit

Arthur Lazos feels as though his property has been devalued by the construction of the cell tower. He also considers the addition of the cell towers to the area a cause of long term adverse health effects. He asks that the studies he share be acknowledged as proving the negative impact of cell towers on human health.

**QUESTIONS FROM THE BOARD**

Beth asks if he has supportive documents. He does. However, he did not send them along with his application.

Susan reads from Don Levesque's letter (see attached).

Scott Vandewalle, the building inspector, explains that cell towers are regulated by the Federal Communication Act of 1996. They must demonstrate need for coverage in the area, and zoning does not have the ability to deny that need.

Derek asks about the depreciation of Mr. Lazos' property. Mr. Lazos discusses that cell phone towers are linked to incidences in cancer. Derek explains the document recognizes that further

research into the potential link between cell phone towers and cancer is needed. Mr. Lazos says that other devices emit RF as well, and the risk is present despite it being less than directly using a cell phone. Derek says the height of the tower lowers the risk, and there are no definitive answers. Susan explains that the issue is that they must decide whether the impending cell tower negatively affects the town more than it helps. Scott reads language from the Communication Act that says no Board may act against a cell tower because of potential health issues.

**Joseph, voting as the alternate, motions to uphold the decision because the Board does not have the jurisdiction to go against FCC regulations and the cell tower does not further devalue the property due to the previous existence of the water tank. Linda seconds. Beth, Derek, Kevin, and Susan vote to uphold the decision. 5 in favor, 0 opposed. Decision of the Building Inspector is upheld. Appeal fails.**

**Case No. 15-11      Richard A. Fiorenza  
534 North End Boulevard (Map 36 Lot 123)**

Request for a Variance to extend and repair an existing deck to accommodate the residents that extends into setback.

It is an existing dwelling that has a deck along the entire side of the property. It is currently 8 feet long. The client needs to repair the deck, which is too small. There is a fence along the property. The current deck is right up against compliance. The client wants to extend out to the existing fence, which is another approximate 8 feet. The current setback is 10 feet but he is 1.5 feet into it. He will be directly against the property line. It is on a public access, so it would not block anyone else's property.

Susan feels this Variance does not have a hardship but is rather about convenience.

Kevin asks what is there. It is a fence and then 35" or so before the next structure. Linda asks if this is a two family. It is, but the owner uses both halves of the property. Linda asks about concrete footings extending into 7<sup>th</sup> Street especially in the winter when plowing occurs. The deck would go directly to the fence and the concrete feet would be within.

**Derek makes a motion to deny the Variance as the applicant did not show hardship. Beth seconds. Susan, Linda votes to deny the Variance. Kevin votes to approve. 4 in favor, 1 opposed. Motion passes. Variance Denied.**

**Case No. 15-12      Play All Day LLC  
191 Elm Street Suite 3 (Map 9 Lot 42A2)**

Request for a Special Permit to start a dog day care.

Amanda Fields, owner of Play All Day LLC, wants to open a dog day care boarding facility. She has been before this board previously and received approval, but their lease fell through. She has been in business since 2007. The business wants to offer services such as boarding and grooming that are not available in the area.

## **QUESTIONS FROM THE BOARD**

Chuck Colbern believes this day care facility offers no space for the dogs. Both sides of this location have garages, which would have loud noises that disrupt the dogs. He feels this is not good for dogs.

Beth explains that the unmarketability of the site is not the Board's determination nor is the saturation of the market. She would feel that a dog day care with concrete floors is substandard. Mrs. Fields explains that they rubberize their floors and astroturf the outdoors. All of their locations are old garages. They have large cabins that are 6'x8' for the dogs to sleep in, and the dogs can be indoors or outdoors at all times. There is a space in front of the building the entire length that will be used as an outdoor space for the dogs. Scott shares a google earth image of the building and mentions that the applicant needs to talk to the dog officer about the dog officer's requirements.

John Grossi, owner of Latitudes which is an abutter to the purposed dog day care, supports the applicant. He believes the space in front of the building to be 25' wide and 100' long. He also considers it good for his business. He mentions the use of high bushes approximately 12' high that will provide privacy.

Susan asks about the dog officer's requirements including maximum number of dogs and the other locations' hours of operation. Mrs. Fields explains that they have complied with other towns in the past but do not know the safety limits for Salisbury. She also has not yet checked how many cabins would fit. There was a tenant occupying the building previously. Their other two day cares are Monday through Friday 6am to 7pm and Saturday and Sunday 7am to 6pm. Linda asks about overnight boarding. Salisbury does not have apartments for overnight staff, so they would stay on the property.

Kevin questions the need for a kennel license in Massachusetts. Scott reads from legislation explaining the need for a license to the Board. This concerns Susan because Mrs. Fields has not looked into requirements in Massachusetts where her two previous sites are in New Hampshire.

Both Kevin and Joseph ask about overuse and oversaturation. Susan explains that five businesses, including this business' previous application, have been approved over the last few years. Beth feels concerned about the lack of estimation on the number of dogs in the space, and Derek wants to hear from animal control.

Susan also explains that grooming and alterations in the property—such as astroturfing the outside property—are not included or mentioned in the Special Permit. She wants to hear from the animal control officer; the number of dogs intended to host; the potential need for a Special Permit for grooming; and the potential need for a kennel license. She recommends continuing the case. Kevin also wants to have a complete list of potential services that may require a Special Permit.

## **ABUTTERS**

Carlyn Capolupo

14 Old Elm St

Carlyn, who just recently received a Special Permit for a dog day care in Salisbury, wants to know the limits to be placed upon this business because she was limited in hours of operation and number of dogs for six months' time at which point she will return to the Board for review. She was interested in hearing more about how this case is handled.

**Derek motions to continue the case to July 28<sup>th</sup>, 2015. Beth seconds. Susan, Linda, and Kevin motion to continue the case. 5 in favor, 0 opposed. Case is continued to July 28<sup>th</sup>, 2015.**

## **Minutes**

June 9<sup>th</sup>, 2015

Beth motions to accept the minutes as written. Kevin seconds. Joseph, Linda, Susan motion to accept the minutes. 5 in favor, 0 opposed.

## **Correspondence**

FEMA's Discovery Meetings is a letter regarding risk mapping. The dates have already passed.

Douglas Livingston v. Town of Salisbury Zoning Board of Appeals regards Mr. Livingstone filing with the courts against the Board. He is appealing their decision. It is going to Superior Court. The Board is represented by Town Council, and should Town Council need more information, they will contact Scott, Susan, Derek, and potentially other board members.

Susan explains the need for annual reelections. People must be elected yearly for chairperson and clerk. The vote requires a roll call vote.

Derek motions Susan for chairperson. Linda seconds. Joseph yes. Beth yes. Derek yes. Linda yes. Kevin yes. Susan yes.

Susan motions Derek for clerk. Beth seconds. Linda yes. Kevin yes. Derek yes. Beth yes. Joseph yes. Susan yes.

Scott asks about pictometry. The Board is interested in having this, so they can see related images and documents on the projector.

**Adjourn**

**Derek motions to adjourn. Kevin seconds. 5 in favor, 0 opposed.**

Date: \_\_\_\_\_

Susan Pawlisheck—Chairperson

Derek DePetrillo – Clerk

Kevin Henderson

Beth Gandelman

Linda Tremblay

Joseph Stucker

Respectfully submitted by Catherine Scott

Catherine Scott

Date