

Town of Wilmington
Board of Appeals
Minutes — February 10, 2016

The Board of Appeals held a meeting in Room 9 at the Town Hall, 121 Glen Road, Wilmington, MA. The meeting was called to order at: 7:00 p.m. Charles E. Boyle, Edward Loud, Daniel Veerman, Anthony Barletta and Thomas Siracusa were present.

The next regularly scheduled Board of Appeals meeting will be March 9, 2016, at 7:00 p.m. in Room 9 at the Town Hall, 121 Glen Road, Wilmington, MA.

The Board reviewed and approved the minutes from January 13, 2016.

Continued

Case 20 & 21-15 Tresca Brothers Map 38 Parcel 3A & B

To acquire a Special Permit in accordance with §3.6.6 Manufacturing use in a General Industrial Zone and a Special Permit in accordance with §6.6.7.7 Ground Water Protection District for property located on 90 Eames Street.

Attorney Scott Spear emailed the secretary requesting a continued to March 9, 2016. Edward Loud made a motion to continue both cases to March 9, 2016, Thomas Siracusa seconded. Voted unanimously.

Case 23-15 Wilm. 4th of July Celebration Map 66 Parcel 1

To acquire a Special Permit in accordance with §4.1.9 for a carnival to run from June 29, 2016 through July 3, 2016, (raindate July 4, 2016) for property located on 140-150 Middlesex Avenue.

Scott Garrant was present for the 4th of July Committee. He went over what was discussed at the meeting in January. He also stated that after the Selectmen's meeting in January, the Town Manager and Fiesta Shows talked with counsel and based upon their attorney's advice they would not be setting up an insurance fund for nine abutters. He stated that the 4th of July Committee had voted not to accept funds prospectively provided by the town. He also informed the board that Fiesta shows had likewise withdrawn their previously stated offer of a \$10,000 contribution to the fund upon advice of their counsel. Daniel Veerman disagreed with the stated legal opinion and stated that it was his legal opinion that the fund could be established in a way that would not expose the applicant to liability above and beyond the fund. It was further represented by the application that both the

Fire and Police Departments were satisfied with the proposal and two additional police officers would be detailed on the surrounding streets, Middlesex, School, Drury and Glen. Scott Garrant felt that the criteria in the Bylaw had been met. Ten abutters from both sides of Powderhouse Circle submitted a letter stating their support of the carnival. Fred Bent and Peter James were in favor of the proposal. Steve Dineen brought up the underground spring located at the property and Scott Garrant stated that no stakes would be put into the ground on the site. Daniel Veerman made a motion to approve the Special Permit for a carnival to run from June 29 through July 3, 2016 (raindate July 4, 2016) with the condition the applicant establish a \$20,000 fund to pay for any incidental damage to the property of the direct abutters to the site, as well as cover any deductibles or increases in insurance premiums borne by direct abutters who suffered larger damages for which they made a claim on their homeowner's policies. The motion failed for lack of a second. Anthony Barletta felt that this was not a permanent condition, the Town, Police, Fire and DPW endorsed the plan and he saw no reason not to vote for the special permit. Anthony Barletta made a motion to approve the Special Permit as proposed, Thomas Siracusa seconded. Charles Boyle felt it was an awful precedent to set up an account or further insure abutters for something that might not happen or might not have anything to do with the carnival. It is an unfair burden to put on the applicant. He was in favor of the proposal. Thomas Sircusa wished that some kind of agreement could be reached.

Vote - Daniel Veerman, No, not without the condition set forth in earlier motion, Charles Boyle, Anthony Barletta and Thomas Siracusa, Yes. The motion did not carry. Denied. Daniel Veerman renewed his previous motion to approve the Special Permit for a carnival to run from June 29 through July 3, 2016 (raindate July 4, 2016) with the condition the applicant establish a \$20,000 fund to pay for any incidental damage to the property of direct abutters to the site, as well as to cover any deductibles or increases in insurance premiums borne by direct abutters who suffered larger damages for which they made claim on their homeowners policies. After discussion wherein Daniel Veerman argued he believed he could procedurally renew his motion as it had not been seconded and considered, the Chairman disagreed and ruled the renewal of the motion out of order.

Case 1-16

Joseph A. Langone

Map 40 Parcel 102

To acquire a Special Permit in accordance with §6.6.7.7 Ground Water Protection District for property located on 102 Lowell Street.

Case 2-16

Joseph A. Langone

Map 49 Parcel 104

To acquire a Special Permit in accordance with §6.6.7.7 Ground Water Protection District for property located on 104 Lowell Street.

Joseph Langone and Dennis Griecchi from Andover Consultants were present. He stated that Site Plan Review and Stormwater management were approved. The site was being recharged with two systems. There was a grade change from the street to the site by approximately three feet and a six-foot fence would be constructed on top of the wall to the rear of the property next to the residential abutter. The Planning Board recommended approval. Danielle Post had questions about the runoff. No further abutters made comment. Edward Loud made a motion to grant the Special Permit in accordance with Sec. 6.6.7.7 Ground Water Protection District for 102 Lowell Street, Thomas Sircusa seconded. Voted unanimously. Edward Loud Made a motion to motion to grant the Special Permit in accordance with Sec. 6.6.7.7 Ground Water Protection District for 104 Lowell Street, Thomas Sircusa seconded. Voted unanimously.

Case 3-16

Kenneth & Susanne Clarkin

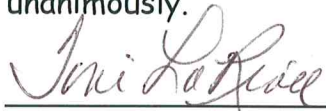
Map 36 Parcel 95

To acquire a variance from Standard Dimensional Regulations Table II, §5.2.5 to construct a two-story addition 17.6 ft. from one side and 17.5 ft. from the other side when 20 feet is required for property located on 39 Reno Road.

Kenneth & Susanne Clarkin were present. He submitted a plot plan requesting a variance from the two side yard setbacks for a two-story addition. The lot is T-shaped and the encroachment was approximately 2.5 feet from one abutters lot line and a vacant, town-owned lot with no structures. Charles Boyle read three letters from abutters, in favor of the proposal. The Planning Board recommended disapproval. Anthony Barletta felt that the design could have accommodated the setbacks and still be handicap accessible. Charles Boyle was in favor of the accessory apartment and he had no issue with voting in favor of the variance, no one was affected by this except for a Town-owned lot that was too small to build on. The shape of the lot, T shaped was a hardship. Edward Loud made a motion to approve the variance from Sec. 5.2.5 to construct a two-story addition 17.6 ft. from one side and 17.5 ft. from the other side when 20 feet is required, the hardship was the shape of the lot, T-shaped, Thomas Siracusa seconded. Vote: Anthony Barletta, No - Charles Boyle, Edward Loud, Daniel Veerman and Thomas Siracusa, Yes - Motion carried.

HOUSEKEEPING - Rules & Regulations - all members were given a copy of the proposed changes. The Chairman explained that it had to be brought up at one hearing and voted on at the next meeting.

Motion to adjourn at 8:30 p.m. by Edward Loud, seconded by Daniel Veerman. Voted unanimously.

A handwritten signature in dark ink, reading "Toni La Rivee", written over a horizontal line.

Recording: Toni La Rivee, Secretary
Board of Appeals