Wales Planning Board

Meeting Minutes

November 23, 2015

PRESENT: Keith Hood, Mike Milanese, Ed Boyce, Bill Matchett, Amy Adams

ABSENT: Gene Randall, Steve Valle

GUEST: Richard Silva, Justin Mathiau

The meeting was called to order by Keith at 7:00 p.m.

For the purposes of tonight’s meeting, Keith will be the acting chair.

Ed made a motion, seconded by Bill, to accept the minutes of November 9, 2015 as written. The motion carried unanimously.

Next, the Board reviewed an email received from Danelle LaFlower expressing her interest in filling the vacant Planning Board seat. It was decided that Danelle should be invited to attend the next Select Board meeting, along with members of the Planning Board, to ask that the Select Board take action on the matter.

Ed made a motion, seconded by Mike, to accept the minutes of November 16, 2015 as presented. The motion passed with Keith, Mike, and Ed in favor and Bill abstaining.

An email from Amy Bishop on behalf of the Select Board was reviewed. In the email, Amy was looking for an update on special permits and wondering if the Building Inspector had signed off on the special permits issued by the Planning Board. After some discussion, it was determined that the Building Inspector only signs off on Used Auto licenses issued by the Select Board, not on Planning Board special permits. Amy A. will notify Amy B.

Next order of business was to discuss Mr. Silva’s special permit. Bill abstained from the special permit discussion due to conflict of interest. Keith explained to Mr. Silva that the Board thinks that he has/had a special permit but that to date no file has been found. Mr. Silva explained that he is not surprised no file was found. When he was issued his permit, it was a whole new process and records weren’t necessarily kept like they are today. He indicated that he had a special permit issued to him in 1979 or 1980. His was one of the first to issued in town. He recalls notices being posted in the newspaper and notifying abutters, the only one being the Brimfield State Forest. Originally, between his licenses and his wife’s, he was able to have a total of 27 cars on his property: 10 to dismantle for parts, 5 for sale, 5 under his wife’s license, and an additional 7 under his repair license.

Mr. Silva indicated that he is still operating Richard Silva Auto at 87 McBride Rd. He mainly buys junk cars, takes what is good from them and then sells the car for scrap. He estimates most of the time he has no more than 5 cars. Currently he has 9 cars, 2 of which are for sale. The only restrictions other than that were verbal and between Mr. Silva and the Broomfield State Forest, asking that he not place any vehicles within 100 feet of their property line.

Bill added to the discussion, as a citizen and not a Board member, that he felt it would be beneficial for Mr. Silva to have a special permit that is filed with the Registry of Deeds because that will mean the license can be transferred with his property, should he ever wish to sell.

Keith asked that the following notes be taken verbatim:

Richard Silva Auto operates at 87 McBride Road, Wales, MA and has been operating under license and permit since 1979 or 1980. The terms and conditions are up to 10 cars to dismantle for parts, up to 5 cars for sale, and up to 7 cars for repair and has been allowed up to 22 cars under this license and permit.

There was further discussion about trying to draft a list of restrictions that mirrors what Mr. Silva recalls as his restrictions under his original special permit.

At this time, Justin addressed the Board. He expressed his concern that the Board was trying to recreate a document that no longer physically exists. In this instance, the Board only has a few options for actions they can take. They can take a special permit and list of restrictions that was approved but not filed with the Town Clerk and file it with the Town Clerk, thereby completing the special permit process. They could also show that the business existed prior to zoning or other town by-laws and that it is grandfathered. Other than those two options, the only thing that the Board can do is to have Mr. Silva go through the process of applying for a new special permit. The Board does not have the legal authority to create a list of restrictions for Mr. Silva without holding a public hearing.

Ed made a motion, seconded by Mike, that the Planning Board make a record acknowledging Mr. Silva has been in business since 1979, pre-zoning, and is therefore grandfathered. The floor was opened for discussion.

Keith received a text message from Susan Hubbell, who was watching the meeting at home. She indicated that she and Leis (Town Clerk) had discussed this issue and determined that Mr. Silva’s business was grandfathered. Keith asked for a five minute recess to contact Susan and see what information they had reviewed regarding grandfathering.

When the meeting reconvened, Keith explained that Susan and Leis had determined that because Mr. Silva was in business in the 1970s, prior to zoning, he should be grandfathered.

Justin noted that in 1972 it appears the by-laws were amended to address special permits.

Ed withdrew his prior motion.

He made a new motion, seconded by Mike, to record with Leis the previously issued permit, issued in the late 1970s, under the conditions as described in tonight’s meeting. The floor was opened for discussion.

Ed indicated that he believes Mr. Silva had a permit and the town shouldn’t make him go through the process of applying for a new one.

Justin stated that he too believes that he probably did have a special permit but that there is no permit and therefore there is nothing to file. The Board can not create a new document to file without a public hearing.

At this time, Mike withdrew his second of the previous motion and made a new motion, seconded by Ed for the sake of discussion, that the Select Board give him (Mr. Silva) a license under the grandfather clause. Ed withdrew his second, as the discussion today is not about the Select Board and their licensing process but about the Planning Board’s special permit.

Bill recommended that the town waive all fees and have Mr. Silva go through the process of applying for a new special permit.

Mr. Silva objected, stating that he has been in business for more than 30 years and shouldn’t have to reapply now.

Keith made a motion, seconded by Ed, to table this discussion until the next meeting so that more research can be done. The motion passed unanimously.

Mail was reviewed. Roy Lainson sent a memo regarding the fiscal year 2017 budget. It was agreed that the Board would address this at their next meeting.

Vouchers were signed.

Ed made a motion to adjourn, seconded by Bill, at 7:58 p.m. The motion passed unanimously.

Respectfully submitted,

Amy Adams