

MINUTES OF THE ZONING BOARD OF ADJUSTMENT MEETING
June 11, 2015
7:00 PM

Meeting called to order by Chair Electra Alessio; present: Ray Donald ,vice chair, Peter Coffin, John Whittier and Ben Romano. Mr. Donald made a motion to accept the minutes for the May 14, 2015 meeting. Mr. Coffin seconded - all in favor, Mr. Romano abstained.

John Lancaster, Tax Map R-4, Lot 3

Ms. Alessio explained what had transpired between the date of the formal notice of violation and application for appeal. Ms. Anna Hantz of Sheehan Phinney Bass & Green representing Mr. John Lancaster stated this issue had surfaced when the Fire Chief and a Police Officer made a warrantless inspection of the property. Ms. Hantz stated they showed up without a warrant and not uniformed and took photographs, after which Mr. Lancaster received a formal notice of violation. Ms. Hantz stated Mr. Lancaster runs a salvage business and has an arrangement of storage/shipping containers. Ms. Hantz stated the configuration is a large group of containers with a roof and skylights. Ms. Hantz stated the structure is moveable and not permanent. Ms. Hantz stated the town ordinance doesn't apply because it is neither permanent nor a structure. Ms. Hantz stated the containers were in place in 2007, and the site plan approval was dated 2009. Ms. Hantz stated no building permit was required. Ms. Hantz stated the selectmen were in error and would like the decision reversed. Ms. Hantz stated the regulations have to be clear to residents. Ms. Hantz stated there were other properties in town where containers were used in a similar fashion. Ms. Hantz distributed hard copies of her arguments. Mr. Charles Osborne stated on October 9, 2014 he met with Mr. Lancaster and saw and recorded the property and the demolition of the noise berm. Ms. Alessio stated she was in receipt of his letter but it was not germane to this meeting. Mr. Osborne stated he reported the fumes that the fire department responded to. Mr. Osborne stated he didn't believe the board should give approval. Ms. Alessio suggested Mr. Osborne give the video to the selectmen along with his concerns. A discussion followed regarding if there was conflicting evidence of the number of containers and the configuration, and the dates of pictures taken. Mr. Donald stated if the skylights were in place since 2007, then that sounded permanent to him. Mr. Donald stated Mr. Lancaster needed to go before the planning board to update the site plan. Ms. Alessio added that he would need electrical and building permits. Mr. Whittier asked about Ms. Hantz referenced to the ordinance

where structure has to be permanently attached to the ground. Ms. Hantz read from ordinance 301.2A. Mr. Whittier stated the structure was on the ground. Mr. Hantz stated in the site plan approval it states Lancaster Construction and Pope Housing shall be able to add or move storage containers provided they comply with setbacks. Ms. Hantz stated the skylights were installed in 2007 and were for display purposes. Ms. Hantz again stated the storage containers were temporary and come and go. Ms. Hantz stated the town has to follow ordinance and a building permit was not needed because the containers were not a building or a structure. Ms. Hantz stated there has been no change in use so no site plan review is required. Mr. Whittier stated he wouldn't quibble whether it was on/in ground. Mr. Donald stated the electrical service installed was not for a temporary purpose. A discussion followed regarding generators. Mr. Coffin stated the town's building permit included electrical, plumbing and HVAC, and a building permit was needed for a shed. Ms. Hantz disagreed stating not according to the ordinance. Ms. Hantz stated she was not saying there isn't code review. Mr. Romano stated this was not the intent of the ordinance. Mr. Romano stated in the site plan the containers are next to each other not on top and there are 3 not 4. A discussion followed regarding if changes had been made since the site plan was drawn and approved. Mr. Coffin argued that the containers are a structure and stated they have doors that are affixed. Mr. Romano asked if they were welded together. Ms. Hantz stated no. Mr. Coffin stated they have doors, roof, electricity and they need a building permit. Ms. Hantz stated there may be a defect in the ordinance. Mr. Whittier stated in reading the ordinance it meets the definition of a structure, which includes portable carports, swimming pools, and sheds. A discussion followed regarding Mr. Osborne's flash drive. Ms. Alessio called for a motion on the floor. Mr. Coffin made a motion to uphold the decision of the selectmen made on or about December 15, 2014. Mr. Donald seconded. Ms. Alessio stated she did not believe it was a warrantless inspection, that town officials do not go around picking on property owners, unless something comes to surface. Ms. Alessio stated it is a structure and as such requires a building permit. Ms. Hantz stated she had asked for clarifications of the exact concerns and code enforcement officials were not willing to meet and they were told to come before board. All in favor no objections.

Ms. Alessio adjourned the meeting at 7:53.

Respectfully submitted,
Tammy L. Bakie
Secretary
Zoning Board of Adjustment