

ZONING BOARD OF REVIEW MEETING MINUTES – June 18, 2020

State of Rhode Island

County of Washington

In Hopkinton on the eighteenth (18<sup>th</sup>) day of June 2020 A.D., the said meeting was called to order by Zoning Board of Review Chairman Jonathan Ure at 7:00 P.M. in the Town Hall Meeting Room with a moment of silent meditation and a salute to the Flag.

PRESENT: Jonathan Ure, Daniel Harrington, Michael Geary, Ronnie Sposato, Joe York, Alternate Daniel Baruti

Zoning Board Clerk: Elizabeth Monty

Building Official: Anthony Santilli; Deputy Zoning Official: Sherry Desjardins

Zoning Board Solicitor: Veronica Assalone, Esq., Solicitor, of Assalone & Associates, LLC

Absent: none

(Board Member: Joseph York and Daniel Harrington recused themselves from Petition I)

Chairman Ure: Welcome everyone. If I could entertain a motion to flip the agenda just a little bit to hear Petition II first over Petition I. We're going to move on to the hearing for Mr. Olaf Hermann.

A MOTION WAS MADE BY MEMBER YORK TO HEAR PETITION II FIRST ON THE AGENDA THAT WAS SECONDED BY MR. GEARY. ALL WERE IN FAVOR. NO DISCUSSION.

SO VOTED

Mr. Olaf Herman greeted the Board and the group exchanged pleasantries. Mr. Ure apologized to Mr. Hermann for the delay in time since their last meeting, but mentioned it was out of everyone's control. Now they will move forward.

Petition II is for a Special Use Permit filed by Olaf Herrmann on behalf of himself (with mailing address of 3235 Sylewood Avenue, Villages, Florida

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32163), for property owned by himself and Kelli Talbot and located at 21 Fairview Avenue, Hope Valley, RI 02832, and identified as AP 28 Lot 16B a Residential Zone and (RFR-80) to operate a Bed and Breakfast (filed in accordance with Section 8C and 10 of Chapter 134 of the Zoning Ordinances of the Town of Hopkinton, as amended.)

It looks like all of the checklist items were completed so the Board can now move to hearing on this. Chairman Ure asked the Board if they have any questions for the applicant. Hearing no response, he invited Mr. Hermann to the podium to give the Board a brief description of what he will be doing and it may lead into some questions....

Mr. Hermann spoke explaining that he wanted to get a head-start on the possibility of running a potential income producing property - Air BNB situation as a Plan B. Although it's not really required to have a permit he wants to go through the proper channels. It is his purpose to generate additional income with this Pandemic going on, etc. This kind of threw a wrench in the entire machine. Running the possibility of an Air BNB, it is not really required for permitting if the home is Owner occupied, as it currently is right now. However, with legislation continuously changing, he would like to get a head start on that. He doesn't really have any further use for it in the future except to rent it out on the weekend for Air BNB. House is situated on a lake and I may want to use it as a secondary home. My wife still wants to move into the city, although for the last couple of months she kind of stopped pushing forward with this. So it's just a possibility to do that and I want to have all my ducks in a row and to have the possibility to do Air BNB once in a while – occasional - that's all.

Chairman Ure – Inquired of the Board if they had any questions..... Mr. Ure opened with his own question: I always have a few - I see that you are not

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planning any structural changes or expanding the house in any way? Existing footprint?

Mr. Hermann: Nothing, no changes whatsoever.

Mr. Ure: With an Air BNB, just so we have something on the record, describe what an Air BNB is.

Mr. Hermann: It's an online platform basically where you rent out either a bedroom or an entire unit. My house is kind of split that I have two kitchens. It's a self-sufficient unit downstairs, that is currently utilized by my Sister-in-Law. Once she is out of the picture, we want to rent it out once per weekend or for a month or for the summer to dependable people. We are also going to be living in the house; It's owner occupied.

Mr. Ure: With an Air BNB or even a Bed and Breakfast would you have any activities like an concert or fireworks?

Mr. Hermann: No. none of those things. It will be quiet. It will be age 55+ is what I am aiming for.

Mr. Sposato: With an Air BNB is just a way to get.... You really want to be a Bed and Breakfast?

Mr. Hermann: I don't really want to run it. I am an airline pilot so I don't really have the capability to run a Bed and Breakfast, per se. I am not going to be able to provide what you get in a hotel or any of that. It's a self-sufficient unit; an efficiency that I may want to rent out.

Mr. Sposato: My point is clear – we are really giving you the permitting for a Bed and Breakfast. How you get clients is up to you.

Mr. Hermann: It's not something I am going to entertain at the moment. I just want to have my ducks in a row for future use. If I become unemployed, I may

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have to go into that avenue. And do that eventually. But now I don't really see that.

Mr. Sposato: Just for the record, I want to make it clear you are asking for a Bed and Breakfast.

Mr. Ure: We'll ask you some obvious things, but we have to get this on the cloud. You're not going to exceed the bedroom capacity and have people sleeping on the couch and bunks and things like that?

Mr. Hermann: Absolutely not.

Mr. Baruti: How would you monitor that? (to Chairman)

Mr. Ure: We don't really have a town mechanism for that. The number of bedrooms and the septic system is going to dictate that.

Mr. Harrington: Who monitors that?

Mr. Baruti: We don't want too many unrelated people occupying in the house.

Mr. Ure: Just how does the State stipulate that? That's a good question.

Mr. Sposato: I am not sure it's the Town's job. We run into the same problem with Duplexes....and Women's Development Projects... It's supposed to be an over 55+ community and I remember when they put that in, I was asking – When these people's kids and grandkids decide they have nowhere to live, we have no mechanism to monitor that until we get a complaint. Right?

Mr. Harrington: In this case the Special Use Permit that was granted, there's going to be a period of time – does that go with the property, go with the land?

Mr. Ure: It depends on what we want to do.

Ms. Desjardins: Technically, once a Special Use Permit is granted according to our Zoning Reg.'s you have a year to implement and utilize that Special Use Permit.

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Mr. Ure: I think Dan's question is more what happens after? - if Mr. Hermann moves on, if he sells it, does the next owner now....

Mr. Santilli: I believe it goes with the land, but the next owner would have to operate in the same establishment.

Mr. Ure: We also have to ability to put conditions on it to limit it to him so that it doesn't go on in perpetuity.

Mr. Harrington: It just seems that Olaf might be an outstanding neighbor and citizen, but the next person coming down the road might say – Hey. This is a cash cow. We're going to have X amount of people there, and it gets loud, and it's transferred with the property – I have a problem with that.

Mr. Hermann: it's limited by the septic system, and it would be a violation code and would be shut down.

Mr. Geary: I think you answered the question – suppose Danny wanted to buy it and he came in .... Special permit? Is there any kind of business license that goes with this? Does this automatically go with the property?

Board discussed limiting the permitting to Mr. Hermann and his relatives.

Mr. Ure: Asks the Solicitor if they can have this end with him – can it be done legally?

Ms. Assalone told the Board that they could make this permit conditional – so as – it goes away after him. She told the applicant that he should be commended or coming in seeking this approval, and being transparent - as many may not.

Mr. Geary stated that there may be other Air BNB's in town and they would be considered illegal from the Board's standpoint without this permitting.

More discussion took place as to the potential policing of the approval.

Mr. Ure stated that there's a lot of things that can happen...same with the septic....if the Owner violated the number of people staying in the unit, it could

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cause the septic to fail and would be a huge financial burden to the Owner...by overusing it.... If you're running your Air BNB and everyone is doing laundry, you have too many people in there.....you ruin your septic you made \$500 per week but you overload your septic and have to put in a \$60,000 septic; it wasn't a wise choice.

Ms. Assalone stated that if the Board decides to grant the permit they can, but make can put that it expires upon sale; conditional use. Board discussed.

Ms. Desjardins: That's a good point that Mr. Hermann brought up – BAJA Institute had come forth proposing the Retreat over at the same property – I can't remember specifically if that was formally withdrawn without prejudice?

Mr. Harrington: Yes – pretty much – the neighbor – Attorney LaMountain pretty much snuffed it. It never made it past the application.

Mr. Hermann stated that he would use the size of the house as his guideline.

Mr. Baruti asked what the Board was granting? Special Use permit?

Ms. Desjardins stated that the district use table requires a special use permit for a Bed and Breakfast.

Mr. Hermann stated that although it may be required, he may not need it for Air BNB since they have other protections in place for Owners. He is doing this so he can be ahead of the game if he needs to open a real bed and breakfast. HE knows he doesn't have to do this, and could do this very well legally on the site and wouldn't have to go through the Zoning Board, but in case it becomes necessary, I want to be able to rent it out.

Mr. Baruti stated that he understands this is pre-emptive. Additionally, if things are granted and they are not used, they do go away eventually.

Mr. Hermann stated that with all this being hypothetical, he still wanted to move forward with the permitting to get his ducks in a row.

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Mr. Baruti: Is there a second apartment?

Mr. Hermann: No it's a second kitchen with unrestricted access – one kitchen upstairs and one downstairs. It's all part of the house. It's a large house.

Ms. Desjardins: Open and unrestricted.

Mr. Ure: This is a massive house. The original owner had thoughts of finishing the whole house. It sat unfinished for a long time. He finished the basement and was living virtually in the basement which was largely the home. Having a second kitchen – down in Westerly there's a lot of people who have a Summer Kitchen down in the basement. Summer kitchen/Winter kitchen – one is down in the basement....it's much cooler in the basement – that's where they – they go down and it saves on air conditioning and everything else....so it's not uncommon to have. I don't think it's uncommon for this Board to approve permits for things for people that they might not fulfill the entire use. I know in the past we also approved a BNB on Blitzkrieg Trail and we didn't delve into how many more people potentially could fill the home....other than the 2 or 3 bedrooms that were there. Do you remember that one? We just asked about uses and things. We had a lot of neighbors over there who were concerned with this over there. Basically it was going to be one or two bedrooms with one or two people in it. These are all hypotheticals.... We can't police how many people are going in and out. We have to take people at their word and when there's a problem either the Building inspector or State will go in if there is a violation.

Ms. Desjardins: I understand what Dan's concerns are and Tony as well coming from all his years in Narragansett, but I don't think this is the same environment here - this is not a college town and we don't have tons and tons of students here, it's not a beach town. I'd like to think that you can take it on it's own merit that

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Mr. Hermann is not going to be running a place where he is going to pack them in like sardines.

Mr. Ure: It's also owner occupied and you would think he wouldn't commit lunacy.... It's a great question – and we have to take people at their word that they're going to do the right thing and when there's a problem we are going to have to deal with it.

Ms. Desjardins: We are going to be the first office that gets the complaints.

Mr. Santilli interjected that he went through this for 27 years.....

Mr. Ure: Do you have any better insight? Is that thought process that I'm traveling right?

Mr. Santilli: Narragansett had college students – where there were three unrelated people – or four unrelated people.... Now what they're doing there is they are restricting the lot coverage on houses and second floors, etc. BNB had a restriction. You could have BNBs legally provided that you rent them only to four person – that would be husband, wife and two children. You had to live on the premises and had to keep records like a book of who came in and out, so forth... When they got into over four they got into a rooming house situation – that was bad too. As far as what he has with the second kitchen – it's unrestricted access. I have no problem with that.

Mr. Ure: Would there be some inspection on your part?

Mr. Santilli: Yes, we could go out there and take a look and see that the second kitchen and is unrestricted from the rest of the dwelling unit. Not a separate living unit with locked doors..... We could make that stipulation to the Board that I go out there prior to issuing the Building Permit. Then report back that everything is on the up and up.

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Ms. Desjardins: The Board could even set up a condition themselves, such as the accessory unit is a family unit – and we could go out yearly.

Mr. Ure: Just to think out loud, you have a BNB. It's a weekly thing.... for a couple of weeks. What happens when you get a full-time tenant? Hypothetical? Then we find out this person is living there for a year, two years?

Mr. Santilli said that this comes down to a Border. In some municipalities you can have up to 2 borders, not transients, I think living in your house with you. In the Table of Use Code 4 says you need a special use permit and any other stipulations the Board wants to put on that - we will enforce that.

Ms. Desjardins: It happens.

Mr. Ure: A lot. Mr. Hermann – he is a pilot..... and he may be away for a few weeks -

Mr. Ure continued and brought up the idea of hiring a full-time manager or caretaker. What if Mr. Hermann is not there?

Mr. Geary said he thought they were over thinking this item now.

Mr. Sposato: I think I am going with Sherri and taking him at his word. And if there is a problem – then you go back then.

Mr. York: I think by him coming in front of this Board it shows good act of faith. The Board discussed the fact that this was a large nice house on the pond and that there should be checks and balances in place.

Mr. Harrington stated that yearly or upon a change of Ownership, there should be some stipulations and checks and balance. This guy is going to do it right, but what about the next guy? I'd like to hear that with a change of owner or every year, that owner has to come in and possibly reapply at change of owner.

Ms. Assalone stated that with a Special Use permit the permit will just expire and can be regulated through the zoning law. Air BNB does a good job vetting

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people, as it will often times only accept people with positive reviews. But there is no regulation. That is the problem.

Mr. Sposato asked if he needs to get a Town license to serve breakfast and mimosas?

Ms. Desjardins stated that is a Department of Health item for its approval.

Ms. Assalone stated that with Air BNB he could avoid those things; they indemnify him and he uses their (BNB) business as a subcontractor; along with their insurance, etc... There are no Town requirements. There are not really any restrictions on him having guests.

Mr. Ure: I have a couple questions... My family are landlords. A few of us here are also. We jump through hoops to make everything legal, but Air BNB is skirting that issue. There are different smoke detector regulations. These are just paid guests. That's why legislation is trying to address this.

Ms. Assalone stated that they indemnify them up to a Million dollars.

The Board discussed different scenarios of what could happen once license is granted and how to avoid things going awry.

RS: By him coming in here, the only Special Use permit we are able to give him is for an Air BNB.

They discussed limiting occupancy, applying restrictions, being in harmony with the Neighbors, protection for the Neighbors and property values, as well as what would happen upon transfer of the property, and would they need to reapply....

Mr. Sposato: Getting back to what Danny said – we can certainly limit it to 2 people per bedroom and no more than 8 people in the household because that is the ISDS regulations. And has to reapply upon transfer of title. If he knows – going in – if he wants to sell it – he knows that they need to come in.

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Mr. Baruti: Wants the transfer language to include an Arm's Length Transaction – in case he takes ownership under a limited liability company for himself.

Mr. Ure stated that if he was transferring title to his own entity can't we just do that administratively.

Ms. Assalone suggested the language of "Upon transfer of title the use permit expires unless the title is transferred to an entity that is owned by current applicant, namely Olaf Hermann and/or Kelli Talbot or kin. Additionally that will be limited by the number of bedrooms."

Mr. Ure asked for comments from the public or closing statements. Seeing there were none, the Board moved on to closing statements and inspection discussion.

Inspectors?

Ms. Desjardins stated that it is admirable that Mr. Hermann is asking for permitting since 10 other parties on the pond may be found on Google for rent stating that they are wonderful pond fronting homes for rent without permits who never gave benefit to this Board to hear it.

MR SPOSATO MADE A MOTION THAT THE ZONING BOARD SHOULD BE SATISFIED BY LEGALLY CONFIDENT EVIDENCE THAT THE PROPOSED USE OR STRUCTURE WILL BE COMPATIBLE WITH THE NEIGHBORING USES AND WILL NOT ADVERSELY AFFECT THE SURROUNDING NEIGHBORS' USE AND ENJOYMENT OF THEIR PROPERTY. MR. HARRINGTON SECONDED. NO DISCUSSION. ALL WERE IN FAVOR

SO VOTED.

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MR. YORK MADE A MOTION THAT IN GRANTING THIS SPECIAL USE PERMIT THE PROPOSED USE WILL BE ENVIRONMENTALLY COMPATIBLE WITH NEIGHBORING PROPERTIES AND THE PROTECTION OF PROPERTY VALUES. MOTION WAS SECONDED BY MR. SPOSATO. NO DISCUSSION. ALL WERE IN FAVOR.

SO VOTED.

MR. SPOSATO MADE A MOTION THAT IN GRANTING THIS SPECIAL USE PERMIT THE PROPOSED USE WILL BE COMPATIBLE WITH THE ORDERLY GROWTH AND DEVELOPMENT OF THE TOWN, AND WILL NOT BE ENVIRONMENTALLY DETRIMENTAL THEREWITH. MOTION WAS SECONDED BY MR. YORK. NO DISCUSSION. ALL WERE IN FAVOR.

SO VOTED.

MR. YORK MADE A MOTION THAT IN GRANTING THIS SPECIAL USE PERMIT ALL BEST PRACTICES AND PROCEDURES TO MINIMIZE THE POSSIBILITY OF ANY ADVERSE EFFECTS ON THE NEIGHBORING PROPERTY, THE TOWN, AND THE ENVIRONMENT HAVE BEEN CONSIDERED AND WILL BE EMPLOYED, INCLUDING BUT NOT LIMITED TO CONSIDERATION OF SOIL EROSION, WATER SUPPLY PROTECTION, SEPTIC DISPOSAL, WETLAND PROTECTION, TRAFFIC LIMITATION, SAFETY AND CIRCULATION AND ALSO THAT THE PURPOSE OF THE ORDINANCE AND SET FORTH IN THE COMPREHENSIVE PLAND SHALL BE SERVED BY SAID SPECIAL USE PERMIT. MOTION WAS SECONDED BY MR. SPOSATO. NO DISCUSSION. ALL WERE IN FAVOR.

SO VOTED.

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Mr. Ure asked if there were any special conditions.

MR. YORK MADE A MOTION THAT AS A SPECIAL CONDITION THE OCCUPANCY BE LIMITED TO TWO PERSONS PER BEDROOM WITH A NO GREATER THAT THAN EIGHT PEOPLE IN THE HOUSEHOLD. THIS MOTION WAS SECONDED BY MR. SPOSATO. NO DISCUSSION. ALL WERE IN FAVOR.

SO VOTED.

MR. YORK MADE A MOTION THAT THE CONDITION OF UPON SALE OF THE PROPERTY THE SPECIAL USE PERMIT WILL EXPIRE UNLESS TITLE IS TRANSFERRED TO THE APPLICANT OR HIS KIN. NO DISCUSSION. MOTION WAS SECONDED BY MR. SPOSATO. ALL WERE IN FAVOR.

SO VOTED.

MR. SPOSATO MADE A MOTION THAT THE APPLICANT SHALL OBTAIN ANY AND ALL PERMITS REQUIRED BY THE TOWN. MOTION WAS SECONDED BY MR. HARRINGTON. NO DISCUSSION. ALL WERE IN FAVOR.

SO VOTED.

MR. SPOSATO MADE A MOTION THAT THE HOPKINTON ZONING BOARD GRANT THIS SPECIAL USE PERMIT AS BEING DEEMED COMPLETE AND APPROVED. MOTION WAS SECONDED BY MR. YORK. NO DISCUSSION. ALL WERE IN FAVOR.

SO VOTED.

Hearing was ended. Applicant thanked the Board.

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MR. SPOSATO MADE A MOTION TO ADJOURN FOR FIVE MINUTES.

MOTION WAS SECONDED BY MR. GEARY. ALL WERE IN FAVOR.

SO VOTED.

-----TEN MINUTE RECESS-----

MR. SPOSATO MADE A MOTION TO READJOURN THE MEETING.

MOTION WAS SECONDED BY MR. GEARY. ALL WERE IN FAVOR.

SO VOTED.

Chairman Ure: We are moving back to Petition I which became Petition II, which is to determine completeness of application which is a Special Use Permit filed by David Marino, (with mailing address of 215A Alton Bradford Rd, for property located at 215A Alton Bradford Rd, Bradford RI (02808) identified as AP 5, Lot 85A (an R-1 Zone and filed in accordance with Sections 8C and 10 of Chapter 134 of the Zoning Ordinances of the Town of Hopkinton, as amended.)on behalf of Marino's Auto Repair LLC . The Petition is for a Special Use Permit for the expansion of a pre-existing non-conforming use. The applicant is proposing an addition to the existing auto repair facility.

\*\* Board members York and Harrington recused themselves from this Petition. \*\*

Mr. Ure: Hello, Mr. Marino.

David Marino: Hi.

Mr. Ure: How are you doing?

Mr. Marino: Good.

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Mr. Ure: Tonight we are just going through the preliminaries of a checklist to make sure that we have everything to see if we have everything to see if we can get to the hearing stage; see where it falls and then we'll take it to the next step. Ok?

Mr. Marino: yes.

(Board briefly discussed who was going to take over for Board member York in the reading of the checklist. Mr. Geary would do so.)

Mr. Geary: The application for a Special Use Permit of Zoning Board of Review must be in company with the following information:

A: Three copies of the site plan prepared by and signed and stamped by a professional engineer or a professional land surveyor at a scale of no less than one inch equal to forty feet clearly showing.

Mr. Ure: So that first question A – what we have presented to us is actually a draft that is not stamped and it's also not signed. It looks like a draft that was prepared by Dan Harrington, which is one of the members of our Board who has recused himself at the moment... Until we will get clarity whether he can sit or not. This is a draft. It is not a signed stamped certified set of plans and it is stamped "draft". We could go through this and see if some of the information is on it, but I don't think we can pass the first hurdle on that just because of those few things.

Mr. Sposato: Well, let's see what else he needs. See if there is some blatant reason that he would not be able to have this?

Mr. Baruti: Does the applicant feel he is close to where he needs to be; if we're not past that and Dan is doing the Engineering work and the planning – I think he probably already knows that he is going to be short on that...

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Mr. Ure: Yes. I think A is going to have to be completed by either Mr. Harrington or some other firm that's going to sign it and stamp it because the draft isn't going to pass muster in this application if the Board sees that. I think that is probably the question if we are even going to proceed with the questions on A. There's no point in going through the other ones if we can't pass the signed stamped issue. Right?

The Board deliberated amongst themselves.

Mr. Ure asked to entertain a motion that Checklist Item A is incomplete at this point as it's not signed or stamped by a professional engineer or land surveyor.

Mr. Marino: Does that say Al D'Iorio on it?

Mr. Ure: No.

Mr. Sposato: Are we missing a print then?

Mr. Marino: Well – what happened was – I hired Dan to do it, but Dan I believe got a pre-existing plot plan from Al D'Iorio a full-size scale drawing said Al D'Iorio. I might have given you the wrong plan. I would have to ask Dan.

Mr. Baruti – Really – that's my question – if number A - If we're not even there in number A – the question is - are you just here to get some feedback from the Board.....maybe to get some feedback as to waivers which I am glad to go through but I don't want to see you waste your time either.

Mr. Marino: Meaning waste my time how?

Mr. Baruti: Being here tonight. If we are going to have to revisit this – correct? - we would have to reevaluate this.

Mr. Marino: Well – can you go through the rest of it?

Mr. Ure: That's my point.

Mr. Baruti: That's what I am asking you (to Mr. Marino). If that's what you want to do, I am glad to do it.

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Mr. Ure: We can tell you what is outstanding. Our problem right now is the first hurdle. The checklist is in the application. Some of the other more incidental information on A – because A has about 9 questions and some of the information may be on it, but it's a "Draft" and that doesn't meet the first hurdle for the reasons I have said.

Mr. Marino: I could've sworn that I had the full-size scale drawing that said Al D'Iorio in the corner.... I didn't bring any of that with me.

Mr. Ure: Well – Al is a different business than Dan.

Mr. Marino: Oh I know. I think what happened was – it took forever.... I'll talk to Dan....

Mr. Ure: We'll go through and see where we have deficiencies and give you direction if you need more things and at least you'll know what hurdles you will have to jump. Ok?

Mr. Sposato: Does Terry Rhodes draw the plans for you?

Mr. Marino: Meaning which plans? The site plans? Tom did it and George signed off on it.

Mr. Sposato: Ok.

MR. SPOSATO MADE A MOTION THAT CHECKLIST ITEM A IS NOT COMPLETE. THIS WAS SECONDED BY MR. BARUTI. NO DISCUSSION. ALL WERE IN FAVOR.

SO VOTED.

Mr. Ure: I will make notes and at the end we will recap what you need to do or you can follow along. Because basically we have to get something signed and stamped by a one of these guys.

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Mr. Geary continues with the checklist items:

Checklist Item B: Three (3) copies of a separate map indicating all property owners within 200 feet of the subject property and/or all those property owners and entities which require notice under Section 45-24-53 R.I.G.L, also depicting any zoning district boundary and uses of all neighboring properties.

Mr. Ure: It looks like we've got here a map of abutters. Usually I read through – if somebody wants to check off the lots. My. Ure will read the names and Mr. Baruti will check them off.

1. Plat Map 5, Lot 84 - Joe and Suzanne Bagley (Mr. Baruti – there)
2. Plat Map 5, Lot 91 – Stephen and Cecile Marie Burdick (yes)
3. Plat Map 6, Lot 35 – Evan E Blum and Kathleen Maroney (yes)
4. Plat Map 5, Lot 85 – Richard DeSousa (yes – right next to the Applicant's)
5. Applicants – Marino's Auto Repair, LLC - Map 5 Lot 85A (yes)
6. Plat Map 6, Lot 34A – Daniel E. Wood, and Amale Andraos (across the street)
7. Plat Map 5, Lot 86 – Samuel A Crone – (yes)
8. Map 5 Lot 91C – Neil A. Roma - below 84 (yes)

Mr. Ure: It looks like all of those are there? Are we missing any?

Mr. Baruti: No.

MR. SPOSATO MADE A MOTION THAT CHECKLIST ITEM B IS COMPLETE. IT WAS SECONDED BY MR. GEARY. THERE WAS NO DISCUSSION. ALL WERE IN FAVOR.

SO VOTED.

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Mr. Geary: Checklist item C: A soil erosion or stormwater control plan with supporting calculations-based standards approved by the USDA Soil Conservation Service and in conformity with the RI Erosion and Sediment Control Handbook.

Mr. Baruti: The Applicant is seeking a waiver.

Mr. Sposato: I don't think we can grant the waiver. There are wetlands.

Mr. Ure: He is looking for a waiver for C & D? I feel the same as Ronnie. C, and I think when we get to D – I don't think we can waive. There is a little brook that runs down the center of the property.

Mr. Baruti: Why are you seeking a waiver of those two – just out of curiosity?

Mr. Marino: I don't know. That's what I was kind of advised to do by my lawyer. He said ask for a waiver. I don't know what I should and shouldn't do – that's why I am here.

Mr. Sposato: If you didn't have the brook that ran through the property....

Mr. Marino: It's dry seven months per year. It's a run-off. We looked it up – it's secondary wetlands.

Mr. Ure: So as far as the State is concerned – it's still a wetland. You will have to flag it (on the plan).

Mr. Marino: It is.

Mr. Sposato: We can't waive that.

Mr. Ure – the State has to give us a determination on those two.

Mr. Sposato: I think the statement was made to see how close he could get without spending a ton of money.

Mr. Marino: That was the deal. I didn't want to spend a truckload (of money) if I can't get past this Board.

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Mr. Sposato: Especially if you can't get past the Wetlands with the State regulations. (Wetlands) That's not regulated by us.

Mr. Marino: I can't continue where I am. I either got to beat feet or I got to do something to change it.

Mr. Sposato: Only because it's not clear - Where are you going to do the new building?

Mr. Marino: All I am trying to do is put a foundation completely outside the existing foundation on half the building. Because the building is cracking and falling down.

Mr. Ure: So you are really just looking to rebuild the building?

Mr. Marino: That's all I am looking to do...Rebuild the back half and the structural and add a few feet from the existing building. Because I can't use the existing building - The back lot wall is cracked where it comes together. It's separated. I got to rip the chimney off the building. There's no foundation per se under that building. I dug under it. I dug next to it. So I want to repair my building, but to do that I wanted to add some roof height to the back because I work on a lot of bigger vehicles and it's a low ceiling. All I wanted to do was to add three feet in the front to have a handicap accessible office for all my handicapped customers....

Mr. Baruti: It's a small increase to the footprint and most of that is for accessibility.

(The Board speaks amongst themselves of the proposed plan.)

Mr. Marino: I want to have height change at the back and move my office to the front of the existing overhang but add a few feet for handicapped accessibility.

(Board continues to discuss)

Mr. Baruti: Tony, would he have to upgrade his septic?

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Mr. Santilli – That’s not us. That’s not our choice, but you’re going to go to DEM and fill out a System Suitability Determination and they’re going to make a decision on whether or not they can make a letter stating that you don’t need a septic system or not. Is it a septic or a cess pool?

Mr. Marino: It’s a septic system.

Mr. Santilli: Ok – What you’re going to do is – You are going to go there and you will give them as much information as you can on that septic system. You’re going to fill out a System Suitability Determination. They are going to either say you need to upgrade or you can leave it the way it is.

Mr. Sposato: If it is a cess pool there is no shot – you will have to upgrade.

Mr. Marino: I went to check it out, but I am not sure exactly where it is.

Mr. Santilli: If you call up there – they may be able to look that up for you.

Mr. Marino: I don’t think there is anything in the records.

Mr. Santilli: Maybe your engineer can tell you; do some prying around – tell you what’s there. They’re probably going to make you upgrade your system if it’s a cess pool.

Mr. Baruti: The only reason I was asking that question is because you start to get into mapping out the wetlands if he was required to do that. That’s the only reason I was asking.

Marino: No – I want to do it right – don’t get me wrong....If this is going to turn into a lot of money – It’s not cost effective. I will just buy a new building.

Mr. Baruti: I can’t speak for the Board, but I don’t want to see that happen.

Mar. Marino: I don’t want to see that happen either. There’s only two of us in Hopkinton – who do repair business. But the end result is I bought this property long before I did this. This was a plan and I did some preliminary checking.

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Now I am at the point where I have to do something one way or the other. I am not mad at anyone – don't get me wrong....

Mr. Marino expresses concern with the draft not being what he needed.

The Board explained that the plan is not as extensive as it needs to be....that's why it says "draft". You have a professional sketch, but he (P.L.S.) has not put on it the detail that a stamped document requires - that he can stand behind. That's why he has a license. You need more and as far as this checklist – has been around forever. That's why you have to start with the Building and Zoning office.

Mr. Sposato: As far as the septic – you said you dug it up – what did you find?

Marino: I found a tank and about 15 feet from that there's a giant tank - it was like a honey comb tank – it's a big galley I guess.....with a cover on it.

Ms. Desjardins: The DEM would possibly have something.

Mr. Marino: I found nothing. They had nothing.

Ms. Desjardins: A Suitability may determine there's no change of use and there's no employees and you may be fine. And that's relatively inexpensive in the grand scheme of things – it's about \$200.

Mr. Santilli: You may have to tell your engineer to investigate what is there. They may want you to submit what is existing.

Mr. Sposato – they may ask you for that.....not having pre-existing prints....

Mr. Marino: They had nothing.

Mr. Ure: That's not uncommon. Prints being lost or not on file. It was there before you bought it....

Mr. Sposato: If it's illegal it's not your fault.

Mr. Marino: Whether it's illegal or not it's immaterial. It's material for the lot.

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The Board and Mr. Marino discussed the addition of 3 feet and accessibility and that the handicap area would be to the front of the building. Mr. Marino stated that he can not have three or four people in wheelchairs inside his building because it's not acceptable to his insurance company. So they sit outside his shop.

Mr. Ure: Does the height change in the back matter to the Town? (to Mr. Santilli)

Mr. Santilli: If he is going for ADA accessibility, he would have to put a ramp in, but he is at grade. You have to put a van accessible parking spot with a drop off area and in the bathroom would have to be ADA accessible – bars, etc.

Mr. Marino: I wasn't aware of that because I am don't have public restrooms.

Mr. Santilli: You have to have it because you're doing an ADA upgrade and it includes the bathroom.

Mr. Sposato: This is a non-conforming building – pre-dates zoning. If he wants to repair the building – why does he have to be here?

Mr. Santilli: It doesn't matter. If he repairs the building – It looks like he is putting an addition on – he is raising it. (roof) He's not repairing it – he is putting more space in it.

Mr. Sposato: 100%

Mr. Marino: 100%,

Mr. Sposato: But if you were to inspect the building and see it to be post and beam – you can't raise the roof. You have to rip the roof off.

Mr. Santilli: If you're a legal non-conforming use, under that Section 8 of the Ordinance – you've got to go to the Zoning Board for Special Use to do anything to do with expansion.

Mr. Marino: That's why I am here. There is zero foundation at the back of the building. It's slab on grade.

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Mr. Ure: That's not exactly relevant. If you were expanding the existing footprint – not expanding anything; not expanding the height – you're allowed to repair your property. But you're expanding in several different areas. You are expanding to the front for ADA. You're also expanding the building by raising it – it's an expansion. You're also potentially expanding the use because you're going to do a little bit more business. Right? So then – if you hire more people, then it falls on the bathroom, and everything starts to snow ball.

(The Board discusses expansion versus repair versus the septic system versus the potential to disturb the area around him and the wetlands.....)

Mr. Ure: I would say the septic is the crux of your problem. I am not saying we are not going to commit one way or the other. You have these hurdles and we need to get the Septic Suitability Determination and we will have the septic and stormwater plan all in part.

Mr. Sposato – He is here for an opinion on whether we can approve it or not.

Mr. Baruti: Absolutely I would support it. He's not doing more vehicles he's doing different vehicles.

Mr. Sposato – Your main reason for being here is to see if we support it or not.

Get a regular engineer and they can address the wetlands and the septic system and add a stamp...

Mr. Ure – that's kind of a package. It's a bunch of little things, but it's all one thing. Sherri can elaborate on this..... Do you see any objections from the Building department if he jumps those hurdles?

Ms. Desjardins – No. Not at all.

Mr. Ure: Have we had any objections from neighbors?

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Ms. Desjardins: No. The Zoning Board can ultimately grant the Special Use permit but without having a system suitability determination, Building and Zoning can't grant a permit. The State won't allow it.

Mr. Martino: I understand, but the way it was explained to me is if I wasn't changing occupancy, I didn't think I had to do anything with the septic.

Mr. Ure: If you can get that in writing and get us a better plan....get it to the Building Department. We will have it and we can move forward.

Mr. Sposato – the problem is – the system he described to me would not be allowed. What I am saying to you is you are probably not going to be able to do this project without a septic upgrade. Your best bet is to get an engineer; tell him you need a plan, an approved septic; suitability. The State is not going to give you that. They don't allow that and plus you have wetlands running through there which leads me to believe you have wetlands and the water table is high....

Mr. Santilli: The State doesn't allow that any more.

Mr. Sposato: The water table is high.

Mr. Martino: Very high.

Mr. Sposato: You need a regular engineer.

Mr. Ure: What we see right now – we are not in a hearing – having a general overview...we don't have all the facts. You have state hurdles you have to jump through.

Mr. Martino: That's what Dan had said.

Mr. Sposato: When you get down to what's allowed and what's not – with a high water, table – if it's a cess pool it's not allowed. The only problem is when you go for a Site Suitability – you are opening up the possibility that they can force you to upgrade the septic.

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Mr. Marino: I have had that in the back of my mind the whole time. That I might have to spend an extra \$20,000.

Mr. Sposato: Yes, you might - because you may end up with a bottomless sand filter system where you are. Because it's a repair or an alteration as they call it, they could probably give you a little leniency. The best bet is to give someone a call - Once you get that question answered – you'll be fine with us.

Mr. Baruti: He's got 3 other waivers on the application – F, G, and H.

F - Traffic study – ok to waive

H - Water supply – addressed with the new septic except for the quality.

E – location of the septic

Mr. Ure: Checklist item C, D, and E, which is Soil erosion, a letter from a biologist and the location of the existing septic system I would deem incomplete and not grant them waivers.

Mr. Sposato – If it was me – I would table this whole thing and have him go get an engineer; make sure he can take care of the septic - because all of this is beyond that at this point.

Mr. Ure – We could do it that way too. Those are the things. A – we need the plan – signed and stamped; a professional plan - which will lead you into C, D, and E and getting those handled.

Mr. Sposato – We are not going to ask for the traffic study. (Board agreed)

Mr. Ure: G - The topography will be on the plan – when you get a full blown one.

Mr. Sposato – If he hires an engineer all of these questions will be answered because they know exactly what you're going to need to get back to us. So just reach out to whomever and make sure they are familiar with what you're trying to do - tell them you need a Special Use permit.

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MR. SPOSATO MADE A MOTION TO TABLE THIS APPLICATION TO ANOTHER PRE-APPLICATION MEETING. MR GEARY SECONDED. NO DISCUSSION. ALL WERE IN FAVOR.

SO VOTED.

Mr. Sposato: You get that homework done and we'll have another meeting and then a hearing.

Mr. Baruti: Overall, I support the plan as long as you get what you need to get by with it. It wouldn't be wasting your time.

Mr. Ure: If you have any questions – Building and Zoning are your best resource – Tony and Sherri. They're not limiting or restricting you – it's just what the State would require.

Mr. Marino: I understand that. Thank you.

Mr. Ure: Thank you. Good luck.

MR. BARUTI MADE A MOTION TO APPROVE THE FEBRUARY 20, 2020 MINUTES OF THE HOPKINTON ZONING BOARD WITH TWO CHANGES – ON PAGE 5. THIS WAS SECONDED BY MR. GEARY. NO DISCUSSION. ALL WERE IN FAVOR.

SO VOTED.

MR. URE REPORTED THAT HE RATIFIED THE DECISION FROM THE JANUARY 16, 2020 ZONING BOARD MEETING FOR DIMENSIONAL VARIANCE FOR HOPKINTON INDUSTRIAL PARK ALONG WITH A SECOND DECISION RELATIVE TO SHERMAN.

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MEMBER SPOSATO MADE A MOTION TO ADJOURN THE MEETING AT 8:35 P.M. AND IT WAS SECONDED BY MEMBER GEARY. ALL WERE IN FAVOR. NO DISCUSSION.

SO VOTED.

Respectfully Submitted,

Elizabeth Monty

Zoning Board Clerk

Next Scheduled Meeting: July 16, 2020; 7:00 P.M.