

## **TOWN OF STOCKBRIDGE ZONING BOARD OF APPEALS**

### **Meeting Minutes for October 17, 2016**

#### **Members in Attendance**

Tom Schuler, Chair  
Jack Spencer, Clerk  
John Hyson, Jim Murray, Bob Edwards, Bob Jones (alternate)

Appeal by Tom Farley on Cease & Desist Order issued by Town Zoning Enforcement Officer/Building Inspector, Ned Baldwin.

#### **Attendees of Interest**

Tom Farley  
Attorney Nicholas Arienti, counsel for Tom Farley  
Mark Mills, abutter  
Mark Rathbun, abutter.

Chair Schuler opened the session at 6:30 at the Stockbridge town offices. He reviewed the Hearing Notice published in the Berkshire Eagle. Chair Schuler noted the ZBA had convened pursuant to an Appeal from the Building Inspector/Zoning Enforcement officer's Cease & Desist Order which was issued on July 22, 2016, which ordered that Mr. Farley cease and desist his landscaping operation as it was in violation of the Zoning Bylaws 4.1 and 4.11. Schuler noted that the entities/individuals who abutted the property in question were notified and that notice had been published in the newspaper. (Member Jim Murray disclosed that he was an abutter to Mr. Farley's property on Yale Hill Road) Chair Schuler then requested that Building Inspector/Zoning Enforcement officer, Ned Baldwin, outline the basis for this Cease & Desist Order. Mr. Baldwin claimed that after receiving a complaint from abutter Mark Mills, he conducted a site visit on July 18, 2016, at which time he observed trucks and employees moving on and off the site in the morning and again in the afternoon. Mr. Baldwin also observed Mr. Farley appeared to be engaged in a landscaping business at 13 Cherry Street. Based on his site inspection, Mr. Baldwin issued the Cease & Desist Order, noting that this activity was in violation of the Zoning Bylaws 4.1 and 4.11.

#### **Appellant Input**

Chair Schuler invited Mr. Farley and his attorney to address the issues raised by Mr. Baldwin. Attorney Arienti provided the ZBA with a copy of the Use Permit which was issued by the Selectmen and the Planning Board. This Use Permit, which was recommended by the Planning Board on January 13, 1990 and approved by the Board and Selectmen on March 5, 1990 read as follows: Storage of vehicles used in connection with landscape work, as per 4.9(b) (3). (This was applicable Zoning Bylaw in effect at the time the Permit was issued.) Attorney Arienti noted that

Mr. Farley had been engaged in this business since 1979 and that when the Use Permit was issued, the scope of the business was essentially the same in 2016 as it was when the Use Permit was issued in 1990. Farley noted that he had 11 employees in 2016 and approximately 11 employees in 1990. He noted the employees would come between 7:00 a.m. and 8:00 a.m. in their personal vehicles and then leave the premises sometime between 7:00 a.m. and 8:00 a.m. and return sometime between 3:00 p.m. and 4:00 p.m. Attorney Arienti noted that this activity was an incidental use and that the business conducted by Mr. Farley was offsite. Attorney Arienti also noted that this business was permitted under §6.19.5 in the ZBA Bylaws.

Attorney Nick Arienti also claimed that Section 6.19.5 authorized those involved in trades to use their premises for incidental work in connection with an off premise occupation.

### **Public Input**

Tom Schuler then invited Mark Mills, an abutter of the Farley property at 13 Cherry Street, to speak.

The abutter Mark Mills then spoke. Mr. Mills lives adjacent to the Farley property. He noted that trucks would come and go throughout the day. He also noted that under 4.1 of the Zoning Bylaws that this activity took place in an R2 zone and that it was prohibited under the existing zoning laws.

Mr. Mills noted that several workers commute to the site in the morning, they use heavy equipment including dump trucks and carry large earth moving vehicles on occasion. He also claimed that vehicles would come and go throughout the day as trucks transport supplies to landscaping sites. He also notes that this is a commercial activity in an area which is zoned R2. He also claimed that he had a right to enjoy the protections of the R2 zoning designation and that Mr. Farley's operation of this landscaping business constituted a commercial activity not authorized under the zoning regulations and zoning bylaws.

### **Public Input**

A number of individuals spoke regarding the issues. Donald Schneyer of 10 Glendale Mill Road expressed the opinion that this business should continue and that this was a longstanding business and that Mr. Farley was a good citizen.

Mark Rathbun, another abutter, spoke in favor of the Cease & Desist Order, noting the adverse effects on the street and on the abutters. Rathbun noted this activity is taking place in a residential zone.

Another Stockbridge resident, Edward BURKE, spoke favorably about his experience living at 13 Cherry Street. He noted that he had "no problems" with the trucks.

Retired Police Chief Rick Wilcox also spoke, noting that he had received no complaints from

anyone in town or any abutters about Mr. Farley's activities at 13 Cherry Street throughout his 10 years as a police chief.

Gary Johnston also spoke, noting that Stockbridge was a working man's town and the activities performed by Mr. Farley were consistent with the town depicted Rockwell paintings.

In addition, Christopher Owens, John Hart, and Mary Hart also spoke. Chair Schuler also noted there were a number of abutter letters. Chair Schuler noted the letters from Mark and Nancy Mills, Katie Data, and Terry Wise expressed opposition to the continuation of the Farley operation at 13 Cherry Street. There were also letters expressing support for Mr. Farley's appeal from Michelle Sirois and others.

Mr. Arienti speaking on behalf of Mr. Farley also noted that noise complaints were a gray area.

Chair Schuler then adjourned the meeting so the parties could conduct a site inspection, which would take place on October 26 at 4:00 p.m.