

**ZONING AND BUILDING LAW APPEALS
PEMBROKE, MASSACHUSETTS
02359**

Case #05-17

May 10, 2017

The members of the Zoning Board of Appeals hereby certify that the following is a detailed record of all the Board's proceedings regarding the petition of JP and Luisa McGrath, regarding property located at 159 Mattakeesett Street, Pembroke as shown on Assessors' Map B-8, Lot 88, said property owned by Martin A. Hale, which is the property affected by this request for special permits.

The petition to the Board is dated April 4, 2017. The petition requests special permits of the Zoning By-Laws of the Town of Pembroke, Sec. V, 5. Non-Conforming Property and Sec. IV, 1. B. 1. Uses Allowed by Special Permit to build a new single-family dwelling and barn on a non-conforming lot with a home business. A true copy will be retained in the file.

A notice of the public hearing on this petition will be retained in the file. It was published in the Pembroke Mariner and Express, a newspaper of general circulation in the Town of Pembroke on April 14, 2017 and April 21, 2017, posted in a conspicuous place in the Town Hall and mailed on April 17, 2017 to abutters whose property is located within 300 feet of the property line of the property in question. The notice was mailed to the names of the persons at the addresses as provided by the most recent tax list kept by the Town Assessor.

The public hearing on this petition was advertised to be held on May 1, 2017 at 7:30 p.m. at the Pembroke Town Hall Hearing Room at which time opportunity was given to all those interested to be heard in favor or opposition to said petition. The following members of the Board were present at the hearing: Frederick Casavant, Member, James Gallagher, Member, and Christine Griffin, Alternate. The tape recording of the hearing is attached to the file and a copy of the tape will be provided upon request.

7:30 HEARING -- JP AND LUISA MCGRATH

CASAVANT: OPENS HEARING BY READING NOTICE AS IT
APPEARED IN THE PEMBROKE MARINER AND
EXPRESS AND TURNS FLOOR OVER TO THE
PETITIONER FOR PRESENTATION.

JP MCGRATH: I'M LOOKING TO BUILD A HOUSE AND A GARAGE.

CASAVANT: WHY IS HE HERE?

DOWLING: HE'S ON A 4.5 ACRE LOT, WHICH ONLY HAS 80 FEET
OF FRONTAGE.

CASAVANT: IS IT VACANT NOW?

DOWLING: HAS BEEN FOR THE PAST TWENTY YEARS.

MCGRATH: THERE'S AN EXISTING HOUSE AND BARN ON THE
PROPERTY.

CASAVANT: ARE THEY GOING TO BE KNOCKED DOWN?

MCGRATH: THE BARN WILL BE KNOCKED DOWN AND THE 12 X 14
HOUSE I'D LIKE TO MOVE AND USE AS A SHED.

CASAVANT: THE GARAGE IS ATTACHED TO THE HOUSE?

MCGRATH: CORRECT.

GALLAGHER: ARE THERE ANY RIGHT OF WAYS THRU THIS
PROPERTY?

MCGRATH: NO THAT I KNOW OF.

GALLAGHER: THIS LITTLE ROADWAY IS WHAT YOU'LL USE TO
GET TO THE BARN?

MCGRATH: YES, THAT'S EXISTING.

CASAVANT: WHAT ARE WE LOOKING FOR ON THIS PROPERTY?

DOWLING: SPECIAL PERMIT NON-CONFORMING PROPERTY.
THIS LOT LACK FRONTAGE.

GALLAGHER: HOW MUCH FRONTAGE DOES HE HAVE?

MCGRATH: 80 FEET.

GRIFFIN: DOES HE PLAN TO HAVE THREE EMPLOYEES?

MCGRATH: I DON'T HAVE ANY RIGHT NOW.

DOWLING: BUT HE WANTS THE RIGHT TO HAVE THEM.

GRIFFIN: WHAT WOULD BE THE NOISE LEVEL OF THIS
BUSINESS?

MCGRATH: JUST TO MOVE MY EQUIPMENT IN AND OUT OF THE
BUILDING.

DOWLING: PLEASE KEEP IN MIND THAT HIS NEIGHBORS ON ONE
SIDE ARE RESIDENTIAL AND HIS NEIGHBORS ON THE
OTHER SIDE ARE INDUSTRIAL.

MCGRATH: MOST OF THE STUFF I DO IS ON THE ROAD.

DOWLING: I HAVE TO SAY FROM THE NUMBER OF PEOPLE I'VE
SPOKEN WITH REGARDING THIS PARCEL, THIS IS
THE BEST USE OF THE PROPERTY CONSIDERING THE
RESIDENTIAL ABUTTERS.

GALLAGHER: YOU COULD PUT FOUR HOUSES IN THERE.

DOWLING: YES WITH THE AMOUNT OF LAND, BUT NO WITH THE WIDTH OF THE LOT. A ROAD TAKES 150 FEET OF FRONTAGE AND THIS LOT IS ONLY 80 FEET WIDE.

GALLAGHER: THE HOUSE WOULD BE IN THE BUSINESS ZONE AND THE BARN IN THE RESIDENTIAL ZONE.

MCGRATH: ACTUALLY THE HOUSE AND BARN ARE BOTH IN THE RESIDENTIAL DISTRICT.

DOWLING: THE INDIVIDUAL MR. MCGRATH PURCHASED IT FROM BOUGHT THE LAND TO PUT A BUS REPAIR BUSINESS IN THERE, BUT NEVER BROUGHT IT IN FOR APPROVALS.

GALLAGHER: IS THERE ANY AVAILABLE ABUTTING LAND THAT HE COULD BUY TO MAKE IT MORE CONFORMING?

DOWLING: NO, THIS IS ONE OF THE LAST PIECES OF AVAILABLE LAND ON MATTAKEESETT STREET.

GORDON ROYEK: I'D LIKE TO SEE ON A DRAWING WHERE THESE BUILDINGS ARE LOCATED.

CASAVANT: GIVES MR. ROYEK A COPY OF THE DRAWING AND ASKS MICHELE WHAT ARE THE SPECIAL PERMITS BEING REQUESTED.

DOWLING: A SPECIAL PERMIT TO ALTER A NON-CONFORMING PROPERTY AND A SPECIAL PERMIT TO OPERATE A TRADE OCCUPATION FROM HIS HOME.

CAROL MONT: MR. MCGRATH CAME AND SPOKE WITH ME, BUT NOW HE'S SAYING A HOUSE AND A GARAGE TO OPERATE A BUSINESS WITH THREE EMPLOYEES.

DOWLING: HE'S ASKING TO HAVE THE RIGHT TO HAVE A HOME BUSINESS WITH THREE EMPLOYEES AND THIS IS THE RIGHT OF ANYONE IN THE RESIDENTIAL ZONE TO DO WITH A SPECIAL PERMIT.

ROYEK: HOW BIG IS THE BARN?

MCGRATH: SIXTY BY EIGHTY.

ROYEK: THE BARN WILL BE ON THE FURTHER SIDE OF THE PROPERTY?

MCGRATH: CORRECT.

CHRISTINE THOMSON: I'VE LIVED THERE FOR FIVE YEARS AND THIS PROPERTY HAS BEEN AN EYESORE FOR ALL THAT TIME. A SINGLE FAMILY HOME IN MY OPINION IS THE BEST USE OF THIS PROPERTY.

MOTT: MY PROBLEM IS WITH THE BUSINESSES THAT ARE THERE AND THE STRANGE NOISES AND SMELLS THAT COME FROM THERE AND I DON'T WANT MORE.

DOWLING: HIS IS A RESIDENTIAL BUSINESS.

MCGRATH: I DON'T EVEN HAVE A BUSINESS RIGHT NOW. I JUST WANT THE RIGHT TO HAVE A BUSINESS. FIRST AND FOREMOST THIS IS GOING TO BE MY HOME.

CASAVANT: AND YOU WON'T STORE MATERIALS OUTSIDE?
MCGRATH: MATERIALS WILL BE INSIDE, BUT MY TRAILERS
WILL BE OUTSIDE.
CASAVANT: THE PURPOSE OF THE BARN, I ASSUME, IS TO STORE
MATERIALS.
DOWLING: HOW MANY TRAILERS WILL YOU HAVE?
MCGRATH: I PRESENTLY HAVE THREE TRAILERS: A UTILITY
TRALER, A 16 FOOT ENCLOSED TRAILER, A FLAT
TRAILER TO MOVE EQUIPMENT AND ALSO A
CAMPER.
DOWLING: GIVE ME A LIST OF THE TRAILERS AND THEIR SIZES
AND WE'LL CONDITION THE DECISION THUSLY.
MONT: UNLESS HE TOOK TREES DOWN, I DON'T SEE HIS
PROPERTY.
MCGRATH: I'M NOT TAKING TREES DOWN. AS A MATTER OF
FACT I WANT TO ADD TREES.
MATTHEW NORTON: I DON'T HAVE A PROBLEM WITH THIS.
MCGRATH: I'VE WORKED AROUND PEMBROKE FOR THE PAST
TWENTY YEARS. I PRESENTLY WORK FOR SOMEONE
ELSE, BUT WOULD LIKE TO RESERVE THE RIGHT VIA
THE SPECIAL PERMIT TO WORK FOR MYSELF IF I
WANT TO.
DOWLING: THIS IS DIFFERENT THAN THE BUSINESSES IN 171
MATTAKEESETT AS THIS WILL BE MR. MCGRATH'S
HOME AND THE SPECIAL PERMIT FOR A BUSINESS
WILL BE TIED STRICTLY TO HIM. IF HE SOLD THE
PROERTY, THE SPECIAL PERMIT FOR THE BUSINESS
WILL BECOME NULL AND VOID AND THE NEW
OWNER WOULD HAVE TO COME BACK TO THE ZBA
FOR A SPECIAL PERMIT IF HE WISHED TO RUN A
BUSINESS FROM THERE.
CASAVANT: ANY ONE ELSE HAVE ANYTHING TO SAY?
(NO RESPONSE)
CASAVANT: IN THAT CASE I'M GOING TO CLOSE THE HEARING.
THE BOARD HAVE ANYTHING TO SAY.
GALLAGHER: WILL MR. MCGRATH GIVE US A LIST OF THE
TRAILERS AND THEIR SIZES.
MCGRATH: I DON'T WANT TO LIMIT MYSELF TO WHAT I HAVE.
DOWLING: IF YOU WANT SOMETHING DIFFERENT, YOU'D JUST
HAVE TO ASK US TO AMEND THE CONDITIONS BY
DELETING SUCH AND REPLACING IT WITH
WHATEVER.
CASAVANT: WE CAN LIMIT IT TO THREE TRAILERS NO BIGGER
THAN 30 FEET.
DOWLING: AND THE ONE CAMPER TO BE THE ONLY THINGS
STORED OUTSIDE.

CASAVANT: JIM, ANY OTHER QUESTIONS?

GALLAGHER: NO.

CASAVANT: THEN HOW ABOUT A MOTION.

GALLAGHER: I MAKE A MOTION TO GRANT SPECIAL PERMITS OF THE ZONING BY-LAWS OF THE TOWN OF PEMBROKE, SEC. V, 5. NON-CONFORMING PROPERTY AND SEC. IV, 1. B. 1. USES PERMITTED BY SPECIAL PERMIT TO JO AND LUISA MCGRATH FOR PROPERTY LOCATED AT 159 MATTAKEESETT STREET, PEMROKE AS SHOWN ON ASSESSORS' MAP B-8, LOT 88 TO BUILD A NEW SINGLE-FAMILY DWELLING WITH ATTACHED GARAGE AND A BARN ON A NON-CONFORMING LOT WITH A HOME BUSINESS AS SHOWN ON THE DRAWING BY GRADY CONSULTING, L.L.C., DATED MARCH 31, 2017 WITH THE FOLLOWING CONDITIONS:

- (1) THE HOME BUSINESS IS ALLOWED WITH THE OUTDOOR STORAGE OF THREE (3) TRAILERS NO BIGGER THAN THIRTY-TWO (32) FEET AND ONE (1) CAMPER, ALL OF WHICH ARE TO BE REGISTERED TO JP OR LUISA MCGRATH.
- (2) THE EXISTING BUILDING MAY BE MOVED, BUT MUST MEET THE SETBACKS AS DESCRIBED IN RESIDENCE DISTRICT A OF THE ZONING BYLAWS.
- (3) PETITIONER MUST COMPLY WITH SECTION 15 - ANTI-NOISE BY-LAW OF THE BY-LAWS OF THE TOWN OF PEMBROKE MASSACVHUSETTS.
- (4) THE SPECIAL PERMIT OF SEC. IV, 1. B. 1. SHALL RUN TO JP AND LUISA MCGRATH ONLY AND SHALL NOT RUN WITH THE LAND. SHOULD JP AND LUISA LEAVE THE PROPERTY, THIS SPECIAL PERMIT SHALL BECOME NULL AND VOID.

GRIFFIN: SECOND.

CASAVANT: ALL IN FAVOR.

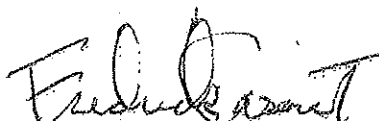
GALLAGHER: AYE.

GRIFFIN: AYE.

CASAVANT: AYE.

MOTION CARRIED.

HEARING ADJOURNED.


Frederick Casavant
Member


James Gallagher
Member


Christine Griffin
Alternate