

TOWN OF WENHAM

Zoning Board of Appeals
May 13, 2015
Town Hall, 138 Main Street

Pursuant to the Open Meeting Law, M.G.L. Chapter 30 A, §18-25, written notice posted by the Town Clerk delivered to all Board members, a meeting of the Zoning Board of Appeals (ZBA) was held on Wednesday, May 13, 2015 at 7:30 PM in the Selectman's Meeting Room.

With a quorum present, Mr. Feeherry called the meeting to order at 7:30 PM

Board Members Present: Jeremy Coffey, Anthony Feeherry, Shaun Hutchinson, & Associate Member Chris Vance

Also present: Emilie Cademartori, Coordinator; Catherine Tinsley, Minutes Secretary

Present but not participating was Selectmen Catherine Harrison

Continued Public Hearings

Location: 76 Topsfield Road (Map 25 Lot 17)

Applicant: Attorney Benjamin Tymann, Lawrence Miller, and Allison & Dennis Maguire

Nature of hearing: An Appeal filed, pursuant MGL c 40A, ss. 8 & 15, of the Zoning Enforcement Officer's September 11, 2014 decision granting reasonable accommodation under the Federal Fair Housing and Americans with Disabilities Acts, to 110, Inc. allowing the operation of the Cross Keys Retreat at 76 Topsfield Road.

Mr. Feeherry reviewed at the ZBA meeting on April 29, 2015, the Board requested the applicant's attorney Mr. Tymann and the Attorney for 76 Topsfield Road make recommendations to the ZBA's draft decision to which the parties could agree.

Attorney Tymann and the Attornies for 76 Topsfield Road submitted edits/ comments.

Attorney Fierro noted his concern with limiting the number of occupants to 12 in the draft and a required security plan. Attorney Fierro went on to say that Cross Keys has indicated that one staff member would remain on site 24 hours per day / 7 days per week, in the house, with the guests, suggesting this expands the security.

Attorney Fierro further explained the Fire Department/Building Inspector had limited the occupancy to 16 individuals. The ZBA discussed the difference between 12 and 14 occupants, noting it could be increased or decreased in the future. Mr. Feeherry reserved the right to reduce the occupancy to 12 if deemed appropriate and necessary by the Board.

Mr. Feeherry noted that Attorney Tymann requested that guests that have been arrested or convicted not be allowed into the program, but Aristotle "Ari" Nikolaou, founder and recovering addict stated that many addicts have arrest records/ convictions related to supporting a habit but that does not mean they pose a direct threat.

The ZBA's draft decision was discussed, noting the limiting factor "conviction" was used and supported by the ZBA (with the concept of a conviction for a particular crime intended to address of the issue of whether any particular guest posed a direct threat).

The ZBA agreed on the language in the draft to not allow guests that have been convicted of the felonies as identified, and that the word "arrest" be removed and guests that have an arrest record be allowed.

The ZBA noted they based their decision, in part, on Cross Key's Articles of Organization. It was further discussed that such Articles has since been revised (including to abandon the name "Cross Keys" in favor of "Number 16").

Attorney Tymann had requested that guests be required to have a minimum of 30 days sober. Attorney Fierro explained that a guest must be fit to be in such an environment (as Cross Keys) and not at a risk of psychotic episodes or seizures or other health risks, and every guest does not require 30 days sober but does need to have medical clearance. A discussion ensued as to whether a minimum number of days sober should be imposed.

The Board concurred to 4 days sober as stated in the draft but would include language that allows the Board to revisit this issue in an annual review and make changes if deemed necessary and appropriate.

The Board combined Emergency Response and Security into one category.

Regarding the landscaping, the Board stated that in the event a resolution is not achieved between Dr. Miller and Cross Keys, the ZBA would make a determination of suitability regarding the fence and landscaping. The parties were encouraged to talk about the issue.

The McGuires (abutters to 76 Topsfield Rd.) acknowledge it had been quieter in recent months, but noted there is less outside activity in the winter and they have had their windows closed. The Board inquired as to whether 76 Topsfield Road is for sale and listed on the market. Attorney Fierro responded that the founders felt it is best to rebrand Cross Keys Retreat due to the controversy over the past year. Cross Keys is the entrance program for Number 16. Counsel for 76 Topsfield Rd. acknowledged the house is listed for sale, but suggested that the offering for sale was to maintain flexibility pending a final conclusion to proceedings before the ZBA. Mr. Feeherry will make the revisions to the draft decision. In closing Mr. Feeherry noted this is a small community and encouraged everyone to be neighborly.

Mr. Coffey moved, and it was seconded, to approve the ZBA decision based on the edits made (at the 5.13.15) meeting and the hearing be closed. The motion carried unanimously.

Location: 72 Grapevine Road (Map 30 Lot 24)

Request for Site Plan Review per Section 13.5 of the Wenham Zoning Bylaw

Applicant: Michael Bresnan, 1091 Washington Street LLC

Proposal: Construction of an addition to the existing single-family home, for use as a meditation hall and associated parking

The ZBA acknowledged a letter requesting the hearing for 72 Grapevine Road be continued.

Mr. Coffey moved and it was seconded, to continue the hearing for 72 Grapevine Road to May 26, 2015 at Town Hall.

The motion carried unanimously.

Administrative Items

- *Minutes: Mr. Hutchinson moved to approve the ZBA minutes of April 6, 2015 and it was unanimous to do so.*
- The minutes of April 15, 2015 were held for review.
- The Zoning Board of Appeals next meeting is Tuesday, May 26, 2015 7:30 PM @ Wenham Town Hall

Adjournment

The ZBA unanimously adjourned at 8:19 PM.

Respectfully submitted by

Catherine Tinsley
5.17.15