

MINUTES
TOWN OF GROTON
ZONING BOARD OF APPEALS
JUNE 28, 2017 – 7:00 P.M.
TOWN HALL ANNEX – 134 GROTON LONG POINT ROAD
COMMUNITY ROOM 1

Chairman Stebbins called the meeting to order at 7:00 p.m.

I. ROLL CALL

Regular members present: Stebbins, Manning, Kravits, Mencer, Russotto
Staff present: Zanarini, Silsby
Also present: Town Attorney Michael Carey
Manager of Inspection Services Quinn

Chairman Stebbins stated that an Appeal is tonight's agenda. Public hearing procedures were reviewed. He noted that the Board has 65 days to make a decision.

II. PUBLIC HEARINGS

1. ZBA#17-06 – APPEAL - 120 Walker Hill Road – Community of Hope, INC, Owner; Thomas W. Potter, Appellant; to appeal the decision of the Zoning Enforcement Officer concerning Section 7.1-37 of the Zoning Regulations that a community residential counseling facility is not operating at 120 Walker Hill Road. PIN# 168911554431; R-12 Zone

The public hearing opened at 7:01 p.m. Manning read the Call of the Hearing. He stated that the mailings were reviewed and found to be in order.

Thomas Potter, 154 Walker Hill Road, submitted documents along with a letter dated June 26, 2017.

Representing the Town's Zoning Enforcement Officer Kevin Quinn, Attorney Michael Carey stated that he should have the opportunity to review these documents before moving forward with the public hearing tonight, as he has not yet seen these documents.

Attorney Richard Cody, 34 Church Street, Mystic, representing Community of Hope, also requested to view these documents before proceeding with the public hearing.

Attorney Carey referred to documents that Mr. Potter attempted to give the Board in April 2017. He questioned whether these documents should be admissible until he has reviewed them. Attorney Carey recommended that the public hearing be continued in two weeks.

Attorney Cody stated that he has only reviewed the original submittal dated March 31, 2017 and not the documents dated April 12, 2017, in addition to tonight's submittal.

Secretary Manning stated, for the record, that Attorney Cody has just been given the June 26, 2017 documents submitted earlier tonight by Mr. Potter. Attorney Carey has already reviewed the documents dated April 12, 2017 but not the documents submitted tonight by Mr. Potter. Manning stated that neither

the April 12, 2017 documents nor tonight's documents, dated June 26, 2017, were in the Town's Zoning Board of Appeals file (ZBA#17-06).

Attorney Carey explained the process and questioned whether the documents submitted tonight should be used as evidence.

Mr. Potter referred to the documents he submitted earlier tonight, including a letter dated June 26, 2017.

Attorney Carey objected to this letter being read into the record. Potter read his letter in its entirety.

The Board had no questions at this time.

Attorney Cody explained why he believes that Mr. Potter is not an "aggrieved person" and has not shown any evidence of injury to substantiate an appeal. Attorney Cody clarified the appeal. Documentation was submitted.

Attorney Carey requested a Motion to dismiss this case now. He referred to the State Statute which creates the ability to appeal, noting that the applicant is required to prove that he is aggrieved. He noted that Community of Hope has stated that no counseling is being done on site. Attorney Carey stated that case management is not counseling. Attorney Carey referenced a recent Supreme Court decision and stated that Mr. Potter has not submitted any proof that he has incurred substantial injury and therefore, is not an "aggrieved person". Attorney Carey stated that Mr. Potter would have to prove that counseling is taking place on site, for which he has no proof. Attorney Carey reserved the right to speak after others have spoken later tonight.

For clarification purposes, Secretary Manning referred to zoning regulations regarding residential zones, and noted that Community of Hope's lot meets all the criteria of a residential 2-family house. He added that Town Official Kevin Quinn has deemed this as a residential 2-family house.

Attorney Carey and Attorney Cody both argued that no proof or evidence has been demonstrated to show that counseling is an action taking place inside the building. Attorney Carey stated that residents are protected under the America of Disabilities Act.

An explanation was given regarding the difference between Classical Aggrievement and Statutory Aggrievement. Attorney Carey stated that Statutory Aggrievement does not apply in tonight's case and that Mr. Potter is required to prove Classical Aggrievement. He noted that appeals are required to be filed within 30 days of a decision, which was not done in this instance. Attorney Carey reserved the right to speak again later tonight.

Chairman Stebbins asked for comments for or against.

Linda Cahill, 321 Poquonnock Road, Apartment 4, stated that she was a resident at Community of Hope, 120 Walker Hill Road, in 2011, and that she had weekly religious counseling at the house. She noted that she was not sent to the house from the Department of Corrections.

Attorney Carey questioned Ms. Cahill about how she heard of tonight's proceedings. Attorney Cody questioned Ms. Cahill, asking if these meetings she referred to were required, to which she responded affirmatively. Additional questions were asked by Attorney Cody.

Attorney Carey reserved the right to speak later tonight.

Mr. Potter referred to the documents he submitted to the Town on April 12, 2017 and began to read statements, to which Attorney Carey objected to being read into the record.

Chairman Stebbins called for a Point of Order.

Mr. Potter continued to read the documentation about case management.

Chairman Stebbins stated to Mr. Potter that he does not have proof of any actions that were ongoing in the house.

Attorney Cody objected to Potter's statements being read into the record. Attorney Carey stated that Mr. Potter does not have a copy of a signed contract and without a signed contract, any discussion is irrelevant. Mr. Potter disagreed. Tom Zanarini, Code Enforcement Officer/Planner I, asked Mr. Potter to direct all his comments to the Board.

Chairman Stebbins explained to Mr. Potter that no additional documentation, prior to tonight's public hearing, can be submitted. It was noted that Mr. Potter did not have a copy of the signed contract. Once again, Chairman Stebbins called for a Point of Order. Mr. Zanarini again asked Mr. Potter to direct his comments to the Board.

Attorney Carey explained to Mr. Potter that Attorneys are not subject to cross examination. He reserved the right to speak at a later date, when the public hearing continues.

Attorney Cody gave additional information about when this house was converted from a 3-family home to a 2-family home.

Tom Zanarini stated that all Board members will receive copies of all the documentation submitted earlier by Mr. Potter.

History was given about a Zoning Board of Appeals application that was submitted and withdrawn by Community of Hope in 2015.

Staff had no comments at this time.

MOTION: To continue the public hearing to July 12, 2017

Motion made by Russotto, seconded by Kravits.

Mr. Potter stated that he would be out of town from July 9, 2017 to July 31, 2017. Discussion followed about alternative dates to continue the public hearing, in order to accommodate everyone's schedules.

Staff stated that Mr. Potter could request another extension and still be within the required timeframe. Mr. Potter agreed to an extension.

After additional discussion, the following motion was made.

MOTION: To continue the Public Hearing to August 23, 2017

Motion made by Russotto, seconded by Kravits, so voted unanimously

III. MEETING FOLLOWING PUBLIC HEARING

1. ZBA#17-06 – APPEAL - 120 Walker Hill Road – Community of Hope, INC, Owner; Thomas W. Potter, Appellant

No action was taken at this time.

IV. CORRESPONDENCE – None

V. APPROVAL OF MINUTES

1. June 14, 2017

This item will be postponed until the July 12, 2017 meeting

VI. OLD BUSINESS - None

VII. NEW BUSINESS - None

VIII. REPORT OF STAFF

Zanarini stated that Robin Silsby will be retiring on August 16, 2017. The Board wished her well in all her future endeavors.

IX. ADJOURNMENT

Motion to adjourn at 8:32 pm made by Mencer, seconded by Russotto, so voted unanimously.

Thomas Manning, Secretary
Zoning Board of Appeals

Prepared by Robin M. Silsby
Office Assistant II