

**BERLIN ZONING BOARD OF APPEALS
MEETING ADMINISTRATIVE MINUTES**

MEETING DATE/LOCATION: Wednesday, January 9, 2019, Room 227, Town Hall Building, 23 Linden Street, Berlin, MA 01503

TOWN OFFICIALS (& OTHERS) PRESENT:

MEMBERS SITTING/PRESENT:

R/A		245 River Rd West	
R	Lynn Ryan, Chair	S	
R	Dennis Bartlett	S	
R	Pat Jackson	S	
R	Jim Royer	S	
R	Ginny Zukatynski	S	
A	Sue Roberts	A	

Carolyn MacDonald, Conservation Commission; Joseph Atchue, Building Inspector, David Lichwell, Fire Marshall; Linda & Bill Thomasino, Jerry & Jane Freed, Marisa Evonsion, Steven Cardoso, Ron & Mary Plutnicki, Ronald Vavruska, Tom & Jennifer Fiendel, Barbara & Serge Paul-Emile, Phyllis Belcher, Helen Miller, Robert Sanford, Mort Rosenberg, Susan Benua, Mark Rhodes

Regular/Alternate Sitting/Present/Absent

245 River Road West – Special Permit and Site Plan Approval

Chairman Ryan asked the Petitioner for proof of abutter contact and proof of advertisement in a local newspaper. Once proof was received Chairman Ryan opened the Public Hearing at 7:02pm by reading the Public Hearing Notice. It was then noted that approximately ten abutters received empty envelopes. Petitioner, Marisa Evonsion, stated it was in error and additional letters were re-sent to those who received empty envelopes. It was also noted that the hearing notice was posted at the mailboxes of Meadowbrook Village.

Petitioners, Marisa Evonsion and Stephen Cardoso, stated they were coming before the Board seeking a special permit to run their landscaping business from their home. It was stated to be a small contracting landscaping business with one to two employees.

Chairman Ryan asked Ms. Evonsion and Mr. Cardoso if they had reviewed the Berlin Zoning By-law regarding a home-based contracting business and whether they felt they were meeting all the requirements. Ms. Evonsion and Mr. Cardoso stated they did.

Ms. Evonsion and Mr. Cardoso stated their lot size to be approximately three and a half acres with 205 feet of frontage. They stated they have one, one-ton dump truck and one pickup truck (Chevy 350 with a gross vehicle weight of 12,000) with a commercial plate and lettering. Mr. Cardoso stated this is his personal truck that he uses for his business. Mr. Cardoso was asked by Board Member Jackson about the other large trucks, trailers, and additional equipment on the property to which Mr. Cardoso stated they are not on his property but on the adjacent property. Chairman Ryan informed Mr. Cardoso the equipment is not allowed anywhere in town. Mr. Cardoso stated the equipment was being used for a job he had at the site, and he would be finished with the job in approximately six months. Mr. Cardoso stated he would then remove the equipment and store it in Hudson. Mr. Cardoso was asked about a storage trailer on the property. Mr. Cardoso said it was housing materials to be stored in the barn once it is built.

Chairman Ryan asked Mr. Cardoso if he had a dba to which he responded yes.

Chairman Ryan asked Ms. Evonsion if she wished to recant statements made at last month’s meeting regarding her feeling that she was misdirected by the Building Inspector in regards to contacting the abutters of the Public Hearing. Ms. Evonsion stated she did not. She stated she still feels she was misguided by the Building

Inspector, however, did not feel it was malicious just a misunderstanding regarding a small strip of land on the backside of Meadowbrook Village which makes all the residents abutters and, therefore, included on the Assessor's certified abutters list.

Mr. Cardoso was asked if he intended to store materials on the property to which he responded no. Board Member Jackson asked Mr. Cardoso about the materials (wood chips, loam, stone) currently at the property. Mr. Cardoso responded the materials were for personal use at the property and not related to the conducting of his business.

Chairman Ryan asked Mr. Cardoso about screening at the property. He stated there are 12 foot arborvitaes and a small driveway island with trees, plants and a flag pole, and he intends to install more shrubs.

Chairman Ryan asked if there was a site plan included with the ZBA application. A small map/drawing was included, however, it was noted it is too small to read. Mr. Cardoso stated a large-size site plan was submitted at their original appearance before the Board last year. It was noted the plan shows the lot and house but is not considered to be an adequate site plan. Discussion ensued regarding what needed to be included on a site plan. Board Member Royer directed Mr. Cardoso to the Berlin Zoning By-law, particularly page 98, for required site plan contents.

Abutter Bill Thomasino asked if the Board could review the current site plan and inform Mr. Cardoso if it is inadequate. Chairman Ryan explained the site plan needs to be a standard sheet drawn to scale and stamped showing location and boundaries, location of all adjacent properties, existing and proposed structures, location of parking, driveway, walkways, etc, location of septic and wells, proposed landscaping, lighting, and signage. Board Member Royer also noted that Section 1234.10 stipulates that written evidence from the Building Inspector, Board of Health, and the Conservation Commission that the proposed use is capable of complying with the by-laws, rules, regulations and statues within their jurisdiction be provided to the Board.

Carolyn MacDonald of the Conservation Commission stated she wanted to be sure the petitioners were meeting the required setbacks in regards to the Assabet River and requests a larger copy of the site plan for review by the Conservation Commission. Chairman Ryan explained that the site plan must be reviewed by the Conservation Commission and found to be in compliance before the Board of Appeals could approve.

The Public Hearing was opened to the public at 7:28pm. Chairman Ryan asked if anyone present had comments/concerns they would like to express. She explained the Board could impose restrictions on a special permit regarding proper location of buildings/equipment, screening, hours of operation, and landscaping.

Abutter Jerry Freed questioned if Mr. Cardoso would be doing commercial plowing. He also asked if consideration of other businesses in the area would influence how the Board votes. Chairman Ryan stated the Board would ensure what's being proposed meets the zoning by-laws and would take into consideration what effect it would have on the neighborhood welcoming any concerns of the neighbors.

Abutter Linda Thomasino asked if the petitioners intended to put gates across the driveway.

Abutter Robert Sanford stated he hears nothing and hopes it would remain that way. He stated he has no issues with the petitioners.

Comment was made that the sandpit adjacent to the petitioner's property is constantly active with movement of heavy equipment. Building Inspector, Joe Atchue, stated it is a pre-existing, non-conforming lot and is grandfathered in.

Abuttoner Phyllis Belcher asked how much compliance will be monitored. Chairman Ryan stated any complaints regarding non-compliance should be documented and reported to Joe Atchue who is the Zoning Enforcement Officer.

Abuttoner Barbara Paul-Emile commented she is surprised by the tone and with everyone seeming to want to take shortcuts referring to the use of old site plans. She also expressed concern for conservation and the waterway.

Ms. Evonsion commented there are many layers to the process and wants to be sure she is clear on what is needed so that the hearing does not need to be continued. She expressed concern regarding the cost of having to do another mailing if the hearing is continued. Chairman Ryan explained another mailing was not necessary. It is only required to notify of a public hearing not for a continuation of that hearing.

Motion was made by Board Member Royer to continue the Public Hearing for a Special Permit and Site Plan Approval for a home-based contracting business at 245 River Road West to February 13, 2019 at 7:00pm to allow for the petitioners to secure an updated site plan reviewed by the Conservation Commission and any other necessary documents. The motion was seconded by Board Member Jackson, and the motion passed 5-0. The hearing ended at 8:05pm.

Administrative

Mark Rhodes, petitioner for The Capes of Berlin, presented a recordable Mylar of the legal site plan for the Board's signature as required in the Comprehensive Permit. The Building Inspector confirmed there were no changes made to the site plan. The site plan was dated and signed by the Board.

Motion was made by Board Member Bartlett to accept the Notice of Decision for Site Plan Approval for 344 Randall Road as written. Board Member Jackson seconded the motion, and the motion passed 5-0 with Board Member Zukatynski voting present. Land Use Clerk, Liane Leahy, to obtain signature from Alternate Board Member Roberts and then file the Decision with the Town Clerk.

Board Member Jackson made a motion to accept the meeting minutes of December 12, 2018 as written. Board Member Bartlett seconded the motion, and the motion passed 5-0 with Board Member Zukatynski voting present.

Chairman Ryan informed the Board that a volunteer application was received by Keith Soucy as a potential volunteer to the Board. Chairman Ryan asked Liane to contact Mr. Soucy and invite him to next month's meeting so he could get a feel for what the Board does.

The next meeting is scheduled for Wednesday, February 13, 2019, beginning at 7:00pm. There was no indication of any Board members being unavailable.

Motion was made by Board Member Bartlett to adjourn the meeting. The motion was seconded by Board Member Royer, and the motion passed 5-0. The meeting was adjourned at 8:42pm.

Respectfully submitted by: _____

Liane Leahy, Clerk for Berlin Zoning Board of Appeals