



Belchertown Zoning Board of Appeals

Mark Hebert, Chairman
Brian Gibbons, Vice Chair
Robert Hislop

Robert Vigneault
Jennifer Sharrow



Minutes March 15, 2017

M. Hebert opened the meeting at 6:37 PM. A formal withdrawal has been given to the Board from New England Small Farms Institute regarding their Appeal of the Zoning Enforcements cease and desist order dated September 26, 2016. There will be no public hearing with the Zoning Board of Appeals. M. Grenier, Secretary/Assistant to the Zoning Board of Appeals has asked the Board for a wage increase to a Grade 2 Step 10. Her last increase was in 2010. B. Gibbons moved to approve the wage increase to Mary Grenier Secretary/Assistant to the Zoning Board of Appeals and accepts the Grade 2 Step 10 request due to the last increase in wage was 2010. R. Hislop seconded. All in Favor.
B. Gibbons motioned to close the meeting. Hislop seconded. All in Favor.

The following is the minutes to an Appeal application that was withdrawn by the applicant after four scheduled hearings.

2016-09

December 21, 2016

Upon the written appeal from New England Small Farm Institute, Judy Gillan Founding Director and Clerk, the Board of Appeals held a public hearing on December 21, 2016. M. Hebert opened the meeting and read into record Ms. Gillan's appeal to the September 26, 2016 Belchertown Zoning Enforcement Officer's "cease and desist" letter for an installation and use of a commercial poultry slaughter facility on the property it leases from the State of Massachusetts located at 295 George Hannum Street. In ZEO's opinion this type of use is prohibited at this location by the Town of Belchertown Zoning by-laws. §145-31 of the zoning by-laws sets forth certain noxious or hazardous uses that are prohibited in all zoning districts, and §145-31AA expressly prohibits slaughterhouses. Ms. Gillan believes that the Town of Belchertown has no authority to issue a prohibition in this case as it falls under the definition of 'agriculture'. Ms. Gillan's letter further stated that the proposed facility will serve NESFI as a public purpose demonstration and training site for small scale mobile and/or seasonal poultry processing. M. Hebert read into record the following recommendations from town boards, committees, departments:

Town of Belchertown Planning Board November 14, 2016; *because the appellant contends that the proposed use would be exempt from municipal zoning regulation by being state-owned land, they recommend ZBA seek written guidance from town council to identify the town's standing to exercise zoning for this site.* Town Administrator December 15, 2016; *the Board of Selectman voted to support the cease and desist order issued by the town's Zoning Enforcement Officer with the assistance of Town Council and further encourages the ZBA to do the same.* Belchertown Board of Health Director in a letter to the ZBA dated December 19, 2016; *would like to point out there is an abundance of extraneous information in the appeal filing submitted by New England Small Farms Institute that does not pertain to the matter before the Zoning Board of Appeal. For example, a training manual for a Mobile Poultry Processing Unit (MPPU) was attached. Use of the MPPU is not applicable to Valley Poultry LLC proposal. That is not the type of facility or slaughter permit they are proposing or seeking. New England Small Farms Institute also included a draft application from May 2016 to the State Food Protection Program. Again, the information is peripheral to the Town of Belchertown Zoning By-law appeal before you. But for your edification, you should be aware that many of the proposals in that application with regards to potable water, sewage disposal, and so forth have been rejected by local officials.* Kevin and Diane Goldbarth, 71 Boardman Street, sent a letter of support for NESFI.

M. Hebert then read into record the opinion of Belchertown Town Council, Gregg Corbo of KP Law Boston, MA; this six page letter dated December 15, 2016 gave background facts, agricultural exemptions, educational

exemptions and exemptions to State-owned property. In their opinion *the lease provision strongly suggests that DCAMM did not intend for NESFI to have the advantage of any immunities that may have been available to employees or agents of the Commonwealth. This combined with the commercial, for-profit nature of the Facility, and its lack of educational or agricultural value, leads me to conclude that the facility is subject to Town's Zoning Bylaws.* M. Hebert asked Ms. Gillan if there was anything else she wanted to submit to the Board before the public portion of the hearing began. Ms. Gillan handed the Board a written request asking for a continuance. The Board discussed amongst themselves. B. Gibbons motioned to grant a continuance to Judy Gillan, Founding Director and Clerk for the New England Small Farm Institute. The public hearing for this appeal will be rescheduled for January 18, 2017. R. Hislop seconded. All in Favor.

2016-09

Appeal *continued*

January 18, 2017

R. Vigneault moved to open the Zoning Board of Appeals meeting at 6:35 PM J. Sharrow seconded. All in Favor.

B. Gibbons as acting Chairman read the following new items into record: Letter from Attorney Francis DiLuna filed with the Town Clerk on January 17, 2017 asking on behalf of his client, New England Small Farm Institute, for a continuance of public hearing until February 15, 2017. Mr. DiLuna has another matter to attend to on January 18, 2017. B. Gibbons read into record a signed request by applicant for extension of time. The Appeal shall be extended to no later than March 3, 2017. The Board discussed amongst themselves. J. Sharrow motioned to accept the request for extension of time to applicant Judy Gillan, New England Small Farm Institute. R. Vigneault seconded. All in Favor. B. Gibbons put in record that if by some unforeseen event the February 15, 2017 Public Hearing gets postponed it will be rescheduled before March 2, 2017.

R. Vigneault moved to close meeting. J. Sharrow seconded. All in Favor.


2016-09

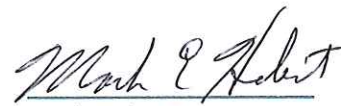
Appeal *continued*

February 15, 2017

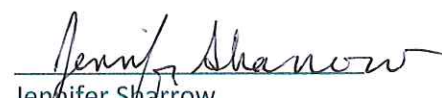
M. Hebert opened the meeting at 6:35 PM. M. Hebert read into record a signed request for extension of time by applicants Attorney, Francis DiLuna. Mr. DiLuna asked that his client (Judy Gillan, New England Small Farm Institute) petition to appeal decision of building inspector be extended no later than 11:55 PM on March 31, 2017. R. Hislop motioned to accept the request by applicant for extension of time no later than March 31, 2017. There was no one in the audience representing New England Small Farm Institute. Board agreed to continue this hearing on March 15, 2017 applicant will be notified. B. Gibbons seconded. All in Favor.

Respectfully Submitted,


Mary Grenier


Mark Hebert


Brian Gibbons


Jennifer Sharrow