

Zoning Board of Appeals – Minutes

August 8, 2024

Location: Town Hall, Moitoza-Petty Hearing Room

Time: 6:00pm to 8:00pm

Board Member Attendees: Antonio Carmo Chairman, Marc Oliveira Member, Meghan Connolly- Member & Sal Botelho Alt Member

Board Member Out: Lucas Tourgee Alt Member- The board had a quorum.

Attendees: Atty. Adam Costa, Atty. Martel Johnson, Ledir & Aminadabe Rodrigues, David & Debra Barwick, Abutters of 11 Babbitt Way & Joe Freitas

Topic	Discussion:
Mail & Minutes:	<p>6:04pm- Antonio Carmo opened up the meeting, introduced himself and the Board members that were present.</p> <p>Meeting Minutes: The meeting minutes from 6/11/24, 6/13/24 & 7/25/24 were reviewed by the Board. M. Oliveira made a motion to accept the minutes as read. M. Connolly seconded.</p> <p>Bills: On 6/18/24 the escrow balance of \$541.76 was paid to Zenith Engineering, Re: Sardinha Family Trust 128+130 Myricks St. Map 23 Lots 4+5, On 7/9/24 Atty. Bobrowski was paid \$300.00 for atty fees, Re: Berkley Meadows Map 20 Lot 72, & On 7/9/24 the escrow balance of \$591.88 was paid to Carl Malloch 120 Padelford St. Map 16 Lot 85.</p> <p>Correspondence: None</p> <p>Chairman Carmo had some questions about members of the Board, re voting. Atty. Adam Costa explained.</p> <p>A motion was made by M. Oliveira to move Reorganization of the Board to the end of the meeting. M. Connolly seconded.</p> <p>No other New Business came in front of the Board at this time.</p>

Ledir Rodrigues &
Oziel Santos-Owner
David Barwick-
applicant 11 Babbitt
Way Map 3 Lot 11
40A Public Hearing

6:10pm- Chairman Antonio Carmo continued the Public Hearing for Ledir Rodrigues & Oziel Santos- Owner David Barwick- Applicant for 11 Babbitt Way Map 3 Lot 11 challenging an administrative decision by the Building Inspector relative to a certain property 11 Babbitt Way, Berkley. Atty. Adam Costa explained what went on in the previous meeting. The Rodrigues did not get notified by certified mail, that is why they did not attend the 1st meeting, so they should have a chance to speak first. He further explained the appeal is of the letter from the Building Inspector and the paperwork that was submitted by Atty. Burke at the last meeting. Chairman Carmo also stated 2 videos and several pictures were submitted to the Board. Mr. Barwick asked the Board if they were able to review the videos, pics, etc. from the past meeting. Some Board members stated they had not, Mr. Barwick then told the Board he was done. Atty. Martel Johnson introduced himself, he represents the Rodrigues Family. He then recited Chapter 61A to the Board. He explained what his clients have: several animals, grow many vegetables, pony rides, horse rides, picnic area, playground for children, milk and cream permit, and food service permit, both issued from the Town. They are only open to the public on weekends. Vacation Bible School visits the farm. He stated many farms across the state operate like this. The appeal is just an attempt, the Barwick's have harassed his clients with wetlands complaints, insinuating food poisoning, signs that they are not welcome, false police reports, harass people going to the farm, they have set up 2 surveillance cameras, hatred has been enduring. They have reached out to the Barwick's but they didn't want to talk. He is asking the Board to stay with the Building Inspector's decision. Mr. Barwick then stated all of this is being done on 3 acres of land. Ray Hoxie of 645 Berkley St. stated the fire department has been called to put fires out, they burn plastic, cardboard, and last wk. it was animal carcasses. They don't have enough vegetables to sell, they were denied a Special Permit and still do everything. Lisa Hoxie of 728 Berkley St. said she is worried about the animals, they are overpopulated, they have been looked into by the MSPCA, they are running a business. Mrs. Barwick said she is against the commercial business they are bringing onto the street. They have a campground with boating, destroyed the wetlands, the Special Permit was denied they are serving lunch it is a commercial business. There is only 10 acres, 5 of it is wetlands and only 3 acres go to growing. Tons of cars, traffic, have changed the neighborhood and just want the commercial activity stopped, she is ok with the farming part, but it needs to go under the rules of agriculture. An owner of a tree service business told the Board he was there to support the Rodrigues' he delivers wood chips to them, they have a beautiful farm, quiet neighborhood, they are not doing stuff in the wetlands, and they are good people. Frank Vaz of 9 Babbitt Way told the Board the biggest problem is the number of people there. There are over 100 cars at times. It would be fine if they just did a zoo and horse riding. Another problem is tons of noise, it is the majority of the day and it disrupts the neighborhood. A lot of traffic all day long on a dead-end street, residential area and he feels someone is going to get hurt. Elaine Hoenigke 2 Old Berkley St. told the Board at the beginning she heard a lot of noise, as far as the signs, people should not live like that. It has gone on for 3yrs, the town officials need to set the precedence. She feels guidelines need to be set, need limits, and everyone needs to work together with respect. Joe Freitas 18 Country Ln told everyone he has been part of the process since the beginning. There were many proposals offered. He is asking the Board to base their decision on the law. This is a new Berkley now. Chairman Carmo then asked Atty. Costa for some guidance for the Board. Atty. Costa reviewed the decision of the Building Inspector, the question for the Board was the Building Inspector's decision right or wrong, he further explained. He told the Board to look for any violations to the By-Laws or State Laws. As far as animal carcasses being burned, wetland destruction, & they are good people the Board is not here to talk about any of that, that is for the other Boards to deal with. He then further explained the Board needs to determine if it is part of the Agricultural Laws: if the primary purpose is commercial agricultural then zoning is exempt and are the complaints commercial agricultural as far as revenue and land use.

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