

The Office of the Zoning Board of Appeals  
THE TOWN OF MERRIMAC  
Massachusetts, 01860

COMMITTEE: ZBA  
MEETING DATE: April 11 2016  
Meeting Place: Merrimac Public Library  
86 West Main Street Merrimac, Ma 01860

Members present: Chairman Josh Jackson, Arthur Amirault, Ed Mills, Elle Janelli , Gordon Broz, Steve Elwell (joined meeting after start)

Members excused: Ron Dandurant

Non Members present: Bob Sinibaldi, Inspectional Services, Philip Parry, Joy Kimball, Leon Smith (residents)

**7:10 PM** Opened the meeting

**7:11 PM**

Arthur Amirault made a motion to approve the March 2016 meeting minutes, Edward Mills 2<sup>nd</sup> the motion. Vote: 4:0

**7:13 PM**

Water Resource Protection District discussion-Attorney Philip Parry will be filing a special permit application this month relating to the issue

**7:15 PM**

Petitioner: Waterhouse Reality Trust 74 East Main Street, Merrimac Ma 01860

This property is located in both the Rural Highway (RH) Zone and the Agricultural Residential Zone (AR). The Petitioner seeks a Special Permit to correct deficiencies in the mapping of the Water Resource Protection District relating to section 14.5.1 of the Merrimac Zoning Bylaw and in accordance with Massachusetts General Law ("G.L.") Chapter 40A, 10, whereby the petitioner seeks to correct a mapping issue. The Board heard information presented by Phillip Parry, Attorney. It is determined that the burden of proof be placed upon the applicant. A professional will need to be engaged to work on the mapping issue as there is confusion with district boundaries. It is necessary to determine where the resource area starts and ends. Dennis Quintal will be working with Waterhouse on this issue. Continued to April 11, 2016.

Petitioner is seeking to withdraw the application without prejudice. Chairman Jackson made the motion to approve the withdrawal, Arthur Amirault 2<sup>nd</sup> the motion Vote: 5:0

## **7:20 PM**

Andy Street, Civil Design Consultants, presented the situation with the property 12 Orchard Street, Merrimac MA.

The Zoning Board of Appeals will hold a public hearing on April 11, 2016 at 7:05PM at the Merrimac Public Library, 86 West Main Street, Merrimac, Massachusetts, under General Laws, Chapter 40A, as amended on the application of Shane Wakeen-Topnotch Homes, LLC, concerning the premises located at 12 Orchard Street, Merrimac, Massachusetts. This property is located in the Village Residential Zone. The Petitioner seeks a variance from Article 4; Section 4.6 and Section 4.6.8 of the Merrimac Zoning Bylaw and in accordance with Massachusetts General Law ("G.L.") Chapter 40A, 10, whereby the petitioner seeks to permit the recently constructed single family homes.

Arthur Amirault was excused due to the fact the property in which he resides is next door to 12 Orchard St. Notice of the Public Hearing scheduled for April 11, 2016 was mailed by first class mail to the petitioner, the abutters of record, and all parties interested as specified in M.G.L. c. 40A, s.11. Legal Notice of a public hearing made on March 24<sup>th</sup> and April 5, 2016, in the Newburyport News announcing the hearing to be held on April 11, 2016 at 7:05 p.m. at the Merrimac Town Library, 86 West Main Street, Merrimac, MA, 01860. The Town Clerk posted notice of the meeting of the Board of Appeals in a timely manner. Public hearings were held as advertised

A petition was filed by Shane Wakeen of Topnotch Homes, LLC, to modify the terms of Merrimac Zoning bylaw for the application of a Variance. The property is located at 12 Orchard Street, Merrimac, MA 01860, in the Village Residential (VR) zoning district. The neighborhood is entirely residential.

Chairman Jackson recognized the applicant's engineer, Andrew Street, P.E. at which time he was given the opportunity to speak about the proposed project. The Petitioner seeks a variance from Article 4; Section 4.6 and Section 4.6.8, according to Merrimac Zoning Bylaws.

Board members reviewed the zoning bylaw, the plans and all material provided to them.

All those interested were given the opportunity to be heard either in favor or in opposition to the petition. Gordon Broz made a motion, to grant the petitioner a variance under Article 4; Section 4.6 and Section 4.6.8 to exceed the 25 foot maximum front yard setback and allow the home to be set back from the road to its present location of 55.1 feet from the front yard boundary utilizing Section 25.13.1.2 stating desirable relief may be granted without substantial detriment to the public good. This variance also does not nullify nor substantially derogate from the intent of purpose of the Bylaw.

Ed Mills seconded the motion made by Gordon Broz. The Board voted 5 votes in favor with no dissenting votes. Arthur Amirault sustained

## **8:00 PM**

Meeting Adjourned Chairman Jackson make a motion to adjourn the meeting, Gordon Broz 2<sup>nd</sup> the motion.