

Meeting Minutes, Zoning Board of Appeals
Town of Whately, MA
March 2, 2023
Remote Meeting via Zoom

Members Present: Debra Carney, Kristin Vevon, Fred Orloski
Members Absent: Bob Smith, Roger Lipton

Attending:
Kathryn Poole
Leah and George Gay
Richard Korpiewski

At 6:40 Acting Chair Debra Carney opened the meeting.

PUBLIC HEARING: Application by Kathryn Poole for a special permit to relocate her hair salon from Hatfield to premises located at 3B State Rd. and owned by George Gay of Hatfield.

The secretary read the legal notice. The applicant said that it was accurate with one exception: the current hair salon is not located in Hatfield, where the applicant lives, but in Amherst. At the start of the hearing it was unclear whether the applicant really needed a special permit to open her hair salon, since this use is allowed by right in the Commercial District. Acting Chair Debra Carney shared the zoning map on her screen to show the Commercial District location. The building in question is the former Gay's Package Store, and both Ms. Poole and property owners Leah and George Gay agreed that the building is probably in that district, with Ms. Poole saying that the building is four houses into the town of Whately from the Hatfield line.

Debra asked whether anyone else in attendance had information on the project. Abutter Richard Korpiewski stated that the building is in the Commercial District, adding that he welcomes a salon as a great use for the property. He said his only concern involves hazardous materials, since wetlands and bulk wells are within 100 ft of the property. He would like information on chemicals to be used, and on the septic system and how it will handle the waste. Debra pointed out that even if a Special Permit were not needed, the Board would still have to address this concern.

At this point, Fred Orloski called attention to page 73 of the current Zoning Bylaws (171-28.4 AQUIFER PROTECTION DISTRICT (Added 4-25-2006 ATM, Article 10), page 75 (E. Prohibited Uses), and page 76 (paragraph (k) hairdressing and beauty salons). He explained that the planned use is prohibited on any property located in the Aquifer Overlay District.

On her shared screen, Debra pointed out Zone 2 of the Aquifer Overlay District and stated that if the building is located *there*, then the use is prohibited, noting that "prohibited" is the strongest word in the

bylaws and leaves no “wobble room”. The Gays verified that the building is located in the Aquifer Overlay District. It was suggested that the situation might be mitigated by 1) determining whether the waste is really classified as hazardous and 2) possibly containing the waste in an acceptable way. Richard Korpiewski asked whether Hatfield has a town sewer system and whether using that might help; Leah Gay answered that Hatfield is installing one but won’t let Whately use it. Debra mentioned that it was Ms. Poole’s right to hire an attorney to argue a case based on one of these ideas or a different one, but warned that since the bylaw prohibited the salons outright, with no additional language, there was not much chance of success. Ms. Poole agreed that such an approach was likely only to add to the cost of the project without solving the problem. She said that although she loved the site, she accepted that it does not work for her plans. She told Debra to go ahead and reach a decision with the board.

Debra moved to close the public comment portion of the hearing and Fred seconded the motion. Debra moved to deny the permit and the motion was seconded. Debra, Fred, and Kristin each voted Yes, and the permit was denied unanimously.

Minutes of November 3, 2022

Fred and Kristin each voted to approve. Debra was absent from the meeting and did not vote.

Minutes of November 17, 2022

Debra suggested three typo corrections; Fred and Kristin approved them. Debra will send the revised version to the entire board. Approval of these minutes was postponed to allow for further review, and will be revisited at the next meeting.

The secretary noted that a Special Permit application has been received for the April meeting; all three members present are available to hear it on April 6.

At 7:26 pm Debra moved to adjourn; Fred seconded the motion and the meeting was adjourned.

Documents Reviewed (kept in the ZBA files)

1. A design dated 2/20/2023 showing the planned interior of an existing building located at 3B State Road.

Mary C. McCarthy
Secretary,
Zoning Board of Appeals and Planning Board
Town of Whately, MA