

Zoning Board of Appeals
Minutes of Meeting 2/12/2009
Oak Bluffs Town Hall Building Department Office

Members present: Kris Chvatal, Chairman, Gail Barmakian, George Warren

Also present: Associate Members Joseph Re & Peter Palches. Adam Wilson, Zoning Administrator & ZBA Clerk. Attorney Dan Larkosh.

The meeting began at 6:12 pm. Adam gave everyone a copy of the Rolde decision from last Thursday's meeting. Board members took the time to read the decision.

Kris asked if prior minutes of meetings could be approved.

George made a motion to approve the minutes from December 18th. Joe seconded.

The board voted 5 – 0 to approve minutes from 12/18/08.

Gail asked to abstain from the minutes of the last meeting of that night pertaining to Nasser since she recused herself from the meeting as an abutter.

Kris asked for approval of the January 15th meeting's minutes. Gail asked for another week to review.

Board members agreed to wait until the Board's 2/19 meeting to consider approval of minutes from 1/15. 1/15 was held off.

Joe made a motion to approve the minutes of February 5th as presented. George seconded.

-Peter asked questions of the minutes that would be appended to the Rolde decision. He stated he was confused about Attorney Larkosh's statements regarding the two options to pursue on the future of the space above the Caldon's garage. Peter thought it was not clear about what documents were in the binder given to Board Members by Attorney Tomassian.

-Peter read the statement about the space not being an independent living facility because it had no refrigerator or cooking facilities. Peter thought the attorney asked that question instead of making it as a statement.

Board members discussed the statements made by the attorneys. Peter asked about Attorney Tomassian's statement that the structure was not a 2nd dwelling. Kris said a prior hearing determined it was not. Peter said the definition of living quarters vs. habitable space was another concept that Peter asked Skip to explain and he didn't.

-Peter asked about the court reporter's transcript as being part of the record. Kris said that the minutes approved will be the official document. Gail said there is a possibility the court could enter into the record at trial the reporter's document that was privately paid for but it has no bearing on what the Board is approving for the record.

-Kris asked for a change in his findings that the ceiling height in the 2nd floor area was "approximately" 8 feet. Board members, by consensus, agreed to the wording change.

-The Board made other minor changes in how questions were asked by counsel in the minutes.

-Since the minutes had been changed, Joe withdrew his motion and George his second.

Peter made a motion to approve the minutes of February 5th as amended. Gail seconded.

The Board voted 5 – 0 to approve the minutes from 2/5/09 as amended.

-The Board moved onto the Rolde decision. Peter asked where the decision came from. Adam said he prepared the decision with the help of Town Counsel. Kris asked that the one change be included on the approximate ceiling height. Kris asked if anyone had any concerns over the decision as written. Gail, Joe and George said it was fine. Peter said the specific findings were fine and trusted counsel on the report of what had happened previously.

-The Board went through the decision page by page to clarify each section and the term “garage/bedroom.” Kris said the decision to revert the matter back to the Building Inspector for enforcement has to do with the accessory structure having habitable space in the Coastal District, which is not allowed. The Board chose not to go near the local zoning regulations regarding guest apartments or detached bedrooms because they didn’t need to.

Joe made a motion to approve the decision of February 5th as amended. George seconded.

The Board voted 5 – 0 to approve the 2/5/09 Rolde decision.

-Board members signed the two copies.

-Peter asked what the status was for Bradley Square. Kris said the Commission will come to some kind of decision by February 19th. Once the decision is delivered back to the Building Department, the clock will start again as to when the Board will meet with them.

George made a motion to end the meeting. Gail seconded.**The Board voted 5 – 0 to adjourn**

The meeting ended at 7:15 pm.