

TOWN OF PLYMPTON
ZONING BOARD OF APPEALS

Meeting Minutes

Date: December 18, 2018

Meeting Purpose:

- Public Hearing pursuant to the Order for Remand issued in the action styled Beliveau et al. v. Town of Plympton Zoning Board of Appeals Kenneth A. Thompson Commissioner, et al., Plymouth Superior Court C.A. Number 1783 CV 0106 on an application for an Appeal filed by Gene Beliveau of PCP Trust, LLC, relative to the parcel located at 0 Winnetuxet Road [Map 21, Lot 1-24]. Mr. Beliveau is appealing the May 4, 2017 Cease and Desist Order issued by the Town of Plympton Zoning Enforcement Officer ordering Mr. Beliveau to cease and desist using the said 0 Winnetuxet Road as a contractor's yard and site of commercial vehicle storage in connection with the business of Plymouth County Paving, LLC and
- Administrative matters: minutes and scheduling

Members present: Ken Thompson-chairman, Dave Alberti-secretary & Harry Weikel-member.

Others present: Robin Stein (Town Counsel, KP Law)

ZBA Meeting (opened at 5:03 pm)

The Chair opened the meeting.

Public Hearing: 0 Winnetuxet Road

Dave Alberti read the hearing notice to open the public hearing on Mr. Beliveau's appeal. The Chair explained the history of the application and Mr. Beliveau's concern with the Board's October 2, 2017 decision which is being appealed by Mr. Beliveau in the Superior Court case as it relates to forestry activity on the property. The Chair noted that Mr. Beliveau and the Board had, through counsel, discussed potential changes to the Boards' prior decision on the application so as to address Beliveau's concerns and resolve the court case.

Counsel explained that the purpose of the hearing is to reconsider the information that was before the Board at the initial hearing on Mr. Beliveau's appeal and any additional information from Mr. Beliveau and the public that may warrant the Board issuing a new decision.

The Board solicited comments and questions from the Applicant and members of the public.

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Mr. Beliveau and Board discussed specific equipment that Mr. Beliveau uses in relation to the forestry activities on the Property and the need to temporary store asphalt on the Property until that asphalt can be recycled. The specific equipment is as follows:

Komatsu Frontend Loader, Cat 410 Backhoe, Samsung Frontend Loader, GEHL Skid Steer, International 6 Wheel Dump Truck, Ford 650 Flat Bed, Sterling 6 Wheel Dump Truck and F350 Utility Truck.

The Board and Mr. Beliveau further discussed Mr. Beliveau keeping on the Property said equipment related to forestry activities on the Property so long as the equipment is stored in or behind the long metal structure on the Property and is not visible from any way or abutting property and that that Mr. Beliveau would be able to replace said equipment over time with comparable equipment but not increase the amount of equipment. The Board and Mr. Beliveau also discussed allowing Mr. Beliveau to temporarily store asphalt shards awaiting recycling on the Property behind said long metal structure and in a place that is not visible from any way.

One member of the public inquired about the size of the flatbed truck. There was no other public comment.

Counsel noted minor changes in the proposed draft decision following remand that the Board had reviewed and those changes were acceptable to the Board.

The Board voted unanimously to close the public hearing and then following deliberations voted unanimously based on the findings of fact and determinations contained in the draft decision, with the changes noted by counsel, as follows:

To reaffirm the Zoning Enforcement Officer's May 4, 2017 Cease and Desist Order regarding the use of the property located at 0 Winnetuxet Road (Assessors map 21, Lot 1-24), for Contractor's Yard purposes, provided, however, that the Appellant may keep more than three but less than ten commercial vehicles on the property in accordance with the terms of the Special Permit granted by the Board. The Appellant may also keep the following equipment related to Appellant's forestry activities on the Property so long as the equipment is stored in or behind the long metal structure on the Property and is not visible from any way or abutting property:

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Komatsu Frontend Loader, Cat 410 Backhoe, Samsung Frontend Loader, GEHL Skid Steer, International 6 Wheel Dump Truck, Ford 650 Flat Bed, Sterling 6 Wheel Dump Truck and F350 Utility Truck.

Appellant may replace said equipment over time with comparable equipment but may not increase the amount of equipment. Appellant may also temporarily store on the Property behind said long metal structure and in a place that is not visible from any way asphalt shards awaiting recycling.

The Board then voted unanimously to appoint the Chair to finalize and file the decision with Counsel.

Administrative Matters

The Board discussed the need, if any, to schedule a next meeting and determined it did not currently need to schedule a next meeting.

The Board identified outstanding minutes that need to be put on the Agenda for the Board's next meeting for review and approval and counsel provided the members with drafts of those minutes.

At 5:38 p.m. the Board voted unanimously to adjourn.