



**Office of
Kingston Board of Appeals**

Town House
26 Evergreen Street
Kingston, MA 02364

**BUSINESS MEETING MINUTES
ZONING BOARD OF APPEALS
October 21, 2009**

MEMBERS PRESENT: John Haas, George Boerger, Paul Dahlen, Carl Pike, and George McAdams, David Rose OTHERS PRESENT: Paul Armstrong, Zoning Enforcement Officer

Meeting opened at 7:30 pm by Chairman Haas.

7:30 O'Brien – Review of Zoning Enforcement Officer Decision and Variance. Mr. Rose read the public hearing notice. Mr. Dahlen recused himself for this hearing and Mr. McAdams was appointed a full member. Mr. William O'Brien and Mary O'Brien were present for the hearing. Mr. O'Brien stated that he purchased the property at 18 Brook Street in 1983. In 1987 he bought a pair of oxen. At that time there was no shed or pen to house the oxen. In November he built a temporary shed and pen and the animals were then housed there. He explained that he was in the process of renovating the house and did not move in until 1991. During that time the animals had been there for the four years and he would come to the property and care for them. At one time there were four animals on the land. Currently, the oxen are located in the back of the property and are housed in a barn. There were issues with conservation in the back of the property. Mr. O'Brien stated that they are pets/working animals and there have been oxen located on the property for 22 years. He stated that there were never any problems until about a year ago. Mr. Haas read letters from Paul Armstrong dated July 13, 2009 and September 4, 2009.

Mr. Armstrong stated that the applicant will require a Variance for relief from the setbacks. The Zoning by-laws were discussed. Mr. Armstrong stated that under previous Zoning by-laws livestock farming in the subject zoning district required a Special Permit.

The By-Laws were further discussed and reviewed, reference was made to 4.4.2.1.b and 6.7.1.1b. Section 5.0, required that there be an additional acre for each horse, cow, or other large animal. Section 5.0 requires a minimum lot size of 0.46 acres in an R20 district. To keep the current two large oxen, the required lot size would be 2.46 acres.

Mr. Haas asked if members of the public wanted to speak. Steve Eamond owns 15 and 20 Brook Street stated that he has put up with the animals going in his yard. They rip

branches off trees and stomp the ground. He stated that they have created conservation problems and they are an incredible nuisance. He stated the animals get loose approximately 5 times a year and has caused traffic problems.

Peg Cohens, an abutter across the street, stated that she feels this is a dangerous situation. They have been in the back yard and have caused fear to her son and daughter. She is concerned about the abutting school and traffic as well

Sheila Bryant, 16 Brook Street, has lived there since 1960 and is the abutter closest to the property. She stated that she has no problem with the oxen and the few times they have gotten loose in her yard, she has been able to easily return them to the pen.

Susan Richards of 22 Brook Street, provided information and photos of damage done by the oxen. In July, they got loose and were doing circles in her yard. Mr. O'Brien was there and could not maintain control of them. She is fearful for her daughter.

Mr. Armstrong provided a copy of a police report from a July 11 incident.

Mr. O'Brien stated that he has made efforts to install a better barrier and has made inquiries about installing a guard rail, but has not yet done so.

The criteria for issuing a Variance was discussed. The Board felt that this request does not meet the criteria.

There were discussions concerning whether the oxen could be considered tamed, domestic animals. Mr. O'Brien stated that the oxen are male, castrated steers and are working steer and because the oxen are castrated, they are considered domestic and tame.

Mr. Boerger moved to close the hearing. Mr. Pike seconded. The vote carried unanimously. Mr. Boerger moved to instruct the clerk to prepare a decision upholding the Zoning Enforcement Officers decision and denying the applicants request for a Variance. Mr. Pike seconded. The vote carried unanimously.

8:30 General Business

Mr. Dahlen returned to the Board.

The minutes of 10/7/09 were reviewed. Mr. Boerger moved to accept the minutes. Mr. McAdams seconded. Mr. Rose and Mr. Pike abstained. The vote carried unanimously.

It was unanimously voted to adjourn the meeting at 8:34 pm.