

Heath ZBA Meeting Minutes

August 21, 2024

18 Jacobs Rd, Heath, MA 01346

Present: Alice Wozniak, Steven Thane, Alanson Nichols & Dena Briggs

Others Present: none

Call to Order: 6:30 PM

Minutes: Steve motioned and Alan seconded acceptance of minutes of July 10, 2024 meeting as amended.

Discussion:

There was a lot of discussion around definitions of “frontage”, “public way”, “statutory private way” as well as how the zoning laws and bylaws of Heath have changed throughout history, when the lot owned by Adam Williams was established, and which laws, codes, regulations and bylaws actually are pertinent and applicable to the building permit issued and currently under appeal.

We batted around the topics and language listed below:

Private Roads vs. Statutory Private Road differences – no public access vs. public access, but no maintenance from town

Under 40A, Section 6 building code – if lot was created prior to zoning under 40A, Section 6, as long as it has 50 ft of frontage and 5000 sqft, it is a grandfathered building lot. Discussion around determining when this lot was established.

If we decide the property is not a legal building lot, then the lot is unbuildable until the Planning Board changes the bylaws regarding building on a statutory private road.

Permit was incomplete. It did not include frontage.

It was decided that the Planning Board needs to clean up the definitions within the zoning bylaws.

Using the letter from FRCOG, we believe the frontage on the lot was legal for a building permit prior to 1989 when the zoning law changed adding “public” to the requirement for road frontage. Based on 40A, Section 6 is grandfathered as it was a lot prior to 1989 and meets those requirements.

Before we can make a decision, we need an extension / continuation beyond the 100 days allowed and will send a letter to attorney Pill requesting the extension.

There is a land court ruling in 1972, land court plan 36929A, which is on the opposite side of Vincent Rd from Adam Williams land shows Vincent Rd as a public way.

The land court recorded plan from 1972 shows Vincent Rd as a public Rd.

We need to study the changes to the zoning laws and bylaws and determine which laws and codes apply before ruling.

ACTION ITEMS:

- Dena will draft a request for an extension for Alice to send
- Alice and Steve will locate the Zoning Bylaws from 1979 and 1989 and 2006 and anything in between.
- Steve will get the ATM minutes from May 2006

NEXT MEETING: Sept 4, 2024 at 6:30pm, 18 Jacobs Rd, Heath, MA

Dena motioned to adjourn and Alanson seconded. Motion carried.

Meeting adjourned at 9:08pm.