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**Scituate Zoning Board of Appeals  
Meeting Minutes  
December 21, 2017**

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The Scituate Zoning Board of Appeals held a public hearing on December 21, 2017 at the Scituate Town Hall located at 600 Chief Justice Cushing Highway, Scituate. The meeting was called to order at 7:00 P.M.

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**Present:** Sara Trezise, Ed Tibbetts and Anthony Bucchere.

**Also Present:** Bob Vogel, Building Commissioner and ZEO.

**First Application:** 14 & 16 Old Country Way, LLC of 14 and 16 Old Country Way, Scituate, MA requests a Finding in accordance with Scituate Zoning Bylaw Sections 820 and 950.2D, 520 and M.G.L. Chapter 40A, Section 6, and/or such other relief which the Board of Appeals may grant to change, extend or alter the pre-existing, nonconforming use of the maximum impervious area at **14-16 Old Country Way, Scituate, MA (Assessor's Map 49, Block 2, Parcels 56 & 57)** which presently contains two separate single family dwellings and accessory structures, to a use which will not be substantially more detrimental to the neighborhood and which will contain less impervious area and two buildings containing allowable commercial uses in the business and the water resource protection overlay zoning districts.

The Applicant requested to continue the hearing until the February 15, 2018 meeting per a letter dated December 21, 2017 (see file).

**Mr. Tibbetts moved to allow the Applicant to continue the hearing to the February 15, 2018 meeting, seconded by Mr. Bucchere. All in favor, unanimous.**

**Second Application:** Attorney Frank Middleton, Jr. of 80 Washington Street, Suite C-20, Norwell, MA as the Attorney for Theresa A. Neilson of 106 Stockbridge Road, Scituate, MA requests an appeal of permitted use at 167 Driftway (sic) 161 Driftway, Scituate, MA (Assessor's Map 59, Block 1, Parcel 2C) for enforcement under M.G.L Chapter 40A, Section 7 and Scituate Zoning Bylaw Sections 490 and 450.3.

Representing the Applicant: Attorney Frank Middleton.

Attorney Middleton reviewed documents submitted with the application and referenced a petition with signatures from individuals claiming to be the "Driftway Environmental Group". Mr. Middleton stated his opinion that the ZBA needs to interpret the intention of the Scituate

Zoning Bylaw Section 490 and provided a letter to assist with the interpretation as drafted by Jim Hunt, former member of the Planning Board. Extensive additional review of SZB sections 300 and 490 followed. Mr. Middleton stated his opinion that the Board should apply the same common sense used by the courts in the interpretation of the bylaws while noting the response of the ZEO as "overly simplistic". Fires have resulted from combustible materials. Two million gallons of water over a period of five years were used to extinguish said fires. Additionally, firewood is being sold on site and a trailer on stilts is kept on site. Both are outside the terms of the lease. D.E.P. regulations have been violated. Piles of mulch are far in excess of 30'.

Mr. Middleton requested "enforcement of the bylaw".

Ms. Trezise stated Mrs. Neilson is not an abutter to the property.

Mr. Middleton replied she has a legal right on behalf of the Driftway Environmental Group.

Mr. Bucchere explained in order to have standing one needs to be an aggrieved abutter.

Ms. Trezise noted that Mrs. Neilson filed the application. She is the Applicant, but she is not an abutter. Not a singular legal interest had been articulated.

Mr. Bucchere addressed the complaints cited by the Applicant and explained if there is any violation of the existing lease; the Applicant may be better served contacting the Board of Selectmen. The ZBA has no jurisdiction over the stated complaints. The principal use does not violate SZB.

The meeting was opened for public comment.

Paul Neilson of 106 Stockbridge Road stated his intention to sue the Town and Go Green.

Theresa Neilson of 106 Stockbridge Road stated her ill will toward Mr. Lopes.

Christine Neilson of 106 Stockbridge Road claimed the ZBA was biased.

The Board stated their objections at the suggestion of bias and explained "standing" is a legal issue. The very serious disagreement between the Applicant and Mr. Lopes was noted and well documented by the SPD.

Louise Benning of 74 Collier Road stated her belief this was a personal dispute.

Mike Benning of 74 Collier Road stated his belief there are no zoning violations.

Mark MacEavor of 151 Driftway shared his family's experience of not being able to open their windows because of the debris and smell of Mr. Lopes business. Gutters are clogged, and concern regarding the height of materials piles was stated. Further, heavy traffic from landscapers and residents creates safety hazards during spring and fall.

Russ Pollen of 24 Vinal Avenue appreciates the service provided by Go Green.

Gerry Kelly of 56 Moorland Road considers his property that of a "constructive abutter" as his property is separated only by the marsh and asks to be treated as such.

Edward and Lorraine Covell of 45 Gilson Road asked the ZBA to consider the non-permitted businesses Mr. Lopes is operating on site and object to the location of the business.

Larry Howell asked who is responsible for the enforcement of the lease and believes it is appropriate to pursue enforcement of the lease.

The Board suggested neighbors contact the Board of Selectmen and the Town Administrator regarding the valid concerns raised. The Town has the right to enforce the lease if it is determined there has been a violation of the terms. The issues raised may be valid concerns, but do not constitute a zoning enforcement violation. The Board has no jurisdiction over the complaints expressed.

**Ms. Trezise moved to find the Applicant has no standing. Motion seconded by Mr. Tibbetts. All in favor, unanimous.**

**Ms. Trezise moved to deny the appeal and to support the ZEO's position. Motion seconded by Mr. Bucchere. All in favor, unanimous.**

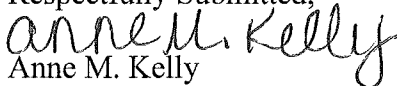
Minutes presented for approval.

**Mr. Tibbetts moved to accept November 15, 2017 minutes as emailed. Motion seconded by Ms. Trezise. All in favor, unanimous.**

**Mr. Tibbetts moved to adjourn. Motion seconded by Mr. Bucchere. All in favor, unanimous.**

Meeting adjourned at 10:00pm.

Respectfully Submitted,

  
Anne M. Kelly