

Town of Millbury Board of Appeals

Ken Perro, (Chairman)
Daniel Mezynski, (Vice Chairman)
Robert Simmarano, (Clerk)
Harold Proodian
Michael Georges
Adam Kobel (Alternate Member)



RECEIVED
TOWN CLERK
2021 APR -7 PM 12:55
MILLBURY, MASS.
MUNICIPAL OFFICE BUILDING
127 ELM STREET
MILLBURY, MA 01527

Meeting Minutes Wednesday, January 13, 2021 7:00 pm

Due to the COVID-19 pandemic and associated State of Emergency, the Municipal Office Building was closed to the public. This meeting was being recorded and streamed by Millbury Public Access Cable Television. This meeting was also available through Zoom.us/download. <https://zoom.us/j/83116009468> - ID# 831 1600 9468
One tap mobile; +1-929 205 6099,,83116009468# or +1-301 715 8592,,83116009468#
Anyone that was interested in participating through Zoom.us/download was informed to state their name and address before speaking.

Board Members Present: Ken Perro (Chairman), Daniel Mezynski (Vice Chairman), Robert Simmarano (Clerk) Michael Georges, Harold Proodian and Adam Kobel (Alternate).

Welcome Adam Kobel: Board members welcomed new member to the Millbury Board of Appeals Adam Kobel as the Millbury Board of Appeals Alternate.

Roll Call: Due to the COVID-19 pandemic and associated State of Emergency this meeting was held through Zoom, For the record a roll call was taken by Chairman Ken Perro asked each member to confirm their presence with an (I); **Daniel Mezynski (I), Robert Simmarano (I), Michael Georges (I), Harold Proodian (I) and Ken Perro (I).**

7:15 PM: – First Hearing: Michael & Awilda Morgan for the property located at 151 Riverlin Street, Millbury
Michael & Awilda Morgan has a newly installed vinyl fence which is in violation of the Millbury Zoning Bylaws **Section 35.7 Fences** which does not permit any fence, hedge, shrub vegetation within 20-feet of any street property line in excess of 30-inches tall. The entire white scalloped design picket fence and portion of the right side stockade fence are in excess of 30-inches height threshold and within 20-feet from the street property line along Riverlin Street based on the survey markers installed. In order to be allowed to continue the fence to exceed the 30-inch threshold within 20-feet will require a Special Use Permit as allowed under **Section 35.7 Fences.**

The Morgan's explained to the board that they do have an existing white vinyl fence on their property in their front yard but was not aware that it was out of code until Inspector Stringham informed them of the 20-foot provision, they are there in front of the board seeking a Special Use Permit for the fence to be 20-feet from the road and more than 30 inches high. Ken Perro informed the applicant that the fence that was installed is within 20 feet of street property line in excess of 30 inches the Millbury Zoning Bylaws **Section 35.7 fences** is 30 inches in height.

Currently half of the see through fence is within 20 feet of the street and the half is not however the fence is completely on the property and the fence height is made up of 4-foot panels.

The front line of the fence that is parallel to Riverlin Street is not in the right of way view, this section is on the property and the owner had it surveyed; the side fence that goes along the neighbors property is also within the property line.

The Morgan's are in front of the board seeking relief the 30 inch excess at the front of the fence.

Abutter: Andrea Parquette of 6 Riverlin Parkway had concerns for the fence, she shares a 44 foot right of way with the Morgan's and feels the fence causes an obstruction of view however that had nothing to do with the Zoning Bylaw, but she did wanted to be present at the hearing.

After asking if there was anyone else present who had any further questions; (and there wasn't) Ken Perro then entertained a motion to close the public hearing.

Harold Proodian entertained the motion to close the public hearing second by **Michael Georges** all members were in favor and voted unanimously 5 – 0.

Roll Call to close the public hearing: Harold Proodian (I), Michael Georges (I), Robert Simmarano (I), Daniel Mezynski (I) and Ken Perro (I) carried unanimously 5 – 0.

After further discussion between board members and Paul Stringham;

WWW.MILLBURY-MA.ORG

A Motion was made by; **Michael Georges**, second by **Harold Proodian** to approve a Special Use Permit for Michael & Awilda Morgan of 151 Riverlin St., Millbury, MA 01527 for the property located at 151 Riverlin St., Millbury, Ma, Map# 30, Lot# 110, Residential – III Zoning District Duly Recorded with the Worcester Country Registry of Deeds Book# 60983, Page# 2 with the Millbury Zoning Bylaws Section 35.7 fences.

To allow in excess of thirty (30) inches high not to exceed four (4) feet high along Riverlin Street within the twenty (20) feet setback within Riverlin Street, Pursuant to the Town of Millbury bylaws section 35.7 fences.

Any further modifications to the existing fence must be brought to the attention of the zoning enforcement officer and building inspector pursuant to the administrative portion of the building permit and as the building inspectors sole option and discretion can advise the applicant to seek further review from the Millbury Board of Appeals

The Special Use Permit has been Approved by the Millbury Board of Appeals under MGL Chapter 40a under the Millbury Zoning Bylaws to/for the property at 151 Riverlin St., Millbury, Ma Map# 30, Lot# 110, Residential – III Zoning District, Duly Recorded in the Worcester County Registry of Deeds in Book# 60983, Page# 2.

Roll Call Initiated by Ken Perro (Chairman);

Daniel Mezynski (I), Robert Simmarano (I), Harold Proodian (I), Michael Georges (I) and Ken Perro (I);
Carried Unanimously 5 – 0.

7:35 PM: – Second Hearing: Douglas & Susan Combs for the property located at 70 South Oxford Road, Millbury

The property located at 70 South Oxford Road is located within a Suburban-I District and within a Water Aquifer Protection Overlay District (WAPOD-B). This lot has a single family structure that was in existence prior to adoption of Millbury Zoning Bylaws in 1957 thereby it is a legal pre-existing non-conforming parcel of land. It did contain min of 50-feet of frontage and at least 5,000-sqft of land area at the time of adoption. Based on the proposed project it will increase the number of bedrooms from three (3) to four (4) bedrooms and increase the general overall foot print and living space available. Reconstruction does not meet the requirement under Section 16.33 Restoration, in accordance with M.G.L ch. 40A ss 6 and Section 13.32, the proposed change on the legal non-conforming lot of land will require a Special Use Permit and Finding by the Board of Appeals in order to be issued a Building Permit in accordance with Section 12.2 and Mass State Building Code 780CMR. Zachery Gless of Existing Grade Inc. Land Surveyors – Civil Engineer of 62 Riedell Road, Douglas, Mass representing Douglas and Susan Combs explained to the board that the existing lot for 70 South Oxford Road, assessors map 88 parcel 22, it is a pre-existing non-conforming lot both in area and frontage; plans were submitted to Paul Stringham for a zoning determination, he was in agreement that the lot pre-dates the zoning bylaws in town, the lot lies in a suburban zoning I district as well as an Aquifer Overlay Protection District, the intent of the proposed site plan is to raise the existing structure at 70 South Oxford which is in very rough shape and at this point there really is no reason to try and rehab the existing structure at this point would be best to completely tear down the structure and put a new 28' x 40' four bedroom house with an attached 24' x 26' two car garage with a subsequent new well and septic system, the lot in non-conforming the design of the proposed structure meets all the current zoning setbacks for the suburban – I district however the lot doesn't have the required lot and frontage area, to address any storm water runoff and mitigation they are going to have a Caltech system to infiltrate the roof runoff as well as put a one foot by one foot gravel drip edge along the two sides of the driveway in order to catch and infiltrate an treat that water the best that we can with what we're working with.

Ken Perro asked each board member is they had any further questions for Mr. Gless; lot size, frontage were all in some question however all board members were in agreement that what Zachery Gless is proposing to build is far better than what already exists on the property.

Abutter: Nicholas Riani of 72 South Oxford Road had a concern with the surveying of the property and if it would be OK if he could have his own surveyors come in and do a measurement before construction begins, he is under the impression that a stake was placed 15 feet into what he thought was his property line. Ken informed Mr. Riani that if he feels that there could be a discrepancy that he could hire his own surveyors to verify that it is correct, if it's not correct that Mr. Gless is the engineer that's speaking on behalf of the applicant he's probably the surveyor or he hired someone to survey; Mr. Gless informed that HS&T is the surveyor that came out and did the property line surveying for them. Ken Perro informed that Mr. Riani can hire his own surveyor, obviously not HS&T.

Ken Perro then asked if there was anyone in the public that wanted to speak and there was not with that Ken Perro entertained a motion to close the public hearing;

Daniel Mezynski entertained to close the public hearing second by **Robert Simmarano** carried unanimously 5 – 0.

Roll Call to close the public hearing: Michael Georges (I), Harold Proodian (I), Robert Simmarano (I), Daniel Mezynski (I) and Ken Perro (I) carried unanimously 5 – 0.

After further discussion between board members;

A Motion was made by; **Michael Georges**, second by **Daniel Mezynski** to approve a Special Use Permit & Finding to Contractor Doug Lebel for the owners Douglas Lee & Susan G. Combs for 70 S. Oxford Rd., Millbury, MA 01527 for the property located at 70 S. Oxford Rd., Millbury, Ma, Map# 88, Lot# 22, Suburban – I (AWPO-B) Zoning District Duly Recorded with the Worcester Country Registry of Deeds Book# 6453, Page# 308 with the Millbury Zoning Bylaws Section 16.33 restoration in accordance with MGL Chapter 40a ss 6 and Section 13.32.

To demo an existing 3 bedroom structure and construct a new four (4) bedroom single dwelling structure with an attached 24-foot by 26-foot attached two car garage, driveway, septic system and well. Specifically finding the lot is a pre-existing non-conforming lot in an AWPO-B zoning district both area and frontage which predates the adoption of the Millbury Zoning Bylaws in 1957. Pursuant to a proposed site septic plan as drawn up by Zachery Gless of Existing Grade, Inc of 62 Riedell Rd., Douglas, Ma date September 9th, 2020.

The Special Use Permit and Finding has been Approved by the Millbury Board of Appeals under MGL Chapter 40a under the Millbury Zoning Bylaws to/for the property at 70 S. Oxford Rd., Millbury, Ma Map# 88, Lot# 22, Suburban – I AWPO-B Zoning District, Duly Recorded in the Worcester County Registry of Deeds in Book# 6453, Page# 308.

Roll Call Initiated by (Chairman) Ken Perro:

Harold Proodian (I), Robert Simmarano (I), Daniel Mezynski (I), Michael Georges (I) and Ken Perro (I);
Carried Unanimously 5 – 0.

8:05 PM: – Third Hearing: Thomas & Gayle Ohman for the property located at 16 Linda Ave., Millbury

The referenced property is located in a Suburban –IV Zoning District, the structure was constructed around 1955 this lot pre-dates adoption of Millbury Zoning Bylaws in 1957 and has legal non-conforming protection rights. This lot was created under a Subdivision Plan that was approved on 4-7-1954 and is Builders Lot 14. At the time of the adoption of the bylaw this lot contained the required minimum of 50-ft of frontage along a public was and contained in excess of the minimum of 5,000-sqft of land area but does not comply with the current requirements of this district. The existing house has a 6'x 6' porch that encroaches into the required front yard setback area and is 21.2 feet from Linda Ave. property line, the proposed new addition will be +/- 15.2feet more or less.

Thomas Ohman who resides at 8 Vineland Street, Worcester explained to the board that he there to request a Special Use Permit to build a 12'x 26' addition at the property located at 16 Linda Ave. Mr. Ohman pointed out that Paul Stringham thought it would be best to apply for a Special Use Permit to allow an addition to breach the setback area on the frontage, Ken Perro explained because it is a corner lot the side is considered frontage, the setback is 25 feet and it follows through all the way down and around the corner, unfortunately this is a corner lot where side setbacks are usually 10 feet, 8 feet or 5 feet.

Ken then asked board members if they had any further questions; (None of the board members had any questions)

Ken Perro wanted to make clear that the applicant was going to remove the 6'x 6' porch that encroaches into the setback already and on the same side of the building you're going to build 12'x 26' addition (Mr. Ohman noted: and that will bring it about 15-feet from the property line) encroaching into the required front yard setback area about 12.2-feet (that's Mr. Stringhams determination), the board knows the property setback is 25-feet and they're going to encroach into it approximately 12-feet. Ken Perro then asked again if board members had any further questions and if not asked if there was anyone in the public with any questions. There were no abutters present.

With no further questions Ken Perro entertained a motion to close the public hearing.

Daniel Mezynski made the motion to close the public hearing second by **Robert Simmarano** carried unanimously 5 – 0.

Roll call to close the public hearing: Harold Proodian (I), Daniel Mezynski (I), Robert Simmarano (I), Michael Georges (I) and Ken Perro (I) carried unanimously 5 – 0.

After further discussion from board members Ken Perro entertained a motion to Grant or Deny?

A Motion was made by; Michael Georges, second by Daniel Mezynski to approve a Special Use Permit to Thomas & Gayle Ohman of 8 Vineland St., Worcester, MA 01604 for the property located at 16 Linda Ave., Millbury, Ma, Map# 37, Lot# 72, Suburban – IV Zoning District Duly Recorded with the Worcester Country Registry of Deeds Book# 49060, Page# 177 with the Millbury Zoning Bylaws Section 16.32.

To allow the construction of a 12-foot by 20-foot addition to be built within the setback area, findings specifically that the premises are a legal pre-existing non-conforming lot the proposed addition with an encroach approximately 12.1-feet into the front setback area.

The Special Use Permit has been Approved by the Millbury Board of Appeals under MGL Chapter 40a under the Millbury Zoning Bylaws to/for the property at 16 Linda Ave., Millbury, Ma Map# 37, Lot# 72, Suburban – IV Zoning District, Duly Recorded in the Worcester County Registry of Deeds in Book# 49060, Page# 177.

Roll Call Initiated by (Chairman) Ken Perro:

Harold Proodian (I), Daniel Mezynski (I), Robert Simmarano (I), Michael Georges (I) and Ken Perro (I);
Carried Unanimously 5 – 0.

8:15 PM: – Meeting Minutes from Wednesday, December 2nd, 2020

Daniel Mezynski made a motion to approve the meeting minutes from Wednesday, December 2nd, 2020,
Second by; **Harold Proodian**.

Roll Call conducted by Chairman Ken Perro:

Michael Georges (I), Robert Simmarano (I), Harold Proodian (I), Daniel Mezynski (I) and Ken Perro (I)
Carried Unanimously 5 – 0.

8:20 PM: – Adjournment

Ken Perro entertained a motion to adjourn; Harold Proodian made the motion to adjourn second by Robert Simmarano.

Roll call initiated by Ken Perro to adjourn:

Michael Georges (I), Robert Simmarano (I), Harold Proodian (I), Daniel Mezynski (I), Ken Perro (I) carried
unanimously 5 – 0.

Next scheduled meetings:

Wednesday, February 24th, 2021 @ 7:00pm – Cancelled

Wednesday, March 31st, 2021 @ 7:00pm – Scheduled

Wednesday, April 28th, 2021 @ 7:00pm – Pending

Respectfully submitted by Nancy Young and submitted to Town Clerk.

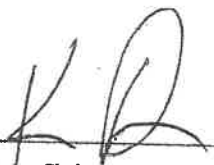
**Town of Millbury
Board of Appeals**

Paul Nigosian, Chairman
Ken Perro, Vice Chairman
Robert Simmarano, Clerk
Harold Proodian
Daniel Mezynski
Michael Georges
Adam Kobel, Alternate member

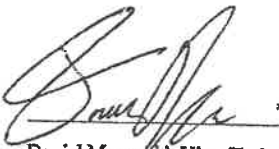


MUNICIPAL OFFICE BUILDING
127 ELM STREET
MILLBURY, MA 01527

Approval for Meeting Minutes from Wednesday, January 13th, 2021



Ken Perro, Chairman (FAVOR / OPPOSED / ABSTAIN)



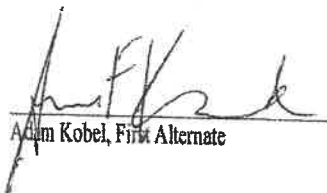
Daniel Mezynski, Vice Chairman (FAVOR / OPPOSED / ABSTAIN)

Robert Simmarano, Clerk (FAVOR / OPPOSED / ABSTAIN)



Harold Proodian (FAVOR / OPPOSED / ABSTAIN)

Michael Georges (FAVOR / OPPOSED / ABSTAIN)



Adam Kobel, First Alternate (FAVOR / OPPOSED / ABSTAIN)

Second Alternate, N/A (FAVOR / OPPOSED / ABSTAIN)