

Town of Millbury Board of Appeals

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



RECEIVED
TOWN CLERK
2023 SEP 29 AM 10:05
MUNICIPAL OFFICE BUILDING
127 ELM STREET
MILLBURY, MA 01527

Meeting Minutes Wednesday, February 22, 2023 7:00 pm

In accordance with Chapter 40A of the Massachusetts General Laws and the Zoning Ordinances with the Town of Millbury, a public hearing was held on Wednesday, January 31, 2023 at 7:00 p.m. in the Large Conference Room at the Municipal Office Building of 127 Elm Street, Millbury, MA 01527

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

7:00 PM: – Meeting Minutes from Wednesday, January 31, 2023

Ken Perro entertained a motion for the meeting minutes from Wednesday, January 31, 2023.

Daniel Mezynski made a motion to approve the meeting minutes from Wednesday, January 31, 2023,

Robert Simmarano second the motion **Carried unanimously 5 – 0.**

Chairman Perro informed the members of the board to read the letter pertaining to State Ethics and that all boards Members must do it by the April 1st deadline.

Chairman Perro then recused himself from the hearing and instructed Vice Chairman Mezynski that he will be conducting the meeting. Individuals present for the public hearing were Attorney Aaron Hutchins from Eden & Rafferty counsel for Roger and Judith Collette who were also present, Francis and Judith Mercadante and building inspector Paul Stringham.

7:05 PM: – New Business:

Daniel Mezynski informed the board members that this meeting was a continuation of the November 30th, 2022 meeting. This was for an application from Roger and Judith Collette of 133 Park Hill Ave. and that the meeting had been continued so the board could possibly get input from the building inspector. Michael Georges then took a vote to reopen the public hearing. Harold Proodian made the motion to reopen the hearing Robert Simmarano seconded the motion. Motion carried unanimously 5-0.

Attorney Aaron Hutchins presented information to the board citing a letter dated 9/1/2022 from building inspector Paul Stringham to his clients Roger and Judith Collette indicating that a violation had been reported or discovered relative to an accessory shed that was constructed under building permit 215-2018 that was issued to the Collettes' on 7/5/2018.

Attorney Hutchins stated that his client received his permit, built his shed and there was some discord between Mr. Collette and Mr. Mercadante and the parties agreed to just go about their business. Then in 2022 neighborly Relations broke down and a complaint was filed with the town. Attorney Hutchins asked the board if there is a difference between something that is brought to the towns' attention, a difference between something that is discovered to be in violation of the town code verses something that has been approved by the town then subsequently complained of. Harold Proodian stated that no board or committee can give permission for anyone To build anything that hangs over another property.

Paul Stringham presented information to the board regarding the permit that was applied for in May of 2022 and the Building codes then verses the building codes now. He also explained the shed registration process.

Attorney Hutchins asked the board if the town was also investigating Mr. Mercadante or just his clients. Vice Chairman Mezynski informed the attorney that this meeting was only for the merits of the application that was before them.

Building Inspector Paul Stringham addressed the board and informed them that Mr. Mercadante was approved for his garage permit back in 1994 and received a variance for his addition in 1998. The building inspector visited the sight and spoke to both parties. Both parties disagree where the property lines are located and Paul saw no survey markers upon his visit. Paul stated to the board that the only thing missing is the survey plan. When the applicant applied for the shed permit the building inspector was under the impression that the shed in question was undersized and would fall in line with the existing structures on the property.

Mr. Mercadante addressed the board and proved a copy of the BOA approval for his addition to his garage. He wanted to state that his garage was not in violation as the board granted him the 5- foot set back variance. Mr. Mercadante informed the board that his property was surveyed by Rich Gosselin three years ago. He also informed the board that the survey pins are still in the ground on the left side of the property.

Attorney Hutchins addressed the board and stated that if the property line was in question than his clients would be willing to split the cost of a survey. Michael Georges informed the attorney that the burden of proof lies with his client. Attorney Hutchins stated that the burden lies with Mr. Mercadante to prove there is an actual property line dispute. Dan Mezynski asked Mr. Mercadante if he had the plot plan from the survey and Mr. Mercadante stated that he did not have the paperwork with him.

Adam Kobel made a motion to close the public hearing, Michael Georges seconded the motion. **Motion carried unanimously 5-0.**

Adam Kobel amended the motion to approve the special permit for Roger and Judith Collette of 133 Park Hill Ave., Map 20 Lot 30 to allow the shed built in 2018 with the set back established by the fence line with the understanding and condition that there is no encroachment on the adjacent property and that any encroachment on the adjacent property be removed and any water from the shed in question be diverted so that it stays on the Collettes' property. And any encroachment has to be remedied to the satisfaction of the building inspector. Harold Proodian seconded the motion. **Motion carried unanimously 5-0.**

8:15 PM: – Adjournment

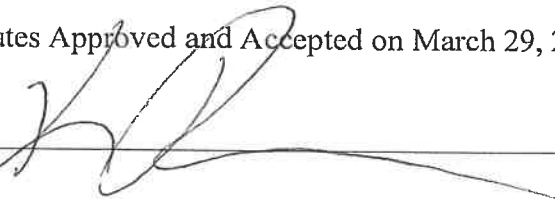
With no further New Business **Adam Kobel** made a motion to adjourn; seconded by Michael Georges. **Motion carried unanimously 5-0.**

Next Scheduled Meeting:

Wednesday, March 29, 2023

Respectfully submitted by **Amy Riordan** Millbury Board of Appeals Administrator

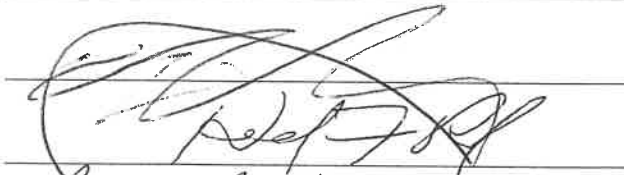
Minutes Approved and Accepted on March 29, 2023 by:



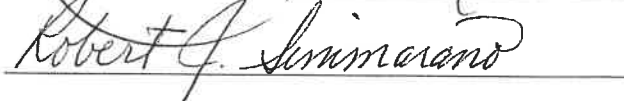
Ken Perro, Chairman



Daniel Mezynski, Vice Chairman



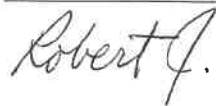
Michael Georges, Clerk



Harold Proodian

~~Michael Georges~~

Robert Simmarano



Adam Kobel