

**Town of Milford  
Zoning Board of Adjustment  
Case #2016-03  
Sherwood & Rochelle Wolcott, Co-Trustees  
Rehearing - Variance  
August 4, 2016**

Present: Kevin Johnson, Chair  
Michael Thornton  
Jason Plourde  
Joan Dargie, Alternate  
Rob Costantino

Absent: Len Harten  
Katherine Bauer – Board of Selectmen’s representative

Secretary: Peg Ouellette

The applicant, Sherwood and Rochelle Wolcott, as Co-Trustees, for the property at 362 Federal Hill Road, Tax Map 56, Lot 44-4, in the Residence R District, a **Rehearing** of a Variance request from the Milford Zoning Ordinances Article V, Section 5.04.4 to allow the subdivision of the property into two (2) lots with approximately 25 feet and 75 feet of frontage where 200 feet is required.

**MINUTES APPROVED ON 11/3/2016**

J. Dargie mentioned she had not been able to review some last-minute information received.

K. Johnson said that one was an e-mail which he would read and the other was a presentation that an abutter would present. It came out late that afternoon and per rules of acceptance she had a copy to follow along as it is entered into testimony.

K. Johnson informed applicant’s representative, Attorney M. Klass, that due to the late hour they would not be able to complete hearing the case that night. They might be able to hear it for 15 minutes, but would need to stop in order to take care of other business on the agenda that had to be done. He left it to the applicant to decide whether to start it and then continue the remainder, or to table the entire case to Aug. 18.

M. Klass said he could start, since the abutters were there.

K. Johnson said they wouldn’t get to the abutters.

M. Klass understood, but said he could start the process, give an introduction. Since one Board member had not heard the case, he would try to streamline it.

K. Johnson preferred he not streamline it. This was a rehearing. Will be considering all new evidence plus that from prior hearing. He said M. Klass would get his introduction abutters and get past the formalities and he will have to call time.

M. Thornton said they want their best shot.

K. Johnson said he was sure that M. Klass wanted to present the best flow.

M. Klass said if they had time he would use it, but was happy to come back at next meeting.

K. Johnson said in two weeks, Aug. 18.

An abutter stated he had submitted a rebuttal. M. Klass had a copy. Could M. Klass take it and change his argument based around his rebuttal?

K. Johnson said yes. It was a continuance. He asked if abutter had a copy of the attorney's arguments. Abutter did.

K. Johnson said they were both in the same place at the meeting; M. Klass would have that same opportunity. He could request a continuance to address issues raised by an abutter. No difference whether he presented them in person that night and if he feels he needs time reply he could ask for continuance to reply. Knowing the Board, they would grant it in the interest of equal justice. They want everyone to have equal opportunity to present all they have.

Abutter asked for list of abutters to be read.

L. Daley said it was available for public access.

K. Johnson said that application should be available on-line and list of abutters. If not, he could go into the office and get a copy.

M. Klass stated he repackaged documents submitted, paginated them and added an e-mail from the Fire Dept. and DPW. Happy to give them to the abutter.

Gary Birkett, abutter, said he would not be there on the 18<sup>th</sup>. He said he was considered to be a key abutter; he owns the driveway right next to this. Preferred date other than 18<sup>th</sup>. There was a lot at stake.

K. Johnson understood that. At this point, knowing what they have and how much time it would take, even if they start it on the 18<sup>th</sup> he doubted they would finish on the 18<sup>th</sup>.

G. Birkett said he could miss something in the interim that he should or should not have heard or said that affected the decision.

K. Johnson said as an abutter Mr. Birkett could, if he disagreed with the decision, request a rehearing.

G. Birkett asked what the urgency was for the 18<sup>th</sup>.

K. Johnson said there were statutory requirements to hear cases within a certain time frame. Must begin hearing it within 30 days.

G. Birkett said he's had to deal with it since 2005.

K. Johnson said they had to start within the statutory period. Doesn't say when they have to finish it. Some cases have gone for months. Prefer not to do that again. He could make an educated guess, but could not say. Based on material in attorney's hand, it appeared they wouldn't get through his presentation of evidence, let alone abutters' comments and deliberation. The Board has been amenable to reopening public comment if the need arose.

L. Daley said if he had questions and wanted Bd to begin that topic of discussion get questions to him in writing within three days.

K. Johnson said L. Daley would distribute them to Bd and they will include in preparation for the case.

An abutter asked about amount of research attorney had – looked like 400 pages?

M. Klass said no. He was holding 10 copies.

J. Dargie asked if he was allowed to give those out tonight.

M. Klass had 19 pages – 16 of them were already handed out.

Abutter had material for handout. Should he hand it out now?

K. Johnson suggested submitting it in an e-mail to Office of Community Development at least three days before, it will be distributed to Bd members to review. If he had it with him, he could give to L. Daley to distribute to Bd. and they will add to their consideration.

Other abutter asked, since they had his letter and the other abutter's, couldn't the Bd read it in next couple of days and make a decision.

K. Johnson wished it were that simple, but it wasn't.

Another audience member asked about order of agenda – would case #2016-19 be before this one?

K. Johnson said no. Which was why he said it could get moved to the 25<sup>th</sup> and why he polled the Bd to see if they could move to another case. In response to audience member, he said probably a 10 percent chance of 2016-19 being heard on 18<sup>th</sup>.

Audience member asked if 2016-03 would take most of the night.

K Johnson said deliberative session would probably take half. Then the rehearing of Wolcott with the representation of the evidence and acceptance of additional evidence with public comment, etc. will easily take up rest of that evening.

Abutter of Rymes said he wouldn't be there on 18<sup>th</sup>.

K. Johnson said if they get to it, write an e-mail to L. Daley or R. Lunn at OCD or stop by and raise list of their concerns and Bd. can act as proxy. He as Chair will bring up those issues for comment from applicant.

Other abutter asked since M. Klass presumably not doing this pro bono, the cost could be considered hardship?

K. Johnson said no. They could be doing it themselves, that is their choice and no consideration whether they chose to have representation or do it themselves. Bd. doesn't look at that.

K. Johnson requested that anyone having anything to give to Lincoln to be distributed to the Bd. to do so.

K. Johnson asked for motion to table rehearing of Case #2106-03 to August 18 meeting.

M. Thornton so moved.

J. Dargie seconded.

All voted in favor. Case #2016-03 rehearing was tabled to the August 8, 2016 meeting.