

The following members attended the public meeting:

Doreen Prouty – Chairperson
James Marmo – Clerk
Gary Suffriti-Vice Chairperson
Richard Maggi-Alternate
Gary Geiger- Alternate

Chairperson Prouty opened the meeting at 6:30 PM.

1. Case # 1880: Scott Mackenzie-217 Meadow Street

Chairperson Prouty re-opened this public hearing and explains that a site visit was done by Doreen Prouty, Gary Suffriti and James Marmo.

Upon visiting the premises it became evident that the petitioner raised rabbits. Chairperson Prouty explains that the keeping and commercially selling of rabbits is not allowed in Residential A-2. Petitioner, Scott Mackenzie, explains that they are pets and he no longer sells them commercially. He also states that he currently has about twenty rabbits. He states that he researched prior to purchasing his house and believes it is allowed. He does not sell for live testing, although when he had too many he did sell to a research lab for schools.

Member Suffriti suggests speaking with the health inspector.

Member Maggi does not believe rabbits qualify under Section 180-23K. A description of livestock is researched. Member Suffriti states that if they are not being raised to sell than it is not an issue. Member Suffriti and Prouty feel that a condition in the decision should state that rabbits cannot be raised for sale, only to keep for pets. Member Maggi feels all should be neutered or spayed.

Member Marmo states that the petitioner's father stated in the last meeting that he was a MA licensed contractor and he feels that he should have known a permit was needed. Member Marmo also states that he is in favor of fining the petitioner \$300.

Mr. Mackenzie clarifies that his father was coming to help him for only three days and once they started work and saw the extent of the damage they realized a permit would be needed.

Chairperson Prouty asked why did it take so long to obtain the permit and why did the building inspector have to chase you down when work continued for weeks. Chairperson Prouty explained that once Mr. Mackenzie realized a permit was needed, work should have stopped.

Mr. Mackenzie read an article for CPTC which explains when non conformity is increased.

Member Suffriti agrees with the article but explains that a special permit is still needed. Chair explains that Agawam requires that a Special Permit even when non conformity is not increased. Member Suffriti asks the petitioner if the yard has been cleaned and was told yes.

Chairperson Prouty explains the twenty day appeal period. All board members are in agreement about the rabbits and the Board agrees that the sale of rabbits must end by 4/10 and there shall be no more raising of rabbits.

Chairperson Prouty does not feel that the petitioner should be fined even though Board does have the authority to do so. She explains that he did stop work once the building inspector instructed him to do so. Member Suffriti feels that the board is too lenient but agrees not to fine him because the petitioner has been a gentleman but also asks that he apologize to the building inspector. Member Maggi feels that a time limit to complete the project should be a condition of the decision.

Chairperson Prouty and Member Suffriti feel the petitioner should be given 30 days from the date of the decision to get a building permit.

Member Marmo wants to fine the petitioner. Member Maggi states that the petitioner is not in violation of any ZBA decision therefore cannot and should not be fined by the board. If he violates the board's decision then he can be fined.

Member Marmo feels that the petitioner had a licensed contractor and should be fined. He reads Sec 180-16 of the zoning bylaws. Member Maggi explains no permit or decision has been issued therefore the board cannot fine him because Sec. 180-16 does not yet apply to the petitioner. He explains that since he violated the zoning by laws the building inspector could fine him.

Chapter 40A Section 7 is discussed by the board. A violation of a provision of the chapter has occurred therefore he should be fined. Chairperson Prouty agrees after research that the ZBA can fine a petitioner if they are in violation of Chapter 180-7.

Member Suffriti asks Member Marmo what he proposes for a fine. Member Suffriti and Prouty feel that he is not in violation of anything of the board. Chair agrees he is in violation of Chapter 180-7 but it is not a grave violation.

Motion to grant Special Permit subject to the following conditions and fine the petitioner \$50.

1. The second story addition and the roof extension over the front entranceway may remain as constructed. The original footprint of the existing structure must remain as is and conform with the zoning dimensions as shown in the plan provided entitled: "217 Meadow St. Agawam, MA, dated January 1997, drawn by Smith Associates and signed by the members of this board.
2. This special permit is for the two additions as described in above paragraph.
3. All construction material shall be placed in back yard so as not to be seen from the neighboring lots. All unused construction material shall be removed from the property no later than 2 weeks after no longer needed.
4. Beginning with the date of this decision, the petitioner is prohibited from breeding and raising rabbits for commercial use. Any rabbits currently owned and wishing to be sold by the petitioner must be done so by April 10, 2012.
5. The petitioner shall apply and be approved for a building permit with the Town of Agawam's Department of Inspection Services within thirty (30) days from the date of this decision.
6. Pursuant to Section 180-16.1 of the Town of Agawam's Zoning Ordinances, the Zoning Board of Appeals hereby fines the petitioner \$50 (\$25 for each offense).
7. The petitioner shall record with the Hampden County Registry of Deeds a "Notice of Special Permit" form, which shall be provided by this Board and proof of said filing must be submitted to this Board and to the Inspector of Buildings.
8. This Special Permit shall become null and void if construction does not commence within two (2) years from the date of this decision.

Vote: Prouty-yes
Suffriti-yes
Marmo-yes

2. Motion to approve minutes of 10/24/2011 by Chairperson Prouty. Second by Member Marmo. All in favor, none opposed.
3. Motion to adjourn at 7:50 P.M. by Chairperson Prouty, seconded by Member Geiger. All were in favor, none opposed.