



# ZONING BOARD of APPEALS

*Town of Montague*

*1 Avenue A*

*Turners Falls, MA 01376*

*(413) 863-3200 ext. 206*

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DRAFT MINUTES FROM NOVEMBER 13, 2019

NOTICE OF PUBLIC HEARING #19-08

6:30 PM in the Upstairs Conference Room

1 Avenue A

Turners Falls, MA 01376

Meeting being taped.

Votes may be taken:

**ZBA#19-08: 79 G St., Turners Falls, MA**

PRESENT: John Burek Chairman, Richard Ruth Vice-Chairman, Allen Ripingill Member, William Doyle Member, Joshua Lively Alternate Member, Christopher Rice Zoning Enforcement Officer, and Karen Casey-Chretien, Clerk. Applicant:

Diane and Kenneth Sumrall. Audience: Ian Tapscott, Laura Heisig, Brian Frank

Absent: Robert Sojka

Hearing opened approx. 6:30 PM

JB: I like to call this hearing to order.

Clerk reads the Public Notice #19-08. 26 Notices were sent, 6 returned, 4 did not object, 2 objection, 0 undecided, 2 written testimony (see file).

JB: Are the Sumrall's here? Do you have anything you want to have since you've submitted these papers?

BF: I'm the contractor for the Sumrall's I have some information for everyone here. (Pass out plans). The abutters have 2 ½ times the size of the Sumrall's property. In regards to their (Sumrall's) driveway it would be ideal if they could drive straight into their garage. If the garage were to be 10 ft. off the property line the angle would be difficult to maneuver the car into the garage. Both have very large vehicles. The next packet shows a garage that was previously there and owned by the Sumrall family and then knock down. The fence to the right of the garage is actually the previous owners fence of the abutter (picture see file) so you can see how close once the garage was located.

AR: Is the new garage in the same location as the old one?

BF: It actually further off the property line.

BF: You can see in one of the pictures that the abutters have a metal roof and what snow dumps into the Sumrall's driveway.

JB: That's it?

BF: That's it.

IT: Ian Tapscott direct abutter. For the record when we installed the metal roof we talked with the Sumrall's and agreed to see how it went for one winter. Two went by and this winter we are installing snow retention. I'm currently in the process. About the garage, constructing that garage at the town's 10 ft set back would not present a hardship to the folks who want to construct it but does present a hardship to us in that that's all our morning light and it block the sun from our garden. And it will create moisture changes that could cause erosion and we would have to do something to mitigate.

LH: I'm Laura Heisig I am Ian's wife. With the 5 ft. of the current established plants that is there and I'm worried about the water that will collect there I'm going to have to plant additional plants to soak up the water. I'm worried about the

sunlight with them. Their lot is higher and we are going to have to mitigate the water as a result of them being higher. The town has an ordinance of 10 ft. and I just request that we be granted the 10 ft. that we are allotted.

AR: Your garage is that 5 ft. from the property line?

IT: It's 5 ft from the rear property line and it's more than 10 ft. from the side property line.

LH: The rear set back is fine. It lines up with the rest of the structures going down the path. It the abutting of our property that I have a problem with.

JB: So which lot is yours 75?

IT & LH: We are 83.

JB: Can't you move your garden to the other side?

IT: We only have two windows on that side of the house and one is all our light and we won't get any more light until 2:00 - 3:00 in the afternoon.

DS: Your morning light is already being blocked by your garage.

JB: We can't do anything about the light. Can the lot be shaped to not cause them any problem with the water?

KS: It's already back at the garage is pretty flat. Between the houses our house is higher but the driveway has a ridge.

IT: I would like to address the Board directly. Our basement has water (?) driveway also that's not the topic of discussion. One more point I want to make (?) bylaws 5.4 Accessory Structure (?) deterrent to property in the vicinity. We are saying this will cause deterrent to the property in the vicinity.

JB: In the Notice it doesn't refer to 5.4 talks about 5.5.2(b). You have to make sure you're in the right zoning.

CR: If I could address the Board. Mr. Rice reads from the by-law Section 5.5.3.

AR: If you didn't get the 5 ft setback would you still build it?

KS: It's a tough decision to make. We would have hard time to turn in and the bay wouldn't be in line with the driveway.

RR: The roofing material is?

BF: Asphalt.

RR: Are you opposed to having a gutter put on that side? If you put a gutter on there and diverted the water to the back part of the building it's flat and that would solve you water mitigation problem correct?

(?) No.

RR: And to address your water problem in the basement everyone in Turners has water in their basements.

KS: We planed to put gutters on the garage.

RR: So if they divert their water and you have shrubby on that side doesn't that pretty much solve that problem?

LH: Those plants require sun light during the day.

RR: Doesn't the sun go over the tops of your buildings and down the other side? Raising in the east and sets in the west?

So it's not like you're never going to get sun.

LH: I understand what you're saying but it's the reduction of it this 20 ft. structure is going to reduce it.

IT: (?) if the water profile changes they will be affected.

AR: If they built a garage with a 10 ft. setback it would have no effect on you. So moving it 5 or 10 ft. away from the property is not going to have an effect on you. Since the sun goes east to west the shadow will always be on their property. You're always going to have sun.

JB: Is 5 ft. going to make that much difference?

LH: Yes.

JB: How?

LH: From what we just said.

JB: Does anyone have anything new to say?

LH: In closing I'm not opposed to the 5 ft. setback in the rear I'm just requesting that we be granted the 10 ft. setback on the side lot line.

DS: The reason I'm requesting the 5 ft. set back is that both my husband and I have big vehicles. I have an Expedition and my husband has F350. I want to be able to pull straight in and straight out with both vehicles. I don't want to have to drive around my house to get both vehicles into a garage.

JB: As you drive in your driveway you're going to have to turn a little bit.

DS: I'm trying to turn as little as possible.

AR: And it make sense not to have a wasted 10 ft. piece of property.

JB: Do the Board members have anymore to say? I think we need a discussion by the Board.

CR: My suggestion would be to work off the criterion like the points of law are these 4 things and if any of those are effected. As Board members your decision is to say: 1. Does giving them this effect the public health? 2. Does it effect safety? 3. Welfare it just says welfare?

JB: Are we in the right Zone to grant?

CR: Yes.

The Board discusses character of the neighborhood, topography and the water run off, the sun and the hardship of a garage on a small lot with the owners having big vehicles.

JB: Are you ready to vote?

AR: Is there a stipulation that we might want to add?

Stipulation:

RR: Motions that gutters are mandatory on the abutting side to divert the water away from the abutting property and into the rear towards the canal.

AR: Second.

Vote:

RR: Yes with stipulation

JL: Yes with stipulation

WD: Yes with stipulation

AR: Yes with stipulation

JB: Yes with stipulation

**Motion to Adjourn**

**Seconds**

**Meeting ended approx. 7:25PM**