

TOWN OF HOLLAND

27 Sturbridge Road
Corner of East Brimfield Road
Holland, MA 01521
Phone (413) 245-7108



March 17, 2008

Peter Frei
101 Maybrook Road
Holland, Ma. 01521

RE: Request for Zoning Bylaw enforcement at 166B Stafford Road Holland.

Dear Mr. Frei,

In response to your request for Zoning Bylaw enforcement at 166B Stafford Road Holland, received March 4, 2008, I offer the following:

FINDINGS:

In the request order paragraph 2 alleges an unlawful endorsement of an ANR for this property. The ANR was approved and signed by the Holland Planning Board (Board), as Building Commissioner/Zoning Officer I have no jurisdiction in the matters of ANR's and cannot agree with or deny your allegation.

Paragraph 3 refers to the owner of the property and his/her relationship with others. This has no bearing on the issuance of the building permit by this office.

Paragraph 4 states the requirement of 200 feet of frontage required. Zoning Bylaw Section V Table 2 requires 200 feet of frontage. Note b. of that Bylaw states 'Required frontage..., or on a private way which, as determined by a decision of the Planning Board,...' The Board accepted the common driveway as meeting this requirement.

Paragraph 5 mentions M.G.L. c 41 § 81L, which relates to Subdivision Control. Subdivision Control is a regulation used by the Board and not by the Building Commissioner or Zoning Officer. I have read this section and although I have no authority in this matter, I did not find any mention of common driveways in this section.

Paragraph 6 refers to the common driveway bylaw and it's requirements. My records show that a Special Permit was issued by the Board, which in the opinion of the Board met all the requirements.

DECISION:

The ANR plan for this lot was approved and signed by the Board on March 7, 2006. Before issuing the building permit for the single family dwelling on this lot I reviewed both the plan for the ANR and the plan submitted and approved by the Board for the common driveway. After presenting my concerns to the Board in regards to the required frontage it was confirmed by the Board that a Special Permit was issued for the common driveway and that the driveway had been accepted as the required frontage for the lot therefore approving the ANR.

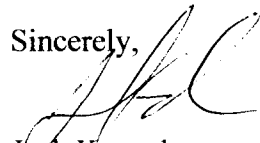
Further review of the Zoning Bylaws found that in June 2003 Section 7.8 Common Driveways was adopted. A section within that bylaw, Section 7.85.3.n, stated 'Common driveways shall at no time be used to satisfy zoning frontage requirements. Each lot served shall have lot frontage on a street which serves to satisfy lot frontage requirements'. A later amendment of this bylaw, dated May 2005, removed Section 7.85.3.n. It was the opinion of the Board that this was done in order to allow common driveways to meet the frontage requirement.

Considering all of the above it is this Building Commissioner/Zoning Officer's opinion that 166B Stafford Road was a conforming lot in that by the issuance of the common driveway Special Permit and the Boards approval of the frontage along this driveway, per Zoning Bylaw Section 5 Table 2 footnote b, the lot met the minimum requirements of three acres and three hundred feet of frontage. It is further the opinion of this Building Commissioner/Zoning Officer that building permit # 06-082 for a single family dwelling at 166B Stafford Road was properly issued.

Therefore I respectfully deny your request for 'the removal, dismantling, or demolition of the dwelling located off Stafford Road, Holland, Massachusetts'.

If you are aggrieved by this decision you have the right of appeal through the Zoning Board of Appeals.

Sincerely,



Jack Keough
Building Commissioner
Zoning Officer

Cc Board of Selectmen
Planning Board
Zoning Board of Appeals
Carl & Kimberly Johnson
File