

APPEAL PURSUANT TO M.G.L. C.40A, S.8 AND M.G.L. C.40A, S.15

Pursuant to M.G.L., c.40A, s.8, M.G.L., c.40A, s.15, I, **Peter Frei**, resident and citizen of Holland, MA 01521, living at 101 Maybrook Road, **appeals** herewith **the denial of my request to remove, dismantle, or demolish a dwelling located off of Stafford Road, Holland, Massachusetts.**

Said dwelling with address 166B Stafford Road is located on Lot 21 as shown on a plan recorded in book of plans 341, page 61, at the Hampden County Registry of Deeds, and is owned by Carl & Kimberly Johnson. Said dwelling is in violation of the zoning laws under M.G.L. and local by-laws.

The denial of my request by Jack Keough, Zoning Officer and Building Commissioner in the town of Holland is in error and here is why:

Jack Keough is mandated to enforce the zoning laws and by-laws.

An ANR endorsement does not grant any new rights to use the land as it is an, "attestation of compliance neither with zoning requirements nor subdivision conditions," *Hamilton v. Planning Bd. of Beverly*, 35 Mass. App. Ct. 386, 389 (1993).

The dwelling does not have a single foot of the required 200 feet frontage along a way pursuant to M.G.L. c.41, s.81L.

Pursuant to s.81L a common driveway can not provide the required legal frontage. Local by-laws can only be more stringent than M.G.L.

Furthermore, the zoning by-laws of the town of Holland do adopt the definition of the term "subdivision" under M.G.L. The zoning by-law provides:

Section 2.02:

Subdivision shall have the meaning defined in Massachusetts General Laws, Chapter 41, Section 81L.

Furthermore, the zoning by-laws provide:

Section 7.85 (2)

k.) All lots to be served by a common driveway must meet the requirements of a lot as defined in the bylaws. All dimensional requirements, as defined in the Zoning Ordinance, for lots served by a common driveway, including but not limited to, setback and dimension of front, side and rear yards, as measured in relation to the street serving as the legal frontage for the lots, shall be the same as would be required for those lots had they not shared a common driveway.

An in-depth analysis of the legal situation can be found at:
http://www.01521.com/ots/Johnson_landgate.htm

This Board therefore must reverse the erroneous decision by the Zoning Officer and issue an order to remove, dismantle, or demolish said dwelling.

Holland March 31, 2008,

Peter Frei, 101 Maybrook Road, Holland, MA 01521