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HEARING 14-01

### MINUTES OF THE HEARING ON THE PETITION FOR REVIEW, 107- 115 GREAT ROAD

A public hearing of the Acton Board of Appeals was held on Monday, February 3, 2014 in room 126 of the Acton Town Hall for a **PETITION FOR REVIEW** of Leo Bertolami to review the interpretation of, and refusal of the Zoning Enforcement Officer to grant a permit under Section 3.4.11 of the Zoning bylaw for the building at 107-115 Great Road for instruction, education and training in the for-profit business of classical automobile collection, maintenance and service located at 107-115 Great Road. Map G4/Parcel 28.

Present at the hearing were Board Members, Ken Kozik, Chairman; Richard Fallon, Member; Suzanne Buckmelter, Alternate; Scott Mutch, Zoning Enforcement Officer; Cheryl Frazier, Board of Appeals Secretary; and petitioner, Leo Bertolami along with his Attorney, Richard Nylen, Jr.

Ken opened the hearing, read the contents of the file which included a legal ad, a third party billing authorization for the newspaper, a notice of public hearing, an abutters list with return receipts, correspondence dated January 2, 2014 from Attorney Richard Nylen with the BOA application, a letter dated October 29, 2013 from Attorney Richard Nylen, a letter from the Zoning Enforcement Officer dated December 13, 2013 denying the building permit application. Also included in the file was a memo from Anderson Kreiger to the Zoning Board of Appeals regarding the petition, and a memo from the Planning Director, Roland Bartl.

Richard Nylen said he is here tonight on behalf of Mr. Bertolami. They are having a dispute over what they would like to place at 107 Great Road which is a for-profit instruction and training facility for classic cars. They got off on the wrong foot because originally they wanted a museum but Leo has been unable to retain any retail or any businesses at that location. Also, over time has accumulated a fair number of classic automobiles that are in a number of different places. Originally he went to Planning and talked to Roland Bartl and Scott Mutch to discuss the possibility of having a museum at this property which is allowed in East Acton Village District. That framed the discussion, until they talked to an accountant and he told them it would take them more than a year in order to get the 501 (c) (3) through the IRS. They look at Section 3.4.11 which allows in the East Acton Village instructional and training facilities which has to be a for-profit venture. As they look at that and have put together a packet they believe they qualify for that. They are not in the business of selling or displaying automobiles there. It would be a for-profit vs. an instructional facility. They have provided for the Board a mission statement with a list of the seminars and the topics they will be teaching which address not only the ZEO but also Town Counsel. Their intent is to have some of the vehicles there that would be used as part of the seminar. It is a very unique business. They are special technicians, these old time automobiles that have specific techniques and abilities. Leo has been selling automobiles for years. They believe they have answered Scott Mutch, Zoning Enforcement Officer's questions.

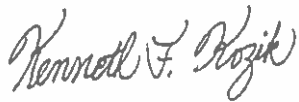
Mr. Nysten turned to the last paragraph of Town Counsel, Arthur Kreiger's memo. Mr. Nysten believes Town Counsel has provided a path to meet the requirements to be eligible under Section 3.4.11.

Ken Kozik recapped how they got to this point tonight. After a brief discussion the Board realized the letter dated September 11, 2013 from the Zoning Enforcement Officer, Scott Mutch denying the permit under Section 3.4.11 was not included in Mr. Bertolami's application. Mr. Nysten said Scott's decision was to reject the petitioner under 3.4.2.

The Board was unable to make a decision on Scott's Enforcement letter dated September 11, 2013 because it was missing from the file. Ken Kozik recommended to Richard Nysten, Attorney for the petitioner, that they withdraw the Petition for Review without prejudice and go back to the Planning Department to speak to Roland and Scott to see if the new information can be approved.

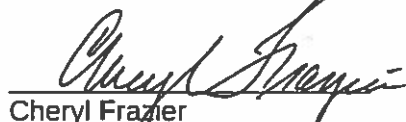
**Mr. Nysten withdrew his application for the Petition for Review for 107-115 Great Road, which the Board unanimously accepted.**

Respectfully submitted,



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Kenneth F. Kozik  
Chairman, Board of Appeals



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Cheryl Frazier  
Secretary, Board of Appeals