

**The Office of the Zoning Board of Appeals
THE TOWN OF MERRIMAC
Massachusetts, 01860**

COMMITTEE: ZBA

MEETING DATE: January 9, 2024

Meeting Location: Remote

School Street, Merrimac, Ma 01860

Members present: Matthew Passeri, Josh Jackson, Ben Beauliu, Ken Nobrega, Joanne Rodrigues, Mitch Kostoulakos

Bob Sinibaldi, Jeff and Stacey Rollins, Doug Duchese-Attorney, Tyler Sheet

7:02PM

Matt Passeri opened the meeting

7:03PM

Invoice voted and approved #15908-Rezza, #15468 and #15688

7:003PM

Appeal of Building Commissioner decision

30 Middle Rd

Continued from December meeting

Property: 30 Middle Road, Merrimac, MA

Property Owner: Deborah Cardone

Applicant: Jeffrey Rollins and Stacey Rolling, 32 Middle Road, Merrimac, MA

This is the **DECISION** of the Town of Merrimac Zoning Board of Appeals ("Zoning Board") to consider the Appeal of Jeffrey Rollins and Stacey Rollins (the "Applicant") from the Building Inspector's decision relating to the property located at 30 Middle Road in the Town of Merrimac, Massachusetts (the "Property"), in the Agricultural-Residential Zone.

On January 9, 2024, the Zoning Board opened a duly noticed, posted and published public hearing on the Application pursuant to and consistent with the Merrimac Zoning Bylaw, G.L. c. 40A and Chapter 20 of the Acts of 2021. Specifically, notice of the public hearing was timely posted and was mailed to all required parties of interest, and was published in the Newburyport Daily News, a newspaper of general circulation in the Town of Merrimac. The meeting of the Zoning Board was conducted via Zoom videoconference.

EXHIBITS

The following documents were submitted to the Zoning Board in connection with the Appeal:

1. Application for Appeal of the Building Inspector's decision, dated October 31, 2023;
2. Complaint form from Jeffrey Rollins, dated August 1, 2023;
3. Letter from the Building Inspector, Robert Sinibaldi, dated October 11, 2023;
4. Letter from Douglas Deschenes, Esq., dated October 17, 2023;
5. Photographs of the Property submitted by Mr. Sinibaldi;
6. Photographs and video recordings of the Property and social media posts including descriptions submitted by Jeffrey Rollins; and
7. An activity log submitted by Mr. Rollins.

HEARING

The Zoning Board members present for and participating in the public hearing were Matthew Passeri, Mitch Kostoulakos, Joanne Rodrigues and Kenneth Nobrega. During the public hearing, the Applicant and members of the public were provided an opportunity to be heard regarding the Appeal.

Attorney Douglas Deschenes spoke on behalf of the Applicant. Attorney Deschenes stated that the Applicant was seeking a cease-and-desist order to stop the operation of a business at the Property, which directly abuts the Applicant's property. A landscaping and trucking business, including plowing, has reportedly been operated from the Property. The activities have been detrimental to the Applicant and deprived them of the quiet enjoyment of their property.

Attorney Deschenes cited Article 3.1 of the Zoning Bylaw as prohibiting any use that will produce a nuisance from fumes, gas, smoke, odors or offensive noise or vibration. He claimed that activities at the Property were in violation of this section of the Bylaw. He also cited Article 3.5 of the Zoning Bylaw as prohibiting any use not specifically permitted. Finally, Attorney Deschenes cited Section 6.5 of the Zoning Bylaw as prohibiting any use that is not explicitly provided for in the Zoning Bylaw as it related to the Agricultural-Residential Zoning District.

The Property is being used to store and maintain equipment being used in a landscaping and trucking business. The formal complaint submitted on August 1, 2023 occurred while there was significant landscaping activity at the Property. In response to that complaint, Attorney Deschenes stated the Building Inspector advised the occupant of the Property to cease any non-permitted use. Later, the Building Inspector issued a letter indicating he found insufficient evidence that commercial activity was occurring at the Property. Attorney Deschenes claimed there was an apparent discrepancy in the