

Belbin Fighting for our Rights!

Carver ZBA to go on Trial

To Fixcarver.com

At 9am on October 4, 2012 I will be at Plymouth Superior Court to “Wage a Battle” against the Carver Zoning Board. It may not be fighting with guns but with Testimony and Evidence. Why am I doing this?

In 1999 the ZBA denied me to have an “Accessory Apartment” for my In-laws James and Dona Rudolph. The decision stated “It is the intent of the Board that the presence of a Kitchen Facility at any time converts this structure into an accessory apartment that remains outside the scope or intent of the By-law.” At no time did the ZBA say I could not build an addition to house for my family members; unless you agree with the Chairman Stephen Gray where he stated at a ZBA hearing (Santos) that a single family home is just for the “Nuclear family” (Husband, wife and children). My definition of Family and the Supreme Court agrees, Blood, Marriage and adoption is the foundation of family this country was founded on. I will protect my family to the Death!

Now the issue of Kitchen facility, the ZBA never defined it. A stove is legal to buy, a microwave is legal to buy, a Refrigerator is legal to buy and cabinets/counter tops are legal to buy and install. We have that, does that make kitchen facilities? By state law to have an “apartment” you must have “Kitchen Facilities” a Stove range, a Refrigerator, a sink and a non-porous surface. Lacking any of these the apartment is not habitable. We have one kitchen facility for our house and a second stove, refrigerator, microwave.

Statute of Limitations for Zoning Violations, there is a 6 year and 10 year. My house/addition has been here for 11 years prior to the 2010 case which I went back to the ZBA for approval (allowed by law chapter 40A) of an accessory apartment because other Home owners have received a variance for square footage greater than mine as the Assessor told me. Come to find out Ed Fuller of 170 Plymouth Street (Lakenham bed and breakfast/now closed) followed the same process I did in 199 and have more sq. ft than my addition and his was approved. In 2001 the Assessor filed a complaint with the Building Inspector and the ZBA did not act, Why? That was their chance if they thought I was in violation of the laws, but they did nothing.

When I went before the 2010 ZBA, I thought I would get a fair hearing, I was wrong. I was called a law breaker “you took the law into your own hands” the Chairman stated “I’m not happy with the position you put us in and I’m not happy with you”. I was taken back by these statements because they are wrong. Although the ZBA approved the Special permit, subject to conditions. These conditions in my opinion are punitive and have not been forced on anyone else who has come before the ZBA for the Same Accessory Apartment Special permit/Variance. You can decide if they are punitive:

1. The case be forwarded to the building inspector for “financial penalties” based on “previous non-compliance” if not paid “no special permit will be issued”. Would you call this punishment? Unreasonable, arbitrary even capricious.

2. That I file an affidavit every 2 years that “the applicant” Me live there and the accessory apartment is occupies by elderly person or handicapped. A personal attack on me, I guess my co/owner wife doesn’t count. By law says 3 years! Unreasonable, arbitrary even capricious.
3. Accessory Apartment is considered “legal” the special permit is prospective only. Too bad the voice decision stated I could not seek a better tax status or abatement. FYI have been assessed for 2 kitchens for 11+ years and been listed as a Single family with in-law because my in-laws live there per the Assessor. Unreasonable, arbitrary even capricious.
4. The doorway from the main house and addition not be closed off by a door or permanently sealed. But other Accessory apartments have can have doorways.
5. Special permit must be renewed every 2 years. By-law says every 3 years. Unreasonable, arbitrary even capricious.
6. Property “never become a Condo”. No other Accessory Apartment has had this condition placed on it. Unreasonable, arbitrary even capricious.
7. Subject Property “not be rented to third parties”. The by-law allows “rent or reside” for handicap or elderly, no family relationship required and not given to other applicants. Unreasonable, arbitrary even capricious.
8. If property sold “seller and buyer are required to appear before the Board”. How fair is this? A Special Permit ends when property is sold again not given to other applicants. Unreasonable, arbitrary even capricious.

So, why would I wage the Battle? If you were treated like I have you would fight too. Remember the Constitution, you have the right to Due Process. Part of that is notification of charges, a hearing, an impartial jury, right to bring witnesses and evidence. I have never been notified I was in violation of the By-Laws. Remember the Statute of limitations, Part of that is you cannot be penalized if the statute is expired. And these conditions are not a penalty against me; yea right, believe that and I have a bridge to sell you. The decision and meeting minutes are wrong in content and context, the video/transcript proved this. When notified the ZBA changed the meeting minutes to “fix” what they said but never “fixed” what I said. How unreasonable and arbitrary is that?

Finally, is there any law that prohibits a single family home to have 2 kitchens? NO. What is your definition of FAMILY? Does the ZBA have a right to tell you what design your single family home can look like? NO. Just because you don’t like the style/design of a person’s house doesn’t mean it illegal. The law Chapter 40A section 3 states “zoning cannot regulate the interior of a single family home. Do you want the Carver Zoning Board regulating your Single Family home and which family members can live in your home. Why am I fighting this battle? Family must be protected; our property rights must be protected; the judicial system must be protected. I cannot allow the Government to invade my home without a fight.

Please, if you are available on October 4, 2012 at 9am come to the Plymouth Superior Court to support ME and show the ZBA they went too far this time! Thank you