

**TOWN OF LONGMEDOW  
ZONING BOARD OF APPEALS  
Minutes of November 15, 2006 hearing**

**Allen, Lot 1 & 2 Dunn Rd., requesting to be allowed to have a buildable lot, Petition #2005-29.**

Petition was continued to January 10, 2007.

**Cropsey, Wagner, et al, Farmlea Rd., appealing Building Commissioners decision, Petition #2006-10.**

Following an agreed continuance, by both parties, the Petition was rescheduled from the April 4, 2006 hearing to the June 6, 2006 hearing date.

The Petitioners were appealing the Decision by the Building Commissioner regarding the Backstop at the soft ball field constructed by Bay Path and the College's conversion of the property from a single family residence to a locker room, meeting areas and general campus use.

The Board noted the issues of the Appeal and the Building Commissioner determination to the Applicant.

The meeting was opened to the public with Mr. Togneri speaking first. He gave a basic history of the purchase and use of the land. He stated that Bay Path College has constructed a softball backstop which he believes is a structure according to the Massachusetts Building Code and therefore should be required to obtain a building permit and go through site and design review with the Planning Board. He also noted an increase in traffic. He stated that during a soccer match this spring he counted 90 vehicles passing between his house and Mr. Wagner's house. This type of activity has a negative affect to the quality of life for the neighborhood.

Next Mr. Wagner spoke regarding his belief that the property should have had to go through Site and Design Review and that the issue has been a matter of contention since 2003. The Board reminded the Applicants that they needed to focus on the issues raise in the Appeal.

Mr. Cropsey noted that the group is specifically appealing the Building Commissioners determination concerning the Backstop. At this time, it was agreed that the Applicants appeal of the Building Commissioners determination concerning the property at 45 Farmlea Road which is more particularly described in Paragraph 9 of the Appellants January 12, 2006 letter to the Building Commissioner and incorporated herein by reference, was being withdrawn.

Attorney Jeffrey Roberts spoke on behalf of Bay Path. H indicated that the requirement of a building permit was necessary to trigger a Site and Design Review and that Mr. Denver's January 27<sup>th</sup> letter stated that no building permit was required for the backstop and further that that building permits were not required for any backstops in Longmeadow. Mr. Roberts also argued that the Appeal was not valid on certain procedural grounds involving deficiencies in the manner in which the appeal was filed and the notification to Bay Path.

The Board then discussed the issue of whether the backstop is a structure which requires the issuance of a Building Permit and if so, whether the determination of the issue was governed by the Massachusetts State Building Code rather than the Longmeadow Zoning By-Laws. The Chairman then suggested that the Board needed to get in touch with Town Counsel regarding this issue. Board Members agreed and voted to continue the hearing to August 1, 2006. Mr. Cropsey and Mr. Roberts requested that they be given the opportunity to see Joel Bard's response to the Board.

The next meeting was held on August 1, 2006. The Board has received an opinion from Attorney Joel Bard and distributed, prior to the meeting, to the Appellants and Bay Path. The Applicants submitted a letter dated

July 25, 2006 which provided the basis for the Applicants contention that the Board has jurisdiction to review the Building Commissioners determination letter.

Mr. Cropsey stated that the ZBA has jurisdiction since Article 4, Section K of the Longmeadow Zoning By-laws refers to fences. H argued, among other things, that if the Backstop is a fence, it's covered under the Town By-Laws and if it's a structure it is covered under the State Building Code.

The Applicants and the Board then discussed the applicability of Massachusetts General Laws, Chapter 143, Sub-section 100 which provides that adjudication of issues involving the issuance of building permits is under the jurisdiction of the State Building Code Appeals Board and that whether the Board has jurisdiction to make determinations relating to interpretation of the State Building Code.

The Board voted to continue the hearing the September 6, 2006 which was later continued to November 15, 2006.

The Board then met on November 15, 2006 and resumed the hearing on the Appeal. After a review of the history of the Appeal a motion was made and seconded that finds the Board does not have jurisdiction to hear the Appeal regarding the softball backstop because there is no Zoning By-Law implicated.

Board Members Lavenburg, Clark, Sirulnik and Preston all voted in favor of the Motion therefore the appeal was denied.

**Kane, 1657 Longmeadow St., requesting a Special Permit to be allowed to tear down and rebuild dwelling, Petition #2006-13.**

The Board continued this petition to December 6, 2006.

**Omni-Point-T-Mobile, 260 Meadow Rd., requesting a Special Permit to put a Cell Tower on private property, Petition #2006-18.**

Petition was continued to December 6, 2006.

**Albano, 403 Maple Rd., requesting a Special Permit to be allowed to tear down and rebuild dwelling, Petition #2006-27.**

Petition was continued to December 6, 2006.

**Bay Path College, 896 Longmeadow St., requesting a Special Permit for addition and renovations on pre-existing non-conforming dwelling, Petition #2006-34.**

Michael Giampietro, Vice President for Administration and Finance appeared before the Board on behalf of Bay Path College. He stated that they were requesting a Special Permit for an addition and renovations to the new "President's Residence" located at 896 Longmeadow Street.

Board Member Clark noted that the house is pre-existing non-conforming due to the fact that the northerly lot line of the property was 14'5" he also noted that the nature of the addition and renovation was a single story addition of approximately eight by twenty feet (8' X 20'). It would be sited on the rear northwest corner of the present dwelling and that the proposed addition did not extend to the northwest corner of the present dwelling, thus it did not appear that the existing nonconformity would be increased or extended by virtue of the addition, as proposed.

Some discussion ensued as members viewed the plan details and it was also noted that the other work on the residence would include the restoration of the exterior finish, new windows and some new doors. The Historic District Commission ok the exterior plans at their August 8, 2006 meeting.

The meeting was opened to the public. Henry Cropsey stated that he was in favor the project. No one else spoke in favor or against the petition.

A motion was made and seconded to allow the addition and renovation with Board Members Lavenburg, Plotkin, Preston, Clark and Bean all voting in favor of the motion. Therefore the Special Permit was issued.