



**TOWN OF WESTMINSTER  
ZONING BOARD OF APPEALS  
11 SOUTH STREET  
WESTMINSTER, MA 01473**

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TOWN OF WESTMINSTER

**Meeting Minutes  
April 20, 2017**

**Call to Order:**

The meeting of the Zoning Board of Appeals was called to order at 7:00 PM at the Westminister Elementary School, 9 Academy Hill Road, Westminister, MA by Chairman Don Frigoletto.

**Roll Call:**

The following members were present: Chm. Don Frigoletto, Members, Robin Brasili and Aime Denault. Town Counsel of KP Law, Jeff Blake was also present.

**Approval of Minutes of previous meeting(s):**

A motion was made by Aime Denault to approve the minutes of the meeting from *March 16, 2017*. This motion was seconded by Robin Brasili and approved by a unanimous vote. A second motion was made by Aimee Denault to approve the minutes of the meeting from *April 4, 2017*. This motion was seconded by Robin Brasili and approved by a unanimous vote.

**Case #17-01 – 175 Knower Road, Westminister, MA:**

The chairman reviewed the agenda and explained the procedure and rules. Chm. Frigoletto asked all people in attendance, who intend on speaking, to stand and he proceeded to swear them in.

The Chairman opened the public hearing by reading the public notice.

The Chairman invited the Building Inspector to speak. Mr. Blanchard explained the cease and desist order. He stated the Rod and Gun Club has been in existence since the 1900's. Zoning By-Laws in Westminister came into effect in 1974. He stated that in the year 2000 the club erected a shooting shed with no permits. At that time it would have required a permit or ZBA approval for an expansion of a pre-existing non-conforming use. They are shooting more often at this location and an extension is needed for this non-conforming use.

Chairman Frigoletto asked the Building Inspector when the shooting shed building was built and asked him if it is grandfathered. The Building Inspector answered in 2004 and no, it is not grandfathered. Chairman Frigoletto asked what other evidence he has to prove that there has been an increase in activity at this location? The Building Inspector stated an increase in complaints to his office and the police department by neighbors and the general public. He stated that shooting has increased from mostly club use on weekends to now, up to 7 days a week and early morning and evening hours.

Applicants testimony: Justin Raphaelson, Esq, on behalf of the Westminister Rod and Gun Club.

Atty. Raphaelson made the following arguments:

- a. In regards to the claims about the shooting shed he argued that the shooting shed structure is not a matter in front of the board. He stated the cease and desist order is based on increased frequency and nothing else.
- b. He stated the range is a lawful, pre-existing non-conforming use.
- c. He stated the building commissioner stated that there is limited evidence of use prior to adoption of zoning. The clubs activity has not changed and has not been interrupted. Activities include the shooting range for firearms, turkey shoots and other social events. As for the history of the club, membership has fluctuated. 120 members presently but has been up to 300. He stated the Building Inspector has provided no evidence to support the cease and desist order. He ensures the applicant wants to work together with neighbors so the members can use the range.
- d. He cited the following case law to support his argument:
  - Cape Resort Hotels, Inc. v. Alcoholic Licensing Board of Falmouth
  - Derby Refining Co. v. City of Chelsea
  - Morin v. Board of Appeals of Leominster
- e. He cited the Westminster Zoning Bylaw, Section 205-49 and stated that the shooting/activity has been consistent for 100 years and the club members will testify to that. He also cited the state law c. 40A Sections 8 & 15 and stated there is no substantial extension of the clubs activities.

The chairman confirmed with Atty. Raphaelson that membership is at 120 members at this time and asked how many members were in 1974? Atty. Raphaelson was unsure how many members there were in 1974 and prior to.

The chairman asked the hours of the club? Atty. Raphaelson stated on Sunday, they don't begin shooting until after 10:00 a.m. Most other days shooting normally begins after dawn and ends before dusk.

The chairman asked why the applicant did not apply for a finding as requested in the building inspectors letter? Atty. Raphaelson stated he did not know why or what the difference was.

Witnesses for applicant:

Roland Leclair, Carter Road. He stated he has been a member since late 1950. He recalls the club to have 300-350 members at that time. He stated he has been shooting all along.

Joe Bilodeau, of Hubbardston. He stated he was a member and membership has never fallen below 100.

Dan Mason, lives in Baldwinville but is member of club. He stated there are organized shoots year round. The year 1967 is his earliest recollection but he stated it has always been a very active club.

Bruce Seibert, of 228 Ellis Rd, Westminster. He stated he has been shooting there since 1993. He took a short hiatus in early 2000. He has held the position of board member/director for 4 separate terms and currently holds a position. He is a Range Safety officer. He began to speak about the shed but the Chairman reminded him that the shed is not part of the issue. He stated that people that shoot during the week are new gun owners or sighting in their rifles before hunting season. He said that 5% percent or less of the members shoot during the week. The Chairman asked if there is a log book? Mr. Seibert stated there is a sign in sheet. The Chairman asked, how about in 1974 and prior to? Mr. Seibert said that a log book would be difficult (to produce).

The Chairman stated that it is important to gather a baseline of activity prior to the adoption of the zoning ordinance in 1974.

Lisa Coleman, resident of Hubbardson, She stated she is the Secretary of the club. She stated in the last 7 mo, the club has been harassed by Mr. Fortin. Mr. Fortin has trespassed on the club property. She stated the club is a legally, operating club and they are being wrongfully accused.

Jennifer Ferrebee, is an abutter at 185 Knower Road. 2 year resident. She stated the noise is occasional and not frequent. She stated the shooting is never early in the morning or late at night. She has no issues and everyone is respectful.

Gwen Farley, 187 Knower Road. She stated the noise is minimal and the club has been a great neighbor.

Neighbors and abutters in opposition or speaking with concerns:

Abutters, Mary and Bill Waight, 84 Minott Road, spoke in opposition to the petition. They have lived on Minott Road since 1987. They live to the rear of the club. They believe the club bears a negative impact to the neighborhood. They stated the frequency of shooting is very different from the past and they have noticed a dramatic increase. They stated they have found bullets on their property.

Gary Moore, of 58 Minott Road. He stated there is a lot more activity than in the 70s.

Linda Murach, 82 Minott Road. 25 year resident. She stated she just wants people to be careful and she doesn't think it's safe.

Joyce and Don Shank, abutters at 88 Minott Road. 42 year residents. Mrs. Shank states the shooting is very disruptive and more often, every day. There are constant shots and it makes her uncomfortable. Mr. Shank stated there is increased frequency of shooting and more traffic at the club.

Nancy Maki, of 102 Minott Road. Her home has been in her family for 96 years. She stated she never heard gunshots and now it has increased so much that she will not walk on her property. She stated she needs to feel safe and be able to use her own property. Her friend, Mrs. Cook also spoke and stated gunfire should be limited.

Bill Wilen, of 24 Minott Road. He stated the mission of the club has not changed.

The Chairman reiterated that the board is trying to determine if the activity has increased since the adoption of the zoning in 1974.

Daniel Young of 113 Knower Road then spoke to support the club. He stated he was 12 years old in 1974. He recalled there to be a lot of shooting going on. He then joined the club as an adult and has been on the board serving as president in the year 1991.

The Fortins, 59 Minott Rd. They stated the shooting has escalated. Mrs. Fortin does not hold gatherings at her home any longer. She stated the club is not a fish and game club and it is just a shooting club. She pleaded to the board to uphold the cease and desist order.

