
ZONING - MASSACHUSETTS

Miles-Matthiass v. Zoning Bd. of Appeals of Seekonk

Appeals Court of Massachusetts, Bristol - February 11, 2014 - N.E.3d - 84 Mass.App.Ct. 778

Neighbors appealed decision of town zoning board, determining that property owner's proposed common driveway was permissible under town zoning bylaw. The Superior Court overturned the zoning board's decision, and owner appealed.

The Appeals Court held that:

- 30-day period for neighbors to appeal to zoning board began to run when building commissioner issued decision to approve driveway;
- Town zoning bylaw was permissive, not prohibitive;
- Trial court was required to give deference to decision of board approving driveway; and
- Driveway was a permissible accessory use under bylaw.

Thirty-day period for neighbors to file appeal with town zoning board from building commissioner's approval of property owner's proposed common driveway began to run when commissioner issued the decision, not when neighbors learned of the decision and requested a written copy, since neighbors had constructive notice of decision and failed to satisfy their duty of inquiry to learn of decision. Neighbors had been aware that owner was seeking commissioner's approval of driveway, neighbors had initially kept in close contact with commissioner, but neighbors failed to contact commissioner regarding decision for approximately two weeks prior to decision and two weeks after decision.

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