



<http://carlislema.gov>

TOWN OF CARLISLE

OFFICE OF Zoning Board of Appeals

66 Westford Street
Carlisle, MA 01741
978-369-5326

Minutes: Board of Appeals, February 8, 2021

Call to Order

The meeting was called to order at 7:30 p.m. Pursuant to the Governor's Executive Order Concerning Open Meetings during the COVID-19 crisis, there was no in-person attendance. Participation was entirely remote utilizing the teleconference application Zoom Meeting.

The Chair noted that the audio portion of meeting was being recorded and asked if any other were recording. Ranjan Mathew said that he was recording the meeting.

Roll Call and Declaration of Quorum

Chair Snell recognized the required quorum of Members. Present were Members Travis Snell (Chair), Steven Hinton and Manuel Crespo (Clerk) and Associate Members Eric Adams, Jay Lee and Gretchen Anderegg.

Statement of Compliance

The issue of compliance regarding posting of the meeting was confirmed by the Chair. According to Secretary Wang, the agenda was posted February 4, 2021

Approval of Agenda

Chair Snell asked those present if there were any matters other than those listed on the agenda which the public would like to add to the agenda. When none were offered, the agenda was accepted.

Public Comments

Chair Snell asked those present if there were any matters other than those listed on the agenda which the public would like to present to the Board. None were offered.

New Business – OML Complaint

Chair Snell opened the meeting to discuss the Open Meeting Law Complaint file on February 2, 2021 by Ranjan Mathew, 120 Sunset Road. Present were Ranjan Mathew, Town Counsel Attorney Chris Heep, Mosquito reporter Mark Brittle and Secretary Peggy Wang. He asked Attorney Heep to update the Board regarding the process.

Attorney Heep explained that once a complaint is filed against a Board with the Attorney General that Board must schedule a meeting to discuss the complaint. After meeting, the Board is obliged to submit a written a response to the Office of Attorney General along with a copy of the complaint.

Attorney Heep noted there were several points made but the complaint focuses on the statement in the decision on page 3 "They (Mathews) agree that a veterinary service can operate from the barn". Attorney Heep said that the statement was drawn from a combination of the Applicants' Attorney Galvin's letter to the ZBA dated January 4, 2021 and his remarks during the January 4, 2021 public hearing. He noted that section of the decision is merely intended as a summary of comments made at the hearing; it is not a transcript or verbatim account of the hearing.

After the hearings Secretary Wang prepared a draft decision which was then shared with Town Counsel. They reviewed the decision and made suggestions and edited the decision. The Board reviewed the decision and signed it. The decision was then filed with the Town Clerk. The decision was prepared in a process consistent with Open Meeting Laws. He added nothing rises to the level of an Open Meeting Law violation based on the fact that the public hearings were properly posted, the Board gathered to discuss the application, minutes were produced, and a decision was filed consistent

with Chapter 40A. Heep said that the next step is to prepare the written response and offered to produce it if the Board wanted.

Motion and vote

Chair Snell made and Member Hinton seconded the motion: “after considering the advice from Town Counsel in the public hearing, the Board directed Town Counsel to respond to the Open Meeting Law Complaint filed by Ranjan Mathew dated February 2, 2021.”

Consistent with the informal historic practice of the Board, all Members and Associate Members that participated in the public hearing also participated in the vote, and the motion was approved by a vote of 5 to 0 as follows:

Board of Appeals vote:

Snell (Member)	Affirm
Crespo (Member)	Affirm
Hinton (Member)	Affirm
Adams (Associate Member)	Affirm
Lee (Associate Member)	Affirm

Adjournment

Chair Snell asked the Board Members and those present if there were any additional issues to discuss. When none were offered the meeting adjourned at 7:44 pm.

Respectfully submitted

Peggy Wang



The Commonwealth of Massachusetts
Office of the Attorney General
One Ashburton Place
Boston, Massachusetts 02108

OPEN MEETING LAW COMPLAINT FORM

Instructions for completing the Open Meeting Law Complaint Form

The Attorney General's Division of Open Government interprets and enforces the Open Meeting Law, Chapter 30A of the Massachusetts General Laws, Sections 18-25. Below is the procedure for filing and responding to an Open Meeting Law complaint.

Instructions for filing a complaint:

- o Fill out the attached two-page form completely. Sign and date the second page. File the complaint with the public body within 30 days of the alleged violation. If the violation was not reasonably discoverable at the time it occurred, you must file the complaint within 30 days of the date the violation was reasonably discoverable. A violation that occurs during an open session of a meeting is reasonably discoverable on the date of the meeting.
- o To file the complaint:
 - o For a local or municipal public body, you must submit a copy of the complaint to the chair of the public body AND to the municipal clerk.
 - o For all other public bodies, you must submit a copy of the complaint to the chair of the public body.
 - o Complaints may be filed by mail, by email, or by hand. Please retain a copy for your records.
- o If the public body does not respond within 14 business days and does not request an extension to respond, contact the Division for further assistance.

Instructions for a public body that receives a complaint:

- o The chair must disseminate the complaint to the members of the public body.
- o The public body must meet to review the complaint within 14 business days (usually 20-22 calendar days).
- o After review, but within 14 business days, the public body must respond to the complaint in writing and must send the complainant a response and a description of any action the public body has taken to address the allegations in the complaint. At the same time, the body must send the Attorney General a copy of the complaint and a copy of the response. The public body may delegate this responsibility to an individual member of the public body, its counsel, or a staff member, but only after the public body has met to review the complaint.
- o If a public body requires more time to review the complaint and respond, it may request an extension of time for good cause by contacting the Division of Open Government.

Once the public body has responded to the complaint:

- o If you are not satisfied with the public body's response to your complaint, you may file a copy of the complaint with the Division by mail, by email, or by hand, but only once you have waited for 30 days after filing the complaint with the public body. Mail may be sent to: The Division of Open Government, Office of the Attorney General, One Ashburton Place - 20th Floor, Boston, MA 02108. Emails may be sent to: openmeeting@state.ma.us.
- o When you file your complaint with the Division, please include the complaint form and all documentation relevant to the alleged violation. You may wish to attach a cover letter explaining why the public body's response does not adequately address your complaint.
- o The Division will not review complaints filed with us more than 90 days after the violation, unless we granted an extension to the public body or you can demonstrate good cause for the delay.

If you have questions concerning the Open Meeting Law complaint process, we encourage you to contact the Division of Open Government by phone at (617) 963-2540 or by email at openmeeting@state.ma.us.



OPEN MEETING LAW COMPLAINT FORM

Office of the Attorney General
One Ashburton Place
Boston, MA 02108

Please note that all fields are required unless otherwise noted.

Your Contact Information:

First Name: Ranjan Last Name: Mathew

Address: 120 Sunset Road

City: Carlisle State: MA Zip Code: 01741

Phone Number: 9788884940 Ext. _____

Email: ranjan.mathew@gmail.com

Organization or Media Affiliation (if any): None

Are you filing the complaint in your capacity as an individual, representative of an organization, or media?

(For statistical purposes only)

Individual Organization Media

Public Body that is the subject of this complaint:

City/Town County Regional/District State

Name of Public Body (including city/town, county or region, if applicable): Zoning Board of Appeals, Carlisle MA

Specific person(s), if any, you allege committed the violation: _____

Date of alleged violation: Jan-20-2021

Description of alleged violation:

Describe the alleged violation that this complaint is about. If you believe the alleged violation was intentional, please say so and include the reasons supporting your belief.

Note: This text field has a maximum of 3000 characters.

Complaint regarding Appeal BOA 2012, ZBA, Carlisle, MA. (Request to overturn Building Inspector's decision regarding, our neighbors, the Svateks). Two ZBA meetings were held under OML on 12/7/2020 and 01/04/2021, decision letter received on 01/20/2021. Both meetings were recorded.

A disturbing sentence first noticed in the decision letter (and later found in ZBA minutes), immediately caught our eye as it reflected a major objective of our neighbors, which we did not approve of. The statement was not made by us or our Attorney.

"They (the Mathews) agree that a veterinary service can operate from the barn, but there cannot be any visible evidence of the business operating at the property."

We immediately emailed the ZBA Chair, Travis Snell, Town Clerk, Peggy Wang, replied on 01/23/2021.

"Dear Mr. Mathew, The referenced statement in the ZBA's decision was drawn from a combination of Attorney Galvin's letter to the ZBA dated January 4, 2021, and his remarks during the January 4, 2021 session of the public hearing. I regret if you believe that the statement in the decision does not accurately capture what was written or said, but please note this section of the decision is merely intended as a summary of the comments made at the hearing; it is not a transcript or a verbatim account of the hearing. Peggy Wang, ZBA Admin Assistant"

Key Observations:

(1) No matter who wrote the decision letter using the ZBA meeting minutes as a basis, it was signed by Mr. Snell, Crespo and Hinton who are responsible for the accuracy of its contents. Similarly, the ZBA meeting minutes are approved by the ZBA members and they are responsible for the accuracy.

(2) KEY QUESTION: Why did Snell, Crespo and Hinton sign off on a critical FALSE statement embedded in the decision letter?

(3) If the counter argument is that it was a typing error on Peggy's part, how could a typing error morph into one of the primary objectives of the Svateks, that we oppose?

(4) KEY QUESTION: Did someone alter the ZBA minutes and/or the decision letter during its creation?

(5) KEY QUESTION: Was there direct or indirect communication and/or collusion?

(6) Previously, the Svatek's office was identified in their residence. The decision letter states that "There is an office in the barn." This the first time we are seeing this. Where did this come from? The decision letter also falsely states that the "(Mathews) agree that a veterinary service can operate from the barn." To us, all this feels like we are agreeing to increasing levels of activity in the barn, without need for a Special Permit. This is NOT TRUE and we wonder how this FALSE information is getting into ZBA documents?

For the above reasons, we believe the violation is INTENTIONAL. We submit this complaint in accordance with the Attorney General's OM Law relating to accuracy which requires that "...the public who did not attend the meeting could read the minutes and have a clear understanding of what occurred."

What action do you want the public body to take in response to your complaint?

Note: This text field has a maximum of 500 characters.

(1) Investigate why the ZBA signed the decision letter that was clearly in error. Refer Peggy Wang email 01/23/2021.

(2) Identify who altered/influenced the alteration of meeting minutes and decision letter?

(3) Investigate if there was communication and collusion as described in (5) above. If so who?

(4) Take appropriate action.

(5) Ensure that the ZBA (a) clarifies all areas of obfuscation in their communication to the Mathew's and (b) clearly identifies the bylaws and the logic used to arrive at their (ZBA) decision.

(6) Ensure proper and clear constraints are applied to Svatek operations so that the Mathews do not have to go to court and spend time and money to correct the OML violations made by the ZBA.

Review, sign, and submit your complaint

I. Disclosure of Your Complaint.

Public Record. Under most circumstances, your complaint, and any documents submitted with your complaint, is considered a public record and will be available to any member of the public upon request.

Publication to Website. As part of the Open Data Initiative, the AGO will publish to its website certain information regarding your complaint, including your name and the name of the public body. The AGO will not publish your contact information.

II. Consulting With a Private Attorney.

The AGO cannot give you legal advice and is not able to be your private attorney, but represents the public interest. If you have any questions concerning your individual legal rights or responsibilities you should contact a private attorney.

III. Submit Your Complaint to the Public Body.

The complaint must be filed first with the public body. If you have any questions, please contact the Division of Open Government by calling (617) 963-2540 or by email to openmeeting@state.ma.us.

By signing below, I acknowledge that I have read and understood the provisions above and certify that the information I have provided is true and correct to the best of my knowledge.

Signed: Ranjan Mathew

Date: February 2nd, 2021