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Zoning Board of Appeals, Town of Holland
Sarto Caron, Chairperson
27 Sturbridge Road
Holland, MA 01521

May, 29, 2008

Dear Mr. Caron,

In your letter dated May 22, 2008, and delivered yesterday, May 28, you claim that my appeal has not been field properly; I disagree and here is why:

M.G.L., c.40A, s.12, provides in part:

The board of appeals shall adopt rules, not inconsistent with the provisions of the zoning ordinance or by-law for the conduct of its business and for purposes of this chapter

The zoning by-laws of the town of Holland provide under Section 8.7 **Special Permit Procedure** – Zoning Board of Appeals, subsection 8.72 in part:

The Zoning Board of Appeals shall adopt procedural rules for the processing of and applications for special permits within its jurisdiction which rules shall be consistent with the requirements of Chapter 40A, Section 9, of the Massachusetts General Laws and shall, upon adoption, promptly file copies of such rules and any amendments thereto with the Town Clerk.

M.G.L., c.40A, s.12, clearly states “shall adopt rules, not inconsistent with the provisions of the zoning ordinance or by-law [...]” and, the Zoning by-laws clearly mandate the Zoning Board of Appeals to “adopt procedural rules for the processing of and application for **special permits** within its jurisdiction [...]”

The “procedural rules” are limited to “processing of and application for **special permits**.” I did not file an application for a **special permit**, and this Board is not processing my application or appeal pertaining to a **special permit**. Furthermore, subsection 8.72 of the zoning by-laws clearly ties the procedural rules mandated in subsection 8.72 to c.40A, s.9. Section 9 exclusively deals with **special permits** and not **enforcing actions**.

How you, Mr. Caron, derive your claim out of existing laws and by-laws that my petition was not filed properly is unclear to me. Any such claim is inconsistent with M.G.L. and local by-laws.

I do not argue whether the Planning Board has the authority to include a provision in the by-laws to authorize this Board to adopt rules for processing of and filing an **enforcing action**, see M.G.L., c.40A, s.s.8, 15. However, as long as the zoning by-laws exclusively mandate the Zoning Board of Appeals to adopt procedural rules on filing and appealing petitions for **special permits**, the request by this Board is arbitrary and unsupported by the zoning by-laws.

This appeal is against Earl Johnson and his three sons. Earl Johnson, member of the Select Board, member of the Planning Board, member of the Board of Assessors, personal friend of all members of the Zoning Board of Appeals, and one of the three individuals who appointed you, Mr. Caron and the rest of this Board for that matter. You and every other member would have to recuse themselves anyway from these proceedings. Furthermore, all of Earl Johnson's sons are holding offices or were holding offices in the town of Holland at one point in time. To hold a public hearing and expect a fair and unbiased outcome under the given circumstances is ludicrous.

If you disagree there is ample time for this Board to conduct a public hearing in this matter. The outcome of a public hearing by this Board will unlikely bring the sought relieve and will not change my determination to pursue this matter to the highest court of the Commonwealth. I still believe that existing laws can and need to be enforced and arbitrarily interpreted existing laws or by-laws are oppressive and do not further the administration of justice.

To prevent being sidetracked by this issue, I include a check for the \$165.00 per your request. The question whether the Board has legal grounds to charge me, absent a provision in the by-laws authorizing this Board to do so, I shall defer to a judge at a proper time.

Sincerely,

Peter Frei