

ZONING BOARD OF ADJUSTMENT

Wednesday, September 22, 2010
Belmont Corner Meeting House
Belmont, N.H.03220

Members Present: Chairman Peter Harris; Pleasant Oberhausen and Marshall Ford.
Members Absent: Linda Couture (E), Norma Patten (E).
Alternates Absent: Mark Mastenbrook (E).
Staff: Elaine Murphy and Steven Dalton.

The chairman opened the meeting at 7p.m. He explained that the Board usually consists of five voting members and that an affirmative vote of three is necessary to pass any motion or approval. The applicants have the option of going with a short Board or postponing. A short Board is not a reason for a rehearing.

Abutters' Hearing – Richard & Patricia Bernard: Request for a Special Exception of Article 11.A.3.c of the Zoning Ordinance to add useable space (2nd story) in a preexisting nonconforming footprint. Property is located at 39 Dutile Shore Road in an “RS” Zone, Tax Lot 103-007, ZBA # 4610Z.

At least three members have viewed the site.

Mr. Richard Bernard presented the application and agreed to a short Board.

Mr. Bernard explained that he would be taking the roof off and raising it 7' to make a recreation room to play pool. The abutting neighbors have no objections. He will not be blocking anyone's view. It will enhance the neighborhood and not diminish property values.

P. Oberhausen wanted to know if they would be using the heat from the house. Mr. Bernard stated that he would be using a monitor heater. This will be strictly a recreation area. There will no additional bedrooms. They are already connected to the sewer but they are not putting in any additional bathrooms. They already have three bedrooms and three bathrooms and don't need anymore. There also will be no water upstairs.

P. Harris stated that the Board is concerned because there have been many seasonal camps that have been converted to year round homes and they use the garage as added living space. Mr. Bernard stated that he is using it as a recreation room only.

The chairman asked if anyone in the audience had any questions or comments. There being none, he closed the public hearing.

BOARD ACTION – RICHARD & PATRICIA BERNARD:

MOTION: M. Ford moved to grant a Special Exception of Article 11.A.3.c of the Zoning Ordinance to add useable space (2nd story) in a preexisting nonconforming footprint as it meets all the criteria.

1. The Ordinance specifically allows the use when a Special Exception is granted.
2. The specific site is appropriate for the use.
3. No factual evidence is found that property values in the district will be reduced.
4. There is no valid objection from abutters based on fact.
5. No nuisance or hazard is involved.
6. Adequate and appropriate facilities will be provided.
7. There is adequate sewage disposal.
8. Structures must otherwise meet all dimensional requirements of the Ordinance.

Additional conditions:

1. No other structures or additions (incl. decks, porches, landings, etc.) that do not meet setback are allowed by this approval.
2. Approval is for a family room only. No extension of water or sewer facilities and no sleeping quarters shall be included.

The motion was seconded by P. Oberhausen and carried. (3-0)

Abutters' Hearing – Happy Tails Dog Park of the Lakes Region: Request for a Special Exception of Article 5 Table 1 of the Zoning Ordinance to allow an outdoor recreational facility (dog park) in the commercial zone. Property is located at 576 Laconia Road, Tax Lot 224-040, ZBA # 4710Z.

At least three members have viewed the site.

Ms Lisa Clutters presenting the application wanted to know who the members were that were not in attendance at tonight's meeting. E. Murphy explained that they are Linda Couture, Norma Patten and alternate Mark Mastenbrook. Ms. Clutters wanted to know how many members are a full Board. P. Harris stated that there are five members and one alternate member. A full Board consists of five voting members. Ms. Clutters stated that she would like to have the application Tabled to the October meeting as long as there are no additional costs. E. Murphy stated that there will be no additional noticing cost and stated that Ms. Clutter has asked that the filing, noticing and Notice of Decision fees be waived. The Board will make the determination about the fees at the October public hearing.

MOTION: P. Oberhausen moved to table the Special Exception of Article 5 Table 1 of the Zoning Ordinance to allow an outdoor recreational facility (dog park) in the commercial zone to October 27, 2010 at 7pm to allow the application to be heard by a full Board.

The motion was seconded by M. Ford and carried. (3-0)

Abutters' Hearing – Tracy Anderson, Executor: Request for a Special Exception of Article 5 Table 1 of the Zoning Ordinance to house agricultural animals (horses). Property is located at 25 Church Street in a "V" Zone, Tax Lot 122-033, ZBA # 4810Z.

At least three members have viewed the site. The Board and applicant received additional written information from the Land Use Technician, R. Ball, about the pasture having wetlands.

Mr. Ernie Roy presented the application and agreed to a short Board.

Mr. Roy explained that his intention is to house one horse and in the future house two horses. He stated that he has not addressed the issue of the pasture having wetlands as he was unaware of any wetlands in that area. He also questions UNH Coop Extension minimum pasture area for a single horse being 1-2 acres for grazing. He believes it is 200 square feet for exercising.

P. Oberhausen wanted to know what they will be doing with the horses. Do they plan on riding them downtown? Mr. Roy stated that they will be trailering the horses out for riding. They will not be riding in the downtown area. P. Oberhausen wanted to know about the odor. Mr. Roy stated that every week they will be taking the manure to a farm in Northfield so there will not be any odor.

M. Ford stated that they need a wetland scientist to determine the wetlands in the pasture area. Mr. Roy wanted to know how R. Ball determined that there are wetlands out there. E. Murphy explained that he visited the site and suggested that a wetland scientist is needed to determine the wetlands. P. Harris stated that a wetland scientist is needed to determine the wetlands and if the horses would have any effect on them. It is rare to have a three acre lot in the village but the wetlands have to be considered when the Board makes their decision.

Abutter, Steve Booth, 31 Church Street stated that there are considerable wetlands on the property. In the spring the wetlands are very deep. There is a slope that goes into the river and when the horse waste goes in the ground it can go into the river. He is opposed to the special exception.

P. Harris suggested that Mr. Roy talk to the Land Use Technician about the wetlands.

The chairman asked if anyone in the audience had any further questions or comments.

BOARD ACTION – TRACY ANDERSON, EXECUTOR:

MOTION: P. Oberhausen moved to Table the Special Exception of Article 5 Table 1 of the Zoning Ordinance to house agricultural animals (horses) to the November 17, 2010 meeting to allow the applicant time to contact a Wetland Scientist to delineate any wetlands on the property.

The motion was seconded by M. Ford and carried. (3-0)

Abutters' Hearing – Charles & Dianne Stewart: Request for a Variance of Article 5 Table 2 of the Zoning Ordinance to place a manufactured housing unit closer (16') to the front property line than allowed (50'). Property is located at 17 Sleepy Hollow Lane in an "RM" Zone, Tax Lot 121-065, ZBA # 4910Z.

Ms. Georgie Johnson presented the application and agreed to a short Board. Mr. Stewart was also present.

Ms. Johnson explained that in the July approval the applicant was trying to move the manufactured home towards the back line and have a deck out front. The area was not staked out on the ground and the

applicant had a misunderstanding on where his property line is. He did not realize the lip on the road is not his property line but a ROW. When the contractor came to determine where the unit would go they noted the power lines across the back of the property and determined that the unit would be close to the power lines and they would have to take out the mature trees on the site. Tonight's proposal is to relocate the big deck and put it on the side and pull the unit forward away from the power lines. They will meet the side setbacks but will be closer to the front property line by 8'. The proposal is in line with others in the immediate area.

P. Harris stated that it is similar to others in the area. Ms. Johnson stated that it is more in line with others in the neighborhood.

P. Harris stated that there is a one concern from the Public Works Department about the new road and the curbing. Ms. Johnson stated that they are aware of the comment and they have no plans that would affect the road but if there is any damage as a result of placing the unit they will be responsible for fixing it.

P. Oberhausen wanted to know the size of the deck. Mr. Stewart stated it is 12' x 24'. P. Oberhausen stated that when they designed that area they created nonconforming lots and put as many houses as they could in that area. This proposal lines up with others in the area.

The chairman asked if anyone in the audience had any questions or comments. There being none, he closed the public hearing.

BOARD ACTION – CHARLES & DIANNE STEWART:

MOTION: M. Ford moved to grant a Variance of Article 5 Table 2 of the Zoning Ordinance to place a manufactured housing unit closer (16') to the front property line than allowed (50') as it meets all the criteria.

1. The variance will not be contrary to the public interest because it is a residential neighborhood and the proposal is similar to others in the area.
2. The spirit of the ordinance is observed.
3. Substantial justice will be done because it is a reasonable use and will be enjoyed by the owner.
4. The variance would not diminish the value of surrounding properties.
5. Owing to special conditions of the property, that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because of the following:
 - a. no fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property.
 - and
 - b. the proposed use is a reasonable one and the shed will be relocated.

Additional conditions:

1. All setbacks certified during construction as required.
2. No other structures or additions (incl. decks, porches, landings, etc.) that do not meet setback are allowed by this approval.
3. Relocate shed to footprint shown on plan.
4. Owner shall coordinate access onto the lot with the Public Works Department and is responsible for any damage that occurs to the public highway.

The motion was seconded by P. Oberhausen and carried. (3-0)

Abutters' Hearing – Casey & Jamie Crumb for No Limit Motorsports: Request for a Special Exception of Article 5 Table 1 of the Zoning Ordinance for an auto repair business in the village zone. Property is located at 181 Main Street, Tax Lot 124-004, ZBA #5010Z.

At least three members have viewed the site.

P. Harris explained that he will be stepping down from this application because of a conflict of interest as he runs an automotive business. A vote of three is needed for approval so this application needs to be Tabled.

Mr. Jamie Crumb stated that he wanted to address the issue of the house not being a three family house. He bought a three family home with three apartments. The assessment card shows it as a three family unit. Code Enforcement Officer, Steven Dalton, stated that he has no record of it having three units but this can be rectified by coming to the office and applying for an after-the fact building permit.

An abutter at 13 School Street stated that this is a busy street and is a lousy location for an automotive business and does want it looking like a junkyard. Mr. Casey Crumb stated that it isn't actually a repair shop but a motor sport repair shop for small engines.

P. Oberhausen stated that the building is close to the property line and there isn't much space on the side. Mr. Crumb stated that it is a pull through garage so they don't have to go around on the side. P. Oberhausen stated that the noise level from motorcycles and snowmobiles in the middle of town could be a concern. Mr. Crumb stated that they have tenants and they have to have consideration for them so there would not be any loud noises.

Mr. Casey Crumb stated that since he has no option he will agree to have his application tabled to the October meeting.

BOARD ACTION – CASEY & JAMIE CRUMB FOR NO LIMIT MOTORSPORTS:

MOTION: P. Oberhausen moved to Table the Special Exception of Article 5 Table 1 of the Zoning Ordinance for an auto repair business in the village zone to October 27, 2010 at 7 P.M. as there was not a quorum available to sit on the application.

The motion was seconded by M. Ford and carried. (3-0)

OTHER BUSINESS:

BOARD'S ACTION - MINUTES:

MOTION: P. Oberhausen made a motion to approve the minutes of August 25, 2010. P. Harris

seconded. Carried (3-0)

STAFF REPORT:

MEMBERSHIP:

The Board received a resignation letter from E. Hawkins. The Board signed a letter for E. Hawkins thanking him for his service on the Board and stating that they will miss his insight on applications.

APPEAL OF ADMINISTRATIVE DECISION:

E. Murphy explained that the Appeal of Administrative decision for a building permit issued has been withdrawn. There is no need for a special meeting.

NOTICE OF DECISION:

The chairman signed the Notice of Decisions for:

- Jon & Allison Daigle 24 Forest Drive tax lot 238-010.
- Michael & Veronica Fournier 27 Forest Drive tax lot 239-009.
- Lynn Dancer & Shannon Day 296 Province Road tax lot 212-072.
- Linda Merriam 41 Gardners Grove Road tax lot 119-004.

LAW LECTURE SERIES:

The Board received copies of the Law Lecture Series “Conflict of Interest, Disqualification & the Local Land Use Board decision Making Process”.

ADJOURNMENT:

MOTION: On a motion by P. Oberhausen, seconded by M Ford, it was voted unanimously to adjourn at 7:50p.m. (3-0).

Respectfully submitted,

Elaine M. Murphy
Administrative Assistant