

City of Keene
New Hampshire

ZONING BOARD OF ADJUSTMENT

Monday, May 04, 2015

6:30 PM

Council Chambers, 2nd Floor

Board Members Present:

Chair Louis Zerba
Nathaniel Stout
Jeff Stevens
Joseph Hoppock

Staff Present:

Gary Schneider, Plans Examiner
Med Kopczynski, ACM/Health & Building
Safety Director

Board Members not Present:

David Curran

Others Present

I. Introduction of Board Members

Chair Zerba called the meeting to order at 6:40. Mr. Curran was not present.

II. Minutes of Previous Meeting: April 6, 2015

Mr. Hoppock made a motion to approve the minutes of April 6, 2015 as amended. Mr. Stout seconded the motion which carried unanimously.

Chair Zerba stated that on pg. 3 it reads: “Jim Phippard approached the Board and pointed to a map showcasing the property of the petitioner...” Chair Zebra stated that the word: “in” should be removed. Chair Zerba stated that on pg. 8, Mr. Gunn should be changed to Mr. Gunn.

III. Unfinished business

None at this time

IV. Hearings:

Continued ZBA 14-33/: Petitioner, Tasoulas Realty, LTD Partnership of Keene, a Rehearing of Administrative Decision ruling that only three residential units can occupy a site in the Medium Density Zone.

Chair Zerba stated that this will not be a public hearing but a deliberation amongst the Board. Mr. Stout stated that this application has been a complicated case and he has learned a lot from it. He continued, stating that the word “structure” and “lot” do not seem to be clearly defined in the Ordinance. Mr. Stout stated that there are still questions about the Code itself and his original vote will stand.

Mr. Stevens stated that he believes that the wording is still very clear and he is firm on his decision. Mr. Hoppock stated that his decision is also the same and there is no ambiguity in the wording. He continued, stating that the intent of Section 102-391 describing the Medium Density Zone is clear and the applicant's argument is also clear. Chair Zerba stated that the Intent Statement 391 is very clear; however the conditions below discussing three dwelling units are still ambiguous. She continued, stating that she will also have to support the petition as well. Chair Zerba discussed a similar situation on Marlboro Street.

Mr. Hoppock made a motion to uphold the Appeal of Administration Decision on ZBA 14-33. Mr. Stevens seconded the motion.

On a vote of 3:1, the Zoning Board of Adjustment approved ZBA 14-33. Mr. Stout voted in opposition.

ZBA 15-06/: Petitioner, Keene Family YMCA, of 200 Summit Road, Keene, represented by Rob Hitchcock of SVE Associates, 47 Marlboro Street, Keene, request a variance for property located at North of 200 Summit Road in Keene which is in the Corporate Park Zone. The Petitioner requests a bus stop shelter in a zone where such a use is not specifically allowed. Because the lot has no primary use, the bus shelter, which is normally an accessory use, becomes the primary use per Section 102-792 of the Zoning Code.

Chair Zebra stated that the applicant has requested to table this item until the next meeting when five Board members are present. Mr. Stout stated that he will recuse himself from this item when it comes in front of the Board due to his role as a Board Member of the YMCA. Chair Zerba stated that John Norton will be asked to attend for this petition.

V. New Business

Schedule site visit two weeks from this meeting date for 0 Daniels Hills Road, Leah LaRock ZBA 14-12 petition requesting a variance to build and occupy a single family dwelling on a lot with 1.76 acres where a five (5) acre minimum lot size is required per Table 102-791 Basic Zone Dimensional Requirements of the Zoning Code.

Mr. Schneider stated that the City Attorney requested the Board have a site visit when this petition comes in front of the Board. He continued, stating that the item currently states that the visit will occur two weeks prior to the petition but we this date will depend on the City Attorney's availability. Chair Zerba stated that the date of May 28, 2015 at 6:00 PM was discussed. Mr. Schneider stated that there needs to be time for notices to go out in the newspaper as well as abutters.

Mr. Med Kopczynski stated there are two complications to be aware of. He continued, stating that John Norton had mentioned resigning and it is important to determine the seriousness of this statement. Mr. Kopczynski stated that Mr. Norton must also recuse himself in any situation

where Attorney Tom Hanna is before the Board. Mr. Kopczynski stated that he will contact the Mayor in reference to this situation and suggested Chair Zerba also contact him. Mr. Schneider stated that Mr. Norton rents space from Attorney Hanna. Chair Zerba suggested that Board members think about possible Board members for the Committee.

VI. Communications and Miscellaneous

Chair Zerba stated that she and Mr. Stout went to a conference on Saturday. Chair Zerba discussed some key items learned at the conference. She continued, asking what has been done in the past when an applicant does not show up. Mr. Schneider stated that the petition is then tabled until the following month. Chair Zerba asked if this is written in the by-laws or common practice. Mr. Hoppock stated that it is just common practice. Mr. Kopczynski stated that this practice should be written somewhere. The Board members agreed. Chair Zerba stated she has been asked to appear in front of the Planning, Licenses and Development Committee in June. She continued, requesting Board members to write down any concerns for review.

Mr. Stout stated that he wondered about a conflict due to his role on the Planning Board. Chair Zerba stated that if Mr. Stout votes in opposition of a petition at a Zoning Board of Adjustment meeting, but is approved anyway and goes to the Planning Board meeting, he would have to recuse himself. Mr. Stout stated that he would like to talk to the City Attorney about this conflict. Mr. Hoppock stated that he does not believe there is a conflict. Chair Zerba stated that legal ramifications could occur with the applicant. Mr. Stout stated that he could still be a liaison between the two Boards.

Chair Zerba stated that the Finding of Facts have changed slightly. She continued, reading aloud the edited version. Chair Zerba stated that a one vote process would occur. She continued, stating that a reason would also be needed with each vote. Chair Zerba stated that the conference was very informative. Mr. Stout stated that he will ask the City Attorney to make copies of documents from the conference for the Board members.

VII. Non Public Session (if required)

VIII. Adjournment

Mr. Hoppock made a motion to adjourn at 7:05 PM. Mr. Stevens seconded the motion which carried unanimously.

Respectfully submitted by:

Lana C. Bluege, Minute-taker
May 4, 2015