

ZONING BOARD OF ADJUSTMENT
TOWN OF PETERBOROUGH
Monday, May 4, 2015 – 7:00 p.m.
1 Grove Street, Peterborough, New Hampshire

Board Present: Jim Stewart, Sharon Monahan, Peter Leishman, Bob Lambert, Loretta Laurenitis and Peter LaRoche

Staff Present: Laura Norton, Office of Community Development and Dario Carrara, Code Enforcement Officer

Chair Stewart called the meeting to order at 7:00 p.m. “Good evening” he said “this is the May stated meeting of the Zoning Board of Adjustment. I am Jim Stewart and I am the Chair.” Chair Stewart went on to introduce the members and staff and read the Rules of Procedure.

Case No. 1213 Divine Mercy Church is requesting a Special Exception to erect a 20 square-foot sign for a church, as regulated by Chapter 245, Article IV, Section 18-D-1 of the zoning ordinance. The property is located at 161 Wilton Road, Parcel No. U019-001-001, in the General Residence District.

After reading the case Chair Stewart looked up and asked “are there any corrections or changes to the notice?” With no response Chair Stewart asked the applicant to begin their presentation. As an abutter, Mr. LaRoche recused himself.

Joe Caracappa introduced himself as the Divine Mercy Building Committee Chairman. He pointed out the location of the sign at the intersection of US Route 101 and Church Street. He told the members the sign measured four feet (tall) by five feet (wide) with the top of the sign being no taller than eight feet above grade.

Mr. Caracappa explained the sign would be placed perpendicular to the highway, will be identical on each side and down lit to illuminate the surface. “It is simple” he said “we want the sign to be easily read and not degrade the character of the neighborhood.”

A brief discussion about the setback of the sign followed with Chair Stewart noting the final location would be decided by the State. With no other questions from the Board Chair Stewart open the hearing to the audience. There were several people present, most identified as Building Committee members and all in support of the request. Mr. LaRoche also noted his support of the Church’s request.

A motion to go into deliberation was made/seconded (Stewart/Leishman) with all in favor.

Deliberation

Chair Stewart appointed Mr. Lambert and Ms. Laurenitis to sit and read the Deliberative Statement. He looked up and said “I am for it.” Ms. Monahan, Mr. Leishman, Mr. Lambert and Ms. Laurenitis each noted their approval as well.

A motion was made/ seconded (Stewart/Leishman) to approve the Special Exception for a 20 square-foot sign for the Divine Mercy Church with all in favor.

NOTICE OF DECISION

Case Number 1213

May 4, 2015

You are hereby notified that the request of Divine Mercy Parish, for a **Special Exception** to Chapter 245, Article IV, Section 18-D-1 of the Zoning Ordinance, to erect a 20 square foot sign for a church, on property located at 161 Wilton Road, parcel number U019-001-001 is hereby **GRANTED**.

In **granting** the special exception, the Board finds that:

The specific and general special exception criteria have been met including **Location, Activity type and Mix, Access and Process**. Regarding **Visual Consequences** the board feels that the larger sign size is needed to provide enhanced visibility on Wilton Road since the church is set back from the highway.

In granting this special exception, the Board imposes the following conditions:

1. The size of the sign must not exceed 20 square feet and the height must not exceed 10 feet.
2. The sign shall be in substantial compliance with the plans presented.
3. The sign shall meet the State DOT setback on Wilton Road.

Signed,

James Stewart, Chair

Chair Stewart read the next case.

Case No. 1214: Native Construction, LLC is requesting a Special Exception to build a 300 square-foot accessory structure in the Shoreland Conservation Zone. The property is located at 88 Hunt Road, Parcel No. U001-010-000, in the Family and Rural Districts.

When finished Chair Stewart asked if there were any corrections or changes to the notice. He then added "I would like to clarify this request is specific to the Criteria in 245-12." He re-read the Rules of Procedure and asked the applicant to proceed.

Chris Guida of Fieldstone Land Consultants introduced himself as the presenter for applicant Tom Rosswaag. He noted the lot where the accessory building would be was part of a larger lot

and pointed it out on an enlarged graphic. He told the members there was an existing well and several test pits had been done on the larger lot “but it is all one lot” he said.

Mr. Guida pointed out a former foundation area on the waterfront lot as well as the grassy area, vegetation types and some rail fencing. He told the members they had received a dock permit from the NH DES Wetlands Bureau and Shoreland Department and that the local rivers advisory committee (the Conservation Commission) had suggested the existing vegetation be maintained and the placement of a silt filtration sock rather than silt fencing for erosion control be used during construction to minimize disturbance.

He noted per the Natural Heritage Bureau (NHB) there was no distinguishable endangered wildlife, rare species or exemplary natural communities on the lot. “We did an elevation certificate” he said adding “the flood elevation is 708.6 feet and the structure will be above that.” He added that a small storage area would contain only paddles and life jackets for kayaking.

Ms. Monahan asked if the two lots were on the same deed. “The lot goes with the primary structure as one contiguous lot” she said adding “and I want to be sure there will be no voluntary lot merger with the waterfront property next door.” Mr. Guida replied “there will not, Mr. Rosswaag does not own the lot next door.” Ms. Monahan reiterated “I just want to make sure it is not separated from the primary lot. That is what the setback is based on.”

Referring to the primary lot Ms. Laurenitis noted “there is no structure across the street.” Mr. Guida replied “right, the garage structure was razed about a year ago as it was not only an eyesore it was a hazard the community.” Ms. Laurenitis then noted the placement of the accessory structure and asked “can you move it back toward the road at all?” Mr. Guida replied “not really because if we did it would encroach into the setback for the building on the road frontage.” He went on to say the present location was best for “tucking it in and screening it from the road” adding “our intent is to keep it natural, the way it is, with all its aesthetics.” He went on to briefly describe the access point to the dock. Ms. Monahan asked if the dock would be on posts as depicted on the sketch provided in their packets. “Yes” replied Mr. Guida as he pointed out the dock access was already clear “there will be no cutting” he said.

Ms. Laurenitis noted the primary parking was across the street and asked “will there be any parking on the lot?” Mr. Guida noted there was an area large enough to park a single vehicle “but the structure is not habitable. It is basically a three-season porch to sit and watch the sun go down.”

Chair Stewart asked Mr. Guida if he had anything additional to add. Without reading the criteria responses Mr. Guida briefly reviewed the key points of the application and Chair Stewart opened the hearing to the public.

Stephanie Hurley introduced herself as a neighbor. “I don’t see a major problem with a structure there” she said adding “when we moved here in 2004 I believe it was a hen house but whatever it was it was falling down.” Ms. Hurley went on to say “it was really tiny though, it was more like 8 X 10. This structure seems huge, it is gigantic. I think it is too big and will take up the whole space. That is my only problem with it, it is huge.”

Bob Bolt introduced himself and said “I am married to Stephanie.” He noted the area where the accessory structure would go had been taped off and said “I am not sure if this is a legitimate reason to say no but it blocks the view of the water.” Chair Stewart clarified the lot most impacted by the structure would be the one across the street, the lot Mr. Rosswaag owns.

Ms. Monahan noted the town setback is 25 feet where the state setback is only 20 feet and if not for zoning the structure would be allowed at 20 feet. “I just want to point out the town is stricter” she said.

The members briefly discussed 245-12 B (the purpose of the Shoreland Conservation Zone) and 245-12 E (by Special Exception other uses that may be allowed if the purpose set forward in 245 B are not adversely affected). As well as the interpretation by the Code Enforcement Officer that an out building located on the north side of Hunt Road had recently been demolished and in 2005 there was an out building on the south side of Hunt road in approximately the same location as the proposed accessory structure that the property is considered developed and 245-12 E applies. Ms. Laurenitis asked about the height of the proposed structure with Mr. Guida noting “10 feet with the two feet of pier.” Ms. Laurenitis noted “so 12 feet total?” “Yes” replied Mr. Guida. Mr. Lambert asked “will it be anchored?” “Yes” replied Mr. Guida.

As Mr. Guida briefly reviewed the Special Exception criteria the question “what if they never build a house?” was asked. Mr. Rosswaag replied his intent was to begin construction “sometime around June 1st.”

Another brief discussion about the accessory structure followed with it being noted that it would most likely be constructed with screens in some way. Ms. Hurley interjected “that would really help with the view and make a huge difference in the way it looks and its visual impact.” Chair Stewart noted “so while the intent is that the structure would be similar to the picture we got what you are really asking for is the 300 square feet.” Mr. Guida replied “yes.” Mr. Guida added that Mr. Rosswaag’s projects were very tastefully done. “You will not be disappointed” he said. Ms. Laurenitis asked if there would be other amenities such as electricity in the structure. Mr. Guida replied “no electricity, no septic, no water, no nothing.” A member asked about the total height of the accessory structure with Mr. Guida replying “14 feet total.” When asked if that would be an acceptable condition of approval Mr. Rosswaag replied “sure, why not.”

A motion was made/seconded (Stewart/Lambert) to move to deliberation with all in favor.

Deliberation

Chair re-read the deliberative statement noting Mr. LaRoche was back and only Mr. Lambert would be appointed to this case.

Chair Stewart then began with a straw poll. Going first he said “I think they did a good and detailed job with the criteria and I see no reason to deny this what-so-ever.” Ms. Monahan agreed adding “it was very well written and presented. I am in favor.” When he was asked Mr. Leishman replied “I ditto the Chairman’s comments, I am for it.” Mr. Lambert added “I am for it” as did Mr. LaRoche.

A motion was made/seconded (Leishman/LaRoche) to approve the Special Exception request for a 300 square-foot accessory structure in the Shoreland Conservation Zone with all in favor.

Chair Stewart suggested they use the language submitted by the applicant for the decision and reviewed the conditions of approval which included a height restriction of no more than 15 feet, the structure be anchored and the structure remain accessory to the primary structure located at 88 Hunt Road.

NOTICE OF DECISION

Case Number 1214

May 4, 2015

You are hereby notified that the request of Native Construction, for a **Special Exception** to Chapter 245, Article III, Section 12-E of the Zoning Ordinance, to build a 300 square foot accessory structure in the Shoreland Conservation Zone, on property located at 88 Hunt Road, parcel number U011-010-000, is hereby **GRANTED**.

In **granting** the special exception, the Board finds that:

Specific facts supporting this request meets the purpose of the Shoreland Conservation Zone:

- 1. Protect public health and property against the hazards of floodwaters:** The proposed use is and accessory residential use / structure which will not be inhabited and is a permitted use within the Shoreland and Floodplain district. The structure will have a pier foundation which will allow for water passage under the structure and will not cause restrictions to flood waters. Structure will also be property anchored/fastened to piers to prevent floating or damage during a potential flood event. In accordance with Floodplain Zone 245-13 the finished floor will be above the 100 year flood elevation of 708.6 NAVD 88 DATUM. The structure will not be used for storage of any hazardous chemicals with potential to adversely affect water quality.
- 2. Avoid pollution and soil erosion:** The proposed structure will have very minor soil disturbance in the existing grassed area for the installation of the foundation piers; existing vegetation will remain around and under the structure and will not require tree cutting. Disturbed areas around piers will be reseeded with conservation seed mix or similar native seed product. There is no other proposed disturbance to the land within the zone. All appropriate erosion control measures such as silt fence will be installed and utilized during construction and all disturbed areas will be seeded and stabilized prior to removal of erosion control measures.
- 3. Preserve wildlife habitat and maintain ecological balances that exist along the banks and within the water bodies:** The proposed use will be set back from the shoreline at least 25 ft and is located within an existing developed lawn & garden area. The structure will be raised on piers and will provide open shaded areas which also may provide habitat and shaded/sheltered area for amphibians and other small mammals and insects. The structure will not interfere with the banks or water within the area.
- 4. Provide Corridors for migrating wildlife and links to adjacent habitat:** The proposed parcel is not within a wildlife corridor due to position between Hunt Road and Contoocook River. However due to the location and size of the structure neither will it interfere with any potential migration of wildlife.

5. Preserve the open space aesthetic beauty of shore and waterways: The proposed structure will be set back at least 25 ft from edge of waterway and is within existing grass lawn area. Construction will utilize natural wood and other appropriate materials and colors that will not detract from the existing character of the area.

General facts supporting this request meets the special exception criteria:

1. Location.

- a. The proposed use is accessory to the existing developed lot and will not be a habitable structure. There is no proposed potable water, sewerage or drainage for the structure and will pose no special public problems.
- b. The site is able to accommodate the proposal without substantial environmental damage, and will not require any wetland loss, habitat disturbance or damage to any trees or natural assets. The proposed structure will be set back at least 25 feet from the shoreline and is located within an existing developed lawn & garden area and will not require any cutting of existing trees. The structure will be raised on piers and will provide open shaded areas which also may provide habitat and shaded/sheltered area for amphibians and other small mammals and insects. The structure will not interfere with the banks or water within the area.
- c. The proposed use will result in minimal to no risk to air, land or water resources since it will not be inhabited and will have a pier foundation which will allow for water passage under the structure and will not cause restrictions to flood waters, and will have finished floor above the 100 year flood elevation of 708.6 NAVD 88 Datum. Structure will also be located in existing open developed area and will not require tree cutting or additional land disturbance.
- d. The subject parcel is a developed existing lot with frontage on Contoocook River and is suited for the proposed use which is to provide access to a State water body and provide for low impact recreational use and enjoyment of natural resources presently adjacent to the lot.
- e. The adjoining premises will not be negatively affected by impacts due to the use being the same as existing and structure will be aesthetically pleasing and fit in with the architecture of the neighborhood and will comply with all applicable state and local setback requirements.

2. Activity Type and Mix.

- a. The proposal is for an accessory structure which will serve the residential dwelling on the same lot but which is remotely located from the shoreland and separated by Hunt Road. The proposal will allow for reasonable use of the existing waterfront property and provide recreational opportunities.
- b. The proposed structure will allow for high quality, environmentally responsible and low impact utilization of the existing parcel and provide access to a valuable natural resource of the town.

3. Visual Consequences.

- a. The current view from the public roadway is of a grassed area, split rail fences and previously planted ornamental shrubs and flowers including rhododendron and hydrangea. The proposed screen house/cabana will be located in an existing grassed area setback from the road and screened by existing vegetation. The proposed structure will be aesthetically pleasing and appropriate for the neighborhood and Town of Peterborough.

- b. Although there is an existing access point with split rail fence/gate the primary parking area will be across Hunt Road at the primary dwelling which will be set back from the road. The proposed accessory structure will not require any “service area” and is not applicable in this situation.
- c. The structure will be appropriate for the lot and neighborhood and will not depart architecturally from the nearby premises in an adverse manner.

4. Access.

- a. The existing developed lot has an existing access point with split rail fences and gate and will be maintained and utilized to access the property. There will not be any congestion hazards since the primary parking would be across the street at the main house/primary dwelling.
- b. Pedestrian and vehicular movement will be the same and will remain safe and convenient and will not disturb abutting properties.

5. Process.

- a. The proposed structure will not adversely impact abutting or nearby properties and the proposal has been submitted and briefly discussed with the Conservation Commission and comments and suggestions provided have been incorporated into this application. There has also not been any opposition to the proposal from the abutting property owners.
- b. The proposed structure and use is an allowable use for the developed property within the Shoreland Conservation Zone and will not create negative effects on abutters or other parties. The proposal also meets all State Shoreland Water Quality Protection Act requirements and the accessory shoreland structure and has been approved by NHDES Wetlands Bureau Approval #2015-00186 (see attached). In granting this special exception, the Board imposes the following conditions:

- 4. The height of the structure shall not be greater than 15 feet from grade.
- 5. This structure remains an accessory structure to any primary structure across the street.

Signed,

James Stewart, Chair

Minutes:

A motion was made/seconded (LaRoche/Lambert) to approve the Minutes of March 2, 2015, April 6, 2015 and April 15, 2015 as written with all in favor.

Other Business:

The members briefly discussed the status of elected member David Sobe. Chair Stewart noted he would speak with him about his intentions.

Ms. Laurenitis told the members ZBA Handbook updates were available and asked they be printed for the members. Chair Stewart suggested she send the link to the Office of Community Development for printing and distribution to the members.

The meeting adjourned at 8:20 p.m.

Respectfully submitted,

Laura Norton
Administrative Assistant