

MINUTES
ZONING BOARD OF ADJUSTMENT
TOWN OF PETERBOROUGH
Monday, June 6, 2011 – 7:00pm
1 Grove Street, Peterborough, New Hampshire

Present: Alice Briggs, Loretta Laurenitis, Jim Stewart, Sharon Monahan, David Sobe, Joanna Eldredge-Morrissey, Peter Leishman

Also Present: Dario Carrara, Code Enforcement Officer; Nicole MacStay, Assistant to the Town Administrator

Ms. Laurenitis introduced the members of the Board, the alternates present, and the staff. She said that the Board does need to elect officers, which can be done after the case, but would like to take a moment to nominate Matt Waitkins as an alternate.

Motion:

Ms. Laurenitis made a motion to appoint Matthew Waitkins as an alternate member of the Zoning Board of Adjustment; Ms. Briggs seconded.

Vote:

Ms. Laurenitis, Ms. Briggs, Mr. Stewart, Ms Monahan and Mr. Sobe voted in favor of the motion; the motion carried.

Ms. Laurenitis then read the notice:

Case No. 1170 Temple Mountain Buddhist Meditation Center, Corp. request for a special exception to Article II §245-8 B (4) of the zoning ordinance. Applicant requests the Board's approval to permit the use of a church/meditation center. The property is located at 729 Wilton Road, parcel number R001-014-000 in the Rural District. There was no objection to the notice.

Dawn Tuomala of Monadnock Survey, Inc. presented the application. She explained that four lots had been merged to create this parcel. Ms. Tuomala presented a plan of the property outlining the proposed parking spots, the leach field and existing structures. The property owners are Nhung and Tommy Phan, and Hai Ngoc Duong who will be living on the property and leading services. They will hold regular services on Sundays with an average of five people in attendance, with the occasional special event attended by up to fifteen people. Ms. Tuomala explained that the property is unique in that it does not have road frontage; there is a 100 foot wide stretch of land owned by the State of New Hampshire separating this parcel from Route 101; the property is accessed via easement. The septic system in place is sized to service a three bedroom house, more than adequate to serve one full-time resident and up to fifteen people for a few hours a week. There will be no physical changes to the site itself, and no additional impervious surface that what has already been there. Ms. Briggs asked about the parking spaces shown on the plan. Ms. Tuomala said that there is already pavement there, and no expansion is necessary. Ms. Tuomala then used a series of photographs to demonstrate how the main building will be utilized for a combination of residential and religious purposes.

Ms. Briggs asked if she was correct in understanding that this use has gone on for some time. Ms. Phan said that she is correct, and they have been using the property for services for about a year.

Ms. Briggs asked if there was any information about motor vehicle accidents along that stretch of Route 101. Ms. Tuomala said that she does not have that information, but added that both Temple Mountain and Miller State Park are just east of this parcel and both have a much more intensive use. She then produced photos which demonstrated the sight distance both east and west from the driveway, and also showed that the driveway goes up hill and around a curve which prevents the property from being seen from the highway. Ms. Briggs asked if the driveway was an incline all the way from Route 101, or if there was a flat area before it egressed onto the highway. Ms. Tuomala said the driveway is roughly level for about one and a half to two car lengths before it meets the highway. Ms. Tuomala then read through the application.

Ms. Laurenitis asked how often the occasional fifteen person event occurs. Ms. Phan replied that those larger events occur about three times a year. Attorney Thomas Quinn, also representing the applicants, said that those people may not necessarily be arriving in fifteen separate vehicles. Ms. Monahan asked if there would be any site work or excavation. Ms. Tuomala said that there would not be any additional site work. Ms. Briggs asked if the sign met town regulations. Mr. Carrara said that he was not aware of the sign, but he will investigate it. Ms. Briggs asked what the dimensions of the sign are; Ms. Tuomala said that it is two feet by three feet.

Ms. Laurenitis asked how this proposed use is being defined as a church. Mr. Carrara noted that the Ordinance does not have a definition of a "church." Mr. Quinn said that they use the words "church" and "meditation center" interchangeably; they have an opening service which then adjourns to meditation. Ms. Briggs asked if the organization is a registered 501(c)3; Mr. Quinn said that it is. Ms. Laurenitis asked if this use would be better classified as a home occupation. Mr. Carrara said that he believes that the proposal is less of a business use than a religious use, which is allowed in the district.

Ms. Monahan asked if the applicants had any intention of using the property for retreats where participants would be staying overnight. Mr. Quinn, after speaking briefly with the applicants, said that they have no plans to hold overnight retreats, however although the proposed use is that of a meditation center and will provide services, one of the owners will be living here, and so having friends and family staying overnight cannot be ruled out.

As there were no further questions from the Board, Ms. Laurenitis asked if there were any comments from anyone present either in favor of or opposed to the proposal. Tahira Jayasuriya and Mark Bastille, abutters living at 717 Wilton Road said that they are happy to have the applicants as neighbors; the property is well kept, and their other neighbors are also happy to have them there. Ms. Jayasuriya said that the owners allow them to walk through their property and visit.

Mr. Stewart asked if there were any days other than Sundays on which they could see themselves meeting. Mr. Quinn said that people generally do not come during the week, but on occasion they do come on Saturday; it is not regularly scheduled, but they are not precluded. Mr. Stewart asked if, like other churches, people could come and pray when they wanted. Ms. Phan said that people can come any time, they are always welcome.

Hearing no further questions or comments, Ms. Laurenitis closed the public hearing and opened deliberations. The Board agreed that this was a reasonable proposal and began crafting the decision. There was extensive discussion about whether the proposed use should be limited by persons present or by vehicles present. There was also an extensive discussion about whether or not

overnight religious services should be limited, and if so, how to word such a condition so as not to preclude the overnight stays of friends and family of the property owners.

Motion:

In a motion made/seconded (Briggs/Stewart) in **Case No. 1170 Temple Mountain Buddhist Meditation Center, Corp.** request for a special exception to Article II §245-8 B (4) of the zoning ordinance. Applicant requests the Board's approval to permit the use of a church/meditation center. The property is located at 729 Wilton Road, parcel number R001-014-000 in the Rural District is hereby **GRANTED**.

The Board finds:

1. The special exception will not create traffic congestion because the building will have one permanent resident and will be limited to sixteen parking spaces.
2. The special exception will not create any obvious fire hazards because it is a one-story building and the Fire Department will assess fire safety at the minor site plan review.
3. The special exception will not be offensive to property owners because of lights, noise or odor because the building is well set back from the street and side lines; the nearest abutter is 500 feet away. In addition, no exterior lighting will be added.
4. The special exception will not reduce the value of surrounding property because there will be no exterior changes to the building or driveway. In addition, the proposed use will not impact the neighborhood because of its isolated setting.
5. The property has adequate sewage to support the special exception because the septic system will handle 450 gallons a day, while the special exception use requires only 195 gallons a day.
6. The property has adequate water facilities because the proposed use will not require more water than a three-bedroom home and there is an existing well on the property.
7. The property has sufficient off street parking because it has space for sixteen cars without creating additional impervious surface.
8. The special exception will preserve the attractiveness of the town because the use will not be visible from the road or surrounding properties.
9. The site can accommodate the use without any environmental damage because there will be no exterior changes or site work to the property.
10. The proposed use contributes to the mix of activities in Town by accommodating diversity of worship.
11. There will be no visual consequences because the building is not visible from the road or from surrounding houses.
12. There is sufficient sight distance to the east and west from the driveway to provide reasonably safe sight distance on Route 101.

The Board imposes the following conditions:

1. The granting of the special exception is contingent on site plan approval from the Planning Board.
2. The granting of the special exception is contingent on approval of the Fire Department.
3. The use of the facility will not exceed thirty people or fifteen vehicles.
4. Any sign will conform to town regulations.
5. There will be no additional impervious surface added to the site.
6. There will be no overnight lodging related to church activities.

Vote:

Ms. Laurenitis, Ms. Briggs, Mr. Stewart, Ms Monahan and Mr. Sobe voted in favor of the motion; the motion carried.

The Board decided to appoint Ms. Laurenitis as acting chair and postpone the election of officers until a later meeting. Ms. Laurenitis asked that the next hearing be posted to include a review of ZBA rules and procedures. The Board also requested copies of the new OEP handbook and the section of the ordinance that was amended at Town Meeting.

As there was no further business, the meeting adjourned at 8:50pm.

Respectfully Submitted,
Nicole MacStay, Assistant to the Town Administrator

Approved August 1, 2011