

ZONING BOARD OF ADJUSTMENT
TOWN OF PETERBOROUGH
Wednesday, July 16, 2014 – 7:00 p.m.
1 Grove Street, Peterborough, New Hampshire

Board Present: Jim Stewart, Sharon Monahan, David Sobe, Peter LaRoche, and Loretta Laurenitis

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. “This is a continuation of the July stated ZBA meeting. I am Jim Stewart and I am the Chair.” Chair Stewart went on to introduce the members and staff.

Chair Stewart read the Rules of Procedure for the meeting. He reviewed the process of reading the application followed by a presentation by the applicant; questions from the Board; questions/concerns from the audience (in favor then opposed); rebuttal and closure of the hearing followed by deliberation and decision. He concluded by noting anyone interested in speaking about the case please state their name, address, and relationship (abutter, agent, concerned citizen) for the record.

Case No. 1205 The Temple Mountain Buddhist Meditation Center requests a Variance and Special Exception. The special exception is requested to allow the use of a Religious Institution or Facility, as regulated by the zoning ordinance in Article II, Section 245-8 B (4); the variance is requested to construct a temple and parking lot, with appurtenant grading and storm water management within the fifty (50) foot Wetland Protection Overlay Zone, as regulated by the zoning ordinance in Article III, Section 245-15. The property is located at 729 Wilton Road, Parcel No. R001-014-000, in the Rural District.

As Chair Stewart looked up he told the audience “this is still a public hearing and we will continue to take input followed by public comment and concerns, then close and deliberate on a decision.” He then appointed Ms. Laurenitis to sit for Mr. Leishman and asked the applicant to proceed.

Dawn Tuomala introduced herself and reviewed changes to the plan that were a direct result of the site visit July 12th. She began with the widening of the entrance to the Temple to 2 lanes, showing a full 24-foot wide drive. She told the Board “keep in mind we said 75 people at the Temple but for vehicles we need less than 20 spaces and they will all be going the same direction at the same time so it will be safe.”

Ms. Tuomala went on to note “the building is the same, the parking is the same and the rain garden is the same.” She mentioned the 50-foot setback noting the ditch line function and value as being extremely minimal “so we would like to be within 5 feet of it” she said. She pointed out a seasonal brook on the northern boundary and the steep slope of the parcel justified the area where the Temple was to be built as the most sensible spot “without a lot of earth moving.”

In conclusion Mr. Quinn explained “the changes are not that extensive” adding “having been to the site you have seen the constraints. Not to beat it to death but we don’t want anything to go unsaid about the sharp drop-off. We would like it in the record that those characteristics exist.” Mr. Quinn went on to request that if the Board was thinking about condition for approval that they share those thoughts and concerns with the applicant prior to the deliberative session so that they may be discussed with input from the applicant. Ms. Tuomala pointed out the abutter to the west and a 100-foot buffer to the walking paths and trails that would be maintained for their privacy.

Chair Stewart asked if anyone in the audience had any comments or concerns. With none, Chair Stewart asked the members if they were ready to enter a deliberative session. Ms. Monahan asked for clarification on the seating calculations with Mr. Carrara replying “it could be one-hundred to hundreds, it depends of how it is calculated” and referred to calculations for fixed seating, table and chair seating and standing room only.

Chair Stewart noted the updated staff report where Mr. Carrara had requested and that the building permit with its associated building and fire codes are independent of the use of the land as it pertains to the zoning regulations. He went on to note the building was proposed to be 3200 square feet. “You say you have 75 people but what is the capacity?” Again Mr. Carrara referred to the seating formulas but added “building and fire codes are met on the building, not on the number of occupants in the building.”

Chair Stewart noted the plan was designed for growth and a brief discussion about the Temple membership followed. Mr. Quinn reiterated “right now there are about 20 people who attend on a regular basis.” Chair Stewart asked “then why not make the Temple smaller?” Mr. Quinn explained that much of what the monks and participants do is meditate and walk from place to place as they do it.

Len Pagano introduced himself as the architect of the Temple and briefly reviewed the spaces of the proposed structure. He noted the primary space is the meditation room “which is just under 2200 square feet” adding “it is the size of a modest house it is not a huge building.” He also noted that the basement level would house the dining hall. “They meditate and pray and then then they go down to the dining hall and eat” he said adding “they do one thing at a time together. There are not multiple things going on that would require multiple access times to the facility.” He concluded with “if you look at the framework of it you can see it is not an enormous building.” Ms. Monahan asked about the height of the Temple with Mr. Pagano replying “at its maximum it is 42 feet above grade.” Ms. Monahan noted that they had heard from the closest abutter at their last meeting and noted “only one abutter is a household, the others are a state park and a state preserve.” She asked “what is the visual impact on those? It does have an affect on the landscape?” adding “how is it any different than a mansion or Bed & Breakfast being put there?” Mr. Pagano briefly reviewed the architecture which was designed to integrate into the landscape with its roof fold the building and natural/neutrally-toned shingles. “It integrates well in to nature” he said adding “it is a philosophy of this religion to be integrated into nature.” Mr. Sobe asked about the colors of the Temple with Mr. Pagano replying they had not yet been fully determined “but it will be presented to the Planning Board for consideration and approval at the appropriate time.”

Ms. Monahan asked about the primary use of the Temple with Mr. Quinn replying “all of it is primary use, if you look at the definition, it is a place for religious worship and includes a sanctuary, meeting hall, administrative offices, class room, and a rectory or clergy house. An ancillary use might be a farm stand in the corner.” Mr. Carrara interjected “for the record the definition says nothing about lodging. Those types of uses may be seen as ancillary.”

Ms. Monahan asked “and what would the house be used for?” Mr. Quinn replied “residents – up to six.” Mr. Carrara told the members “I would like the Board to

determine how many people and the length of stay be part of the conditions of the Special Exception approval requested tonight.” Mr. Quinn replied “they have up to 20 people right now with up to 100 for special half-day events and have two retreats a year.” He told the Board “we think up to 75 people on Sundays and four retreats a year is fair.” A brief discussion about the growth of the Temple followed with Christine Mann noting the services were conducted in Vietnamese. “It is unlikely they will grow like crazy, they have their community and it is unlikely to expand quickly” she said. Ms. Monahan expressed her belief that the Board had to make their decision based on the benefit outweighing any adverse effects. “And by benefit I mean to the town, the neighborhood and the applicant” she said. Chair Stewart looked to Mr. Quinn and asked “what is the benefit?” Mr. Quinn replied “well first and foremost it promotes diversity.” He went on to note it provided “a valuable use of the land, it is a permitted use, it provides freedom of religion and freedom of assembly. There is no detriment to the town and it does create any negative impacts such as excessive noise or light.” “I don’t see a negative impact at all” he said. Ms. Laurentis asked if the services were open to the public with Ms. Mann replying “yes they offer an opportunity for the public to meditate on a weekly basis.” She also noted the town of Temple, N.H. hosts Buddhist retreats “that are not associated with his Temple at all.” Mr. Pagano spoke briefly about the benefits to the community noting “I feel it is worth pointing out the monks are first and foremost spiritual beings and what they bring to this community is not quantified in specific ways.” He spoke about the services at the Temple and the increased spiritual outflow “from the monks to us, not just the town but the whole community” he said.

A motion was made/seconded (Stewart/Monahan) to enter deliberation in the case with all in favor.

Deliberation

Chair Stewart read the deliberative statement and said “let’s start with the Special Exception.”

Special Exception

“We’ll start with a straw poll and I will go first” began Chair Stewart. “I feel they did a really good job accommodating the neighbors” he said adding “my only concern is the driveway.” He went on to say “it needs to be two lanes at the entrance and the entire length of the drive. Other than that I think they have met all the criteria and I am for it.” Ms. Laurentis noted her concerns with the access and

the driveway but added “I feel the same way, I agree.” Mr. Sobe noted life safety issues were paramount and that two lanes were need for emergency access. “I am in real estate and I have seen long driveways with cutouts “but let’s let the Fire Department take care of it. That is their job. I am for it.” Mr. LaRoache echoed the same concerns about the width of the driveway. “With that condition I am for it” he said. Lastly Ms. Monahan replied “I am against it.” She went on to note the location was of particular concern. She told the members that the State pays the Police to manage traffic at Miller State Park. “From July 1 to November 30th DRED funds traffic control” she added “and their services are on Sundays, an already busy weekend day.” Ms. Monahan noted the access (directly across the street from the entrance to Miller State Park) was poor. She noted the approval for a Special Exception for the meditation center in 2011 (Case No. 1170) noted no increase in traffic congestion because the building would have one permanent resident and that there would be no overnight lodging related to church activities. She noted they have gone from one monk and 5 attendees to up to 6 monks and 75 attendees on a weekly basis. She also noted changes to the visual landscape that would be apparent from both Miller State Park and the State Reserve. “That is why I do not support the request this time.”

Chair Stewart said “so let’s talk about the criteria. Ms. Laurentis interjected “don’t we want to have any discussion about what Sharon just said?” Chair Stewart replied “no, I disagreed with everything she said” adding “her testimony is in the record.”

The members moved on to review the criteria of *Location, Activity Type and Mix, Visual Consequences, Access and Process*. Having reviewed the application they decided to incorporate the applicant’s justifications into the decision. “We can just cut and paste it” said Chair Stewart adding “on to the Conditions.” Chair Stewart looked to Mr. Quinn and asked him “how do you feel about restricting the number of retreats?” Mr. Quinn replied “we have two now so four would be reasonable.”

A motion was made/seconded (Stewart/LaRoche) to approve the Special Exception to allow the use of a Religious Institution or Facility with all but Ms. Monahan in favor.

Variance

Chair Stewart conducted a second straw poll noting his approval of the Variance. Mr. LaRoche noted the building had been situated on the only place it could go given the constrictions of the property. I agree, I am comfortable with it” he said.

Ms. Laurenitis agreed and Mr. Sobe noted he also agreed. Ms. Monahan also agreed noting “I agree, and I am impressed with all the accommodations for the storm water management.” She mentioned the applicant’s response to the Conservation Commission’s suggestion for a rain garden was great. She noted the natural assimilation of the Temple into the rural environment and the Temple mindset. “I am impressed and I now understand why you placed the Temple where you did. Given the steep slope of the lot that is only place you really could put it” she said.

A motion was made/seconded (Stewart/LaRoche) to approve the Variance to construct a Temple and parking lot, with appurtenant grading and storm water management within the 50-foot Wetland Protection Overlay Zone with all in favor.

The meeting adjourned at 9:45 p.m.

Respectfully submitted,

Laura Norton
Administrative Assistant

ZONING BOARD OF ADJUSTMENT

NOTICE OF DECISION

Case Number 1205

July 16, 2014

You are hereby notified that the request of the Temple Mountain Buddhist Meditation Center, for a **Variance** to Article III, Section 245-15 of the Zoning Ordinance, to construct a building and parking lot, with appurtenant grading and storm water management within the fifty (50) foot Wetland Protection Overlay Zone, on property located at 729 Wilton Road, parcel identification number R001-014-000, in the Rural District, is hereby **GRANTED**.

In reaching the variance decision, the Board finds that:

1. The variance **WILL NOT** be contrary to the public interest because:

The proposed building and parking lot have been placed as far away from the wetland as possible. Also, the man-made ditch is a low functioning wetland according to the Conservation Commission.

2. The spirit of the ordinance **IS** observed because:
The proposal will construct a rain garden between the proposed building and the wetlands which will further buffer the wetland while treating the stormwater runoff.
3. Substantial justice **IS** done because:
This will allow an expansion of a use that is not offered anywhere else in Town. The application as proposed does not pose an unreasonable risk or damage to the wetlands.
4. The values of surrounding properties **ARE NOT** diminished because:
Careful consideration was given to the neighbors with restricted 100 foot zone for exclusion of paths and a 200 foot zone for exclusion of buildings. The architectural designs of the proposed building and parking lot are designed to blend into the landscape.
5. Unnecessary hardship
Special conditions of this property include:
 1. Steep sloping terrain.
 2. Location of wetlands on the property: seasonal stream, weeps, and pond.
 - a. Owing to the special conditions of the property that distinguish it from other properties in the area, denial of the variance **WOULD** result in an unnecessary hardship because:
 - i. There **IS NOT** a fair and substantial relationship between the general purposes of the zoning ordinance and the specific application of that provision on the property because:
The proposed building will be built in an already existing lawn and the proposed rain gardens will act as a wetland buffer and will accommodate the stormwater created from the building and parking lot.
 - ii. The proposed use **IS** a reasonable one because:
The location of the proposed building and parking lot is being placed to accommodate the special conditions of the property.

In granting this variance, the Board imposes the following conditions:

1. Substantial compliance to the plans submitted.
2. The Board recognizes that widening the driveway will necessitate construction in the wetland buffer that will be addressed by the Planning Board through a conditional use permit.

You are hereby notified that the request of the Temple Mountain Buddhist Meditation Center, for a **Special Exception** to Article II, Section 245-8 B (4) of the Zoning Ordinance, to allow the use of a Religious Institution or Facility, on property located at 729 Wilton Road, parcel identification number R001-014-000, in the Rural District, is hereby **GRANTED**.

The Board finds that the use will not create traffic congestion or fire hazards nor be offensive to surrounding property owners because of lights noise or odors, nor tend to reduce the value of surrounding property. The proposal will have adequate sewerage and water facilities and adequate off-street parking and will preserve the attractiveness of the Town.

1. Location

- a. There is an existing well on the site. The existing sewage disposal system serves a 3 bedroom house or (450 GPO). The proposed Temple will require a maximum of 2,325 GPO; a new sewage disposal system to be built to accommodate the Temple. The existing garage will be removed and the gravel parking lot will be expanded to accommodate up to 19 vehicles. There will be 2 parking spaces required at the house and an additional 2 handicapped within the turn-around area. The overall drainage leaving the parcel will not be increased but will be treated on site.
- b. The site is able to accommodate the proposed center without causing any substantial environmental damage. The proposal includes removing the 1,030 square foot existing garage and constructing a 3,200 square foot Temple. There are no wetlands crossings or elimination of wildlife habitats. The Temple and parking areas will be within 50 feet of a man-made ditch-line.
- c. The Meditation Center will not pose a risk to air, land or water resources. The use is very minimal and primarily only on one day a week. The prayer meetings are held indoors.
- d. Due to the slopes and soils on the property, this property is not used for any special qualities such as agriculture.

- e. The general neighborhood is not negatively affected due to the distance between the existing houses. The property abuts the former Temple Mountain Ski Area which had a much greater affect on the area than this proposal.

2. Activity type and mix

- a. Up to a maximum of 6 people may have permanent residence on the property.
- b. The proposed center is not proposing any changes that would adversely reflect special qualities of the Town. It will provide an additional expanded service. The existing house will remain providing residence for the Monk, the garage will be removed and a new Temple constructed. The buildings are visible to NH Route 101 primarily during the winter months when there are no leaves on the trees. The remainder of the year the 100 foot buffer between NH Route 101 and the property provides an adequate visual buffer.

3. Visual consequences

- a. The building will only be minimally visible from NH Route 101 during the winter months when there aren't any leaves on the trees. There is a view of the hillsides towards the west that has been maintained. The view northerly, easterly and southerly is and has been and will continue to be forested.
- b. The parking area is behind the house and isn't visible from the highway at all. The general public will not see this site.
- c. The existing house is only a one story building with a small section of a walk out basement. The Temple is proposed behind and further back from the existing house.

4. Access

- a. The access to the property is off NH Route 101 and due to the minimal use of the facility will not create a traffic hazard or congestion. (On average only 19 vehicles will enter the site on Sunday morning and leave in the afternoon.) This is a fewer number of vehicles entering the site than did for Temple Mountain Ski Area or Miller State Park uses. No turning lanes are warranted for the number of vehicles using this site.
- b. The traffic patterns internal to the site either vehicular or pedestrian will be designed to accommodate the safety of the public. The driveway access to and from the site is via a State Highway. From the parking areas the walkways enter directly into the building where the services are being held. The neighbors will not be affected by this pedestrian or vehicular movement to or from or within the site. The access driveway is private and is not shared with the neighbors.

5. Process

- a. There will not be anyone impacted by this proposal. The State of New Hampshire owns on three sides of the property and the neighboring house on

the western boundary is over 500 feet away. There is no direct link between the activities on the 2 properties.

- b. There will not be any negative effects to the neighbors or the Town due to the increased use and the nature of the use. Except for the sign most people will not even be aware of the center's presence.

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

1. Substantial compliance to updated, submitted plans dated May 5, 2014, revised on July 16, 2014.
2. Entrance and entire driveway to be wide enough to accommodate two lanes and be as perpendicular to the highway as possible.
3. The number of overnight retreats per year will be limited to four, one week long retreats.
4. Overflow parking will not be along the driveway or the State highway.
5. The granting of the special exception is contingent upon the approval of the fire department.

Signed,

James Stewart, Chair

Note: An application for rehearing on any question of the above determination may be taken within 30 days of said determination by any party to the action or person directly affected thereby according to the provisions of New Hampshire Revised Statutes Annotated, Chapter 677. Decisions for Variances and Special Exceptions shall become null and void in two years if substantial compliance with said decision or substantial completion of the improvements allowed by said decision has not been undertaken after the date of approval. If this decision becomes null and void, the owner must reapply to the Board of Adjustment for a Variance or Special Exception as provided for in §245-42 of the Peterborough Zoning Ordinance.