

MINUTES
ZONING BOARD OF ADJUSTMENT
TOWN OF PETERBOROUGH
Monday, October 7, 2019 – 7:00 p.m.
Peterborough, New Hampshire

Present: Dario Carrara, Sharon Monahan, Loretta Laurenitis, Peter LaRoche, Peggy Leedberg and Kevin Brace

Staff Present: Laura Norton, Office of Community Development

Chair Monahan called the meeting to order at 7:00 p.m. “Good evening everyone and welcome to the regularly scheduled ZBA meeting for October.” She then introduced the Members and Staff.

Minutes: A motion was made/seconded (LaRoche/Carrara) to approve the Minutes of September 4, 2019 with corrections as written with all in favor.

Before Chair Monahan read the first case, Mr. LaRoche recused himself and Mr. Brace was appointed to sit.

Case No. 1255 Judith and Leslie Fox: request for a Special Exception to install a temporary manufactured home of less than 320 square feet while a new home is constructed as regulated by the zoning ordinance in Article IV, Section 245-17.B. The property is located at 726 Wilton Road, Parcel No. R001-017-000, in the Rural District.

Chair Monahan proposed to amend the notice to read “two temporary manufactured homes” as reflected in the Staff Report. There was discussion among the Members whether or not the notice could be amended and Chair Monahan suggested they continue the hearing.

Leslie Fox introduced himself and his wife Judith and told the Members they planned to build a new home at 726 Wilton Road and while the house is being built, they intended to reside in a temporary manufactured home (less than 320 square feet) on the same lot. Mr. Fox went on to note their daughter Jennifer assists with the care of his disabled wife and would be living on the premises as well. He noted she would also be living on the property and *her* temporary living unit would be located in an existing barn/garage already on the lot. Mr. Fox concluded by telling

the Members when he reached out for advice on how to proceed, he was told to apply for a Special Exception for relief from 245-17.B “so that is what we have done and that is why we are here” he said.

There were a few questions from the Members about the location of the temporary dwelling unit, the amenities of the existing barn structure (electricity, sewer, water etc.) as well as the time frame the temporary structures would be on the lot. Mr. Fox noted much of the answers to those questions would depend on how quickly they sold their current home at 16 Winter Street. Without further questions from the Board Chair Monahan opened the hearing to the public.

With no questions or concerns for the public Chair Monahan suggested they review the Special Exception Considerations including *location* (the temporary housing units will be placed on the same lot as the intended new home). Mr. Fox noted there was adequate and existing water and sewer (a subsurface disposal system approved by NH DES) on the lot and that no substantial environmental damage to the natural assets existed); *activity type and mix* (the residential proposal will serve the housing needs of the residents); *visual consequences* (Mr. Fox noted the building setbacks have been met and the units will be placed (one *inside* and the other *next to*) the existing barn/garage and that there was more than enough parking for the residents and visitors); *access* (it was noted the placement of the units would not create a nuisance or be in any way offensive to the abutters) and *process* (this included any potential creation of negative effects on the abutters and if so, compensatory action that would be taken to lessen the negative consequence). Mr. Fox reiterated the temporary housing would remain on the lot throughout the construction time and schedule of the new home. Both Mr. and Mrs. Fox testified that they planned to complete the construction of their new home by the end of 2020.

A motion was made/seconded (Carrara/Laurenitis) to approve the request for a Special Exception to install temporary manufactured homes on the lot at 726 Wilton Road while the family home is being built.

Deliberation:

After reading the deliberative statement Chair Monahan polled the Members for a sense of the Board. Each Members agreed relief was in order but as they discussed the considerations for their judgement Mr. Carrara revisited the point that the public notice said a *request to install a temporary manufactured home of less than 320 square feet while a new home is constructed*. “The applicant is asking to put *two* temporary structures on the lot” he said.

Chair Manahan noted that the motion should be changed to reflect more than one temporary structure. “We went through the Special Exception criteria with everyone agreeing it should be granted but now I wonder if the abutters should be re-noticed and we continue the hearing until next month” she said. The brief discussion that followed included the fact that while noticed, no abutters were in attendance. Mr. LaRoche, who had recused himself (as an abutter) interjected “you would need a helicopter to fly in there to see them, I don’t think it is a problem.” Chair Monahan agreed adding “it is located on 19 acres of land.” The other discussion involved the time period for the Building Permit and the substantial completion of the new structure. Both Mr. Fox and his wife reiterated it would really depend on when they sold their current home. The Members decided on the structure should be completed within one year of obtaining their Building Permit.

The motion made/seconded (Carrara/Laurenitis) to approve the request for a Special Exception to install two temporary manufactured homes on the lot at 726 Wilton Road while a family home is being built with a condition of the structure being completed within one year of the issuance of a Building Permit with all in favor.

NOTICE OF DECISION

Case Number 1255

October 7, 2019

You are hereby notified that the request of Judith and Leslie Fox, for a **Special Exception** to install 2 temporary manufactured homes of less than 320 sf while a new home is constructed as regulated by the zoning ordinance in Article IV, Section 245-17. B., is hereby **GRANTED**.

The property is located at 726 Wilton Road, Parcel No. R001-017-000, in the Rural District.

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

- Duration is for one year from the issuance of a Building Permit for the primary structure.

Signed,

Sharon Monahan, 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.

Case No. 1256 Peterborough Depot Square Limited Partnership: request for a Variance to install a roof sign as regulated by the zoning ordinance in Article IV, Section 245-18.G.11. The property is located at 20 Depot Street Suite 2A, Parcel No. U017-012-005, in the Downtown Commercial District.

Mr. LaRoche rejoined the Board. Jim Callahan stood and introduced himself to the Board as an Attorney and representative for the applicant, Peterborough Depot Square Limited Partnership. Mr. Callahan acknowledged that while Peterborough does not permit roof signs his client was proposing to install a sign on the roof of the Bowerbird shop at the northern end of the old “town shed” building in Depot Square. “It is adjacent to the Nubanusit River and will face the new town parking lot off Grove Street” he said adding “it will orient to the Brenner Bridge that crosses the river to provide direction to both residents and visitors.”

Mr. Callahan noted the proximity of the “town shed” building to the river and told the Members “there really is no other place to put a sign.” He noted the “sprucing up of the back of the buildings in that area” and gave credit to the owners for taking pride in the appearance of their property. “I don’t even know how they got back there to paint the buildings” he said with a smile. He went on to say “the sign may be lighted, but it will *not* be internally lit.” Mr. Callahan concluded by noting the benefit of the sign would be felt by the numerous independently owned businesses in Depot Square, extending to the Downtown.

With no questions from the Board Chair Monahan opened the hearing to the public. Allison Cabana introduced herself as resident and owner of 32 Grove Street (where Joseph’s Coat Retail shop is located). She told the Board she had no objections and thought the sign would benefit all of Depot Square and beyond.

With no other public questions or concerns Chair Monahan closed the public hearing. Mr. Callahan the reviewed the five criteria for a Variance with the Members.

A motion was made/seconded (Carrara/LaRoche) to approve the Variance request to install a roof sign on the northern building of the “town shed” building of Depot Square. Chair Monahan again read the deliberative statement.

Deliberation:

Throughout deliberation the Members reviewed the criteria of the Variance noting granting the relief would not be contrary to the public interest as it was in compliance with the Master Plan, specifically the Economic Vitality section and its discussion regarding local versus chain retailers where it states “local retailers generate substantially greater economic impact than chain retailers.”

Mr. Callahan noted the Variance would be in the spirit of the ordinance, pointing out “retails establishments need identification and the public needs direction” and that the use of street graphics that are compatible with the character of the community, clear, readable and non-distracting to vehicular and in this case *pedestrian* traffic is encouraged.

Mr. Callahan explained the concept is nebulous, the Variance would do substantial justice in that the guiding rule is that any loss to an individual that is not outweighed by a gain to the general public is an injustice (and) an injustice must be capable of relief by the granting of a Variance that meets all other qualifications.

Moving on Mr. Callahan confirmed that if a Variance were granted the values of the surrounding properties would not be diminished. Along with a letter by Real Estate Agent Mathew Cabana, Mr. Callahan noted he’s consulted other real estate professionals and valuation experts who concurred properties would not be diminished in value if a Variance were granted.

Lastly Mr. Callahan explained how a denial of a Variance would result in unnecessary hardship for the applicant. He explained how no fair and substantial relationship existed between the general public purposes of the ordinance provision and the specific application of that provision to the property. He also noted while the Grove Street parking lot was new and people had not been able to access Depot Square from across the Nubanusit in the past, the proposed use was a reasonable one. “The sign will be very tasteful and will assist in helping people (particularly visitors to town) find Depot Square” he said.

Chair Monahan closed the public hearing and read the deliberative statements.

Deliberation:

Throughout deliberation the Members reviewed the criteria of the Variance noting granting the relief would not be contrary to the public interest and all agreed with Mr. Callahan's answers to the five criteria.

Ms. Leedberg did however suggest the location of the sign be referred to as the building it sat upon versus the current retail shop that occupies the space. All Members were in favor.

A motion was made/seconded (Carrara/LaRoche) to approve the Variance request to install a roof sign on the building of the "town shed" building of Depot Square with all in favor.

NOTICE OF DECISION

Case Number 1256

October 7, 2019

You are hereby notified that the request of Peterborough Depot Square L/P, for a **Variance** to install a roof sign as regulated by the zoning ordinance in Article IV, Section 245-18.G.11., is hereby **GRANTED**.

The property is located at 20 Depot Street Suite 2A, Parcel No. U017-012-005, in the Downtown Commercial District.

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

- The location of the roof sign is the southeast building (16 Depot Street) of Depot Square, and it shall be in substantial compliance with the dimensions and design plans as submitted.

Signed,

Sharon Monahan, 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.

Other Business: The Members acknowledged Donald Selby who was seated in the audience. The Members welcomed him noting his interest in becoming a ZBA Alternate. After a brief biography a Motion was made/seconded (Monahan/Leedberg) to appoint Mr. Selby as an Alternate to the Board with all in favor.

The meeting adjourned at 8:10 p.m.

Respectfully submitted,

Laura Norton

Administrative Assistant