

**TOWN OF CHESTERFIELD, NH
ZONING BOARD OF ADJUSTMENT**

**MINUTES
April 12, 2016**

Present: Chairman Burt Riendeau, Harriet Davenport, Lucky Evans, Renee Fales, Kristin McKeon, Alternates Christopher Oot, Roland Vollbehr and Selectboard Representative Norman VanCor

The Zoning Board of Adjustment met at the Chesterfield Town Office on April 12, 2016. Riendeau opened the meeting at 7:30 p.m. and explained the process of the meeting.

Hearings:

Mark Lanoue requests a Variance from Article II Section 208.2 of the zoning ordinance to permit commercial use to allow for the sales and servicing of vehicles with outside display of the vehicles. The property is located at 1763 Route 9, Spofford, NH 03462 (Map 10A Lot A5) Office/Retail Space/Service District. (Deferred from meeting of March 15, 2016).

Present: Attorney Steve Bonnette and Mark Lanoue

Voting on this application will be Riendeau, Davenport, Evans, Fales and McKeon.

Bonnette stated that Manny's is currently a tenant at the 1763 Route 9 facility. The facility is approximately 5,000 sq. ft., which Manny's uses about 4,000 sq. ft. of space. Lanoue is requesting that he use approximately 1,000 sq. ft. of the back side of the building for sales and servicing of his vehicles along with an outside display of the vehicles. Approximately 90% of the vehicles sold will be done on the internet and there will be an estimate of about 65 cars on the back side of the property. Bonnette noted that there would be minimal traffic because the sales would primarily be through the internet. The servicing of the vehicles would be for only the vehicles that were sold by Lanoue. Lanoue requested a variance to operate car sales and servicing at this location as a second business at this facility.

Bonnette noted that the property adjacent to the 1763 Route 9 facility, on the westerly side, is owned by Bob Goderre who operates Hunter North Safety at that location. Goderre also does sales and servicing of vehicles at that location. Bonnette stated that Goderre's property was rezoned last year to allow commercial use for automobile sales and servicing.

Bonnette provided a site plan drawing and stated that there will be no parking in the setbacks. Lanoue stated that the Manny's has only two employees and no more than three customers at a time. Manny's parking is located next to and on the right side of the building.

Fales asked what the applicant is applying for. Riendeau replied that this property is in the O/R/S district and this is a commercial application because auto sales falls under the Commercial District. He noted that the Goderre property needed to change to commercial zoning that allows automobile sales, service or repair.

Lanoue stated that he will be using the existing lighting that will be shining downward and no additional lighting will be added. He is planning on having approximately 65 used vehicles at the location and there will be no inspection station.

Bonnette noted that Lanoue will follow the sign ordinance when adding the second business at that location. Davenport asked the applicant for an explanation of internet business trafficking. Lanoue replied that over 90% of his business would be conducted over the internet. He did not know the amount of what the drive-in traffic would be. He stated that he will be doing very little local advertising because internet advertising is more affordable and generates more leads per dollars spent.

It was noted that the variance request is asking to allow for auto sales and service, as requested, and it doesn't change the zoning to commercial. The property would still be zoned O/R/S. Riendeau noted that if any other commercial use was requested for that property, the owner would need to apply for another variance. Riendeau stated that the board will look at the history of that property as to what has been granted in the past.

Lanoue stated that most of the cars brought onto the property will be done by drivers who are retired and the use of a car carrier will be extremely minimal. The cars will be on display out behind the structure in the designated parking spaces.

Jeff Scott stated that there were a number of unregistered vehicles parked in that lot last year and (Lanoue) was ordered to take them away and he removed them at that time. He noted that there is another 15-20 unregistered cars there again this year.

John Koopman stated that he feels the Lanoue property should be dealt with in the same way that the Goddere property was done by having the property rezoned to allow sales and service of automobiles.

Lanoue noted that there will be no auto body work being done at the facility on any of the vehicles and there will only be one bay for servicing vehicles.

McKeon moved to close the public portion of the meeting. Davenport seconded the motion, which passed unanimously.

Discussion:

It was noted that Goderre did not come before the Zoning Board for a variance before getting the zoning changed at his location. Davenport stated that the original business at the Lanoue property was for auto dealership with sales and service and there have been many other types of businesses at that location since that time. McKeon noted that it hasn't been a car dealership for over 20 years.

Riendeau suggested that the board get some guidance from legal counsel in how to sort out the different zoning changes.

Fales moved to have Riendeau contact the attorney to discuss the variances allowed on this property. Davenport seconded the motion.

Discussion:

The ZBA meeting minutes for all the variance changes on this property will be available at the next meeting.

The vote was called. Yes – 5, No – 0
The motion passed by unanimous vote.

Davenport moved to have this application continued until May 10, 2016. Fales seconded the motion which passed unanimously.

Aaron Roof requests a Variance from Article II Section 203.5 Section A of the zoning ordinance to permit a carport attached to existing garage. The property is located at 431 Atherton Hill Road, Spofford, NH 03462 (Map 8 Lot C21) Residential District.

Present: Aaron and Kimberly Roof
Voting on this application will be Riendeau, Davenport, Evans, Fales and McKeon.

Roof has built a 14x27 ft. carport within the front setback without a building permit. The carport is a wood frame structure that is attached to a barn. Roof indicated that the barn is approximately 50 ft. from the front setback. He also noted that the carport is approximately 36 ft. from the stone wall next to the road and not 33 ft. as is indicated on the drawing the he submitted with his application. The lot size is 2.95 acres. Roof stated that there is a lot of wetland, ledge and steep slopes on his property.

McKeon moved to close the public portion. Evans seconded the motion, which passed unanimously.

Discussion:

Davenport noted that this application may be a hardship because of the wetlands and ledge. There were questions as to whether the additional buildings behind the barn were included on the permit.

Fales moved to continue this application to an onsite visit. McKeon seconded the motion, which passed unanimously.

The board scheduled the site meeting visit for April 16, 2016 at 9:00 a.m.

Charles A. Donahue Revocable Trust requests a Variance from Article II Section 203.4 (A), 203.4 (B), 203.4 (C) and 203.6b (A), 203.6b (B) and Article V Section 503.1 of the zoning ordinance to permit the replacement and renovation of existing second floor dormer on an existing non-conforming lot. This property is located at 41 South Shore Road, Spofford, NH 03462 (Map 5A Lot B10) Spofford Lake District.

Present: Charles A. Donahue and Architect Michael Petrovick
Voting on this application will be Riendeau, Davenport, Evans, Fales and McKeon.

Petrovick requested approval to remove the existing dormer on the second floor space and to reconstruct the dormer. The proposed plan is to lower the existing sidewalls in order to create a southwest gable roof over the dormer and not raise the roof any higher than the existing roof. It

will not increase the footprint of the existing property. The current roof allows all of the water to run off into the road. The new roof will allow the water to drain into the existing plant bed on the east side of the house and into the existing property on the west side of the house. Petrovick stated that this project will be keeping in the spirit of the zoning ordinance and will not be further encumbering the lot.

Riendeau noted that the applicant is not asking to make any changes in the sections for Article II because the building already exists on all of those sections. The applicant is only applying for only Article V Section 503.1 because the 3-season porch will be turned into living space. The peak of the gable end will be the same height as the dormer shed. The applicant will be lowering the wall to get more pitch on the roof. Petrovick stated that the roof runoff will go into a catch basin to a culvert and will travel to two houses down the road and into the lake.

Petrovick stated that if the applicant was to rebuild the dormer with the current roof configuration, the applicant would still need to come before the ZBA because the lot is a nonconforming lot. The change in the roof will be able to better handle the snow with a better and steadier constructed roof with a gable. The proposed use is to remain a single family residence and doesn't increase the use of the property. Donahue added that his intention is to improved the property by making it more traditional.

Fales moved to close the public portion. McKeon seconded the motion, which passed unanimously.

Discussion:

Evans stated that the changes requested are improvements that would make the property safer with equal trade in space. McKeon noted that the applicant is not increasing the square footage and the applicant is trying to stay closer to our codes and the changes would not be a detriment to the neighbors.

McKeon moved to grant the application of Charles A. Donahue Revocable Trust from Article V Section 503.1 as applied for.

Criteria for approval:

- 1. The variance is not contrary to the public interest.** Yes, the proposed design does not increase the height of the building, it does not increase the overall living space and it makes a better neighborhood building.
- 2. The variance will not be contrary to the spirit and intent of the ordinance.** Yes, the proposed design at this meeting does not increase the burden on the property, it does not increase the footprint and it brings it more into compliance of the building codes without impacting on the site requirement codes.
- 3. Substantial justice is done.** Yes, the applicant and the general public for safety and visual esthetics.
- 4. The variance will not diminish the values of surrounding properties.** Yes, the new design of the building will enhance the value of the surrounding properties.
- 5. Literal enforcement of the ordinance would result in unnecessary hardship.**

(A) Because of the special conditions of the property that distinguish it from other properties in the area:

(a) There is no fair and substantial relationship between the general public purposes of the ordinance provision and the specific application of that provision to the property.

Yes, the way the original building was built, it could not be replaced exactly as it is and could not bring it back into a livable condition because of the requirements of our building codes. The applicant addressed the special conditions to bring the building into compliance with the building codes without needed significant amount of space.

And

(b) The proposed use is a reasonable one. Yes, it is reasonable to rehab the building and make it a safer, more energy efficient and more compliant building code property. It will also improve the water runoff.

Davenport seconded the motion, which carried unanimously.

Alan Crofut requests a Variance from Article II Section 204.2 of the zoning ordinance to permit a 24'x60' portable carport for storage of equipment and tools.

The property is located at 888 Route 9, Chesterfield, NH 03443 (Map 12 Lot A2.4)
Rural/Agricultural

Present: Alan Crofut and Michael Kray

Voting on this application will be Riendeau, Davenport, Evans, Fales and McKeon.

Crofut stated that he is attempting to keep his logging equipment under cover during his logging operation on the property. He stated that he would like to put up a 20x30 ft. open sided portable carport with footers and tie ons and a 12x20 ft. Amish style shed on a gravel pad to be used as a workshop behind the carport. The carport would have a metal roof and a single wall. Crofut noted that there is currently a tractor trailer box on the property that is being used for storage. He stated that he is in the process of filling in the front portion of the property where it slopes in an attempt to put a driveway up through the property.

The board noted that a temporary 24x60 ft. portable shed was granted by the ZBA on April 8, 2014 for the duration of one year and must be compliant with the setback. After one year, if the applicant needed to have the shed up longer, he should return to the ZBA for an extension. That was not done. At that time the owner and applicant of the property was Michael Kray. Crofut purchased the property from Kray on March 24, 2015. Riendeau noted that a structure is not allowed without a residence. On April 8 Kray indicated that he was going to apply for a building permit to build a resident house. Kray stated that he still owns the property adjacent to the Crofut property and he has no access to his lot. He noted that the Planning Board requested that the Crofut property would have to have a access road in place in order for Kray to have access to his own property before he can acquire a building permit. Kray's intention was not encroachment on the wetland areas. Kray added that there are still a lot of trees that will need to be removed to clear a way for the area where he and Crofut would like to build their homes. Kray stated that he put up a 12x20 ft. portable shelter in 2014.

Karen LaRue noted that she has seen smoke coming out of the box trailer and asked if anyone was living in the storage trailer. Crofut replied that he is keeping it heated with a wood stove

because he has kitchen equipment and paper goods in it and he is trying to prevent condensation from forming to keep it dry. He added that no one is living in the 45 ft. storage trailer. He stated that it has wheels on it but it is not registered. Crofut stated that he put the unit on the property in the summer of 2015 and would like to move it pushed into the woods and out of the shared driveway area. Riendeau asked Crofut if the camper trailer is on his lot and was it occupied. Crofut replied that it is on his lot and it is being occupied by Michael Kray. Kray stated that code enforcement has approved of his residing in the camper for 180 days. Code Enforcement Officer Frank Richter reports of March 23 and 30 were reviewed. Richter's report stated that he has notified Kray and Crofut that Kray must move out of the camper by the end of June. Kray stated that he will live with one of his children when his 180 day permit expires.

Riendeau asked if the erosion has been taken care of on the right side of the driveway with silt fencing and straw bales minimum, as required by the code enforcement officer. Crofut replied that it has.

Kray noted that he does not have access to the abutting property that he owns. The only access is from the property that he sold to Crofut in March of 2015.

Jeff Scott requested that the property be made as attractive as possible and to pay attention to the wetlands for this area of Route 9, whatever decision the ZBA makes.

Kray noted that he and Crofut are keeping the equipment from leaking fuel and oil onto the property. Crofut stated that the gasoline is being kept in plastic tubs.

Fales moved to close the public portion. Davenport seconded the motion, which passed unanimously.

Discussion:

10:00 p.m. - Fales was excused from the meeting. Vollbehr was appointed to fill her position. McKeon noted that there are currently at least two temporary structures on the property. Riendeau stated that the applicant is asking to allow two structures on the property to replace the current portable structure that was granted in April 2014 and the ZBA needs to address the other structures. He noted that the camper situation is a separate issue and can be occupied for 180 days and it will have been occupied for a consecutive 180 days. This ordinance falls under a separate ordinance and request from this application.

Davenport noted that the applicant is trying to preserve the wetland areas. The board noted that the box trailer was portable and moveable but was not previously requested. Riendeau stated that this application applies to 204.2 (n) and does not pertain to (a) through (m). The board noted that the box trailer was not addressed with the ZBA and should be addressed by code enforcement. The applicant's request was for a 12x20 ft. Amish style temporary shed and a 20x30 ft. structure with a metal roof and a half wall on one side and the units will be located next to each other and not on a foundation. The total square footage of the two units would be 840 sq. ft. The 24x60 ft. requested structure of 2014 must be removed. The box trailer is not registered and should be addressed by the code enforcement officer. The property should be kept on an annual review by the ZBA and by getting progress reports by code enforcement. Conditions of having a driveway to a building site must be met within a year for the temporary structures for consideration of those additional structures to temporarily remain on the Crofut property.

McKeon moved to grant the variance of Alan Crofut from Article II Section 204.2 (N.). The application requested was for a 24x60 ft. and it will be changed to a 12x20 ft. Amish style shed and a 20x30 ft. metal frame roof structure with a half wall facing the wetland. The condition placed on this variance is set for one year. At the one year point, a fashioned driveway to the cleared building site on Lot 888 must be in place. The ZBA will revisit the property in April 2017 to verify the progression for improvements. Davenport seconded the motion.

Discussion:

This motion is out of the ordinary for a variance done by the ZBA. The intent was to try to provide convenience and access on that lot during the construction period. It seems to be a reasonable request, even though it may not include all the five points of the temporary variance. The variance will only be granted in one year increments. The variance will need to be reviewed after one year.

The vote was called: The motion passed unanimously.

Robert C. Hodgkins, III requests a Variance from Article IV Section 402.4 (2) of the zoning ordinance to permit (5) five full time and (3) three part time employees. Hours: 10:00 a.m. to 6:00 p.m., (7) seven days per week until the move to 20 Brook Street (April-May 2016). The property is located at 1041 Route 63, Spofford, NH 03462 (Map 3 Lot B8.1) Rural/Agricultural District. (Deferred from meeting of March 15, 2016)

The applicant was not present and there were no representatives for this hearing. Voting on this application will be Riendeau, Davenport, Evans and McKeon. Vollbehr will be voting in place of Fales.

McKeon stated that the zoning board meeting minutes of July 8, 2008 noted that Mike Bentley stated that this hearing was to permanently grant what was granted in 2007 and not to modify the application. If modifications are to be made, then a new application should be submitted. She added that the scope of the business has changed dramatically since the application was approved. It was also noted that in the ZBA meeting minutes of June 12, 2007 that, "Perkowski stated that if it is a flourishing business then it is no longer a Home Occupation and would have to be moved to an industrial area." Oot noted that Hodgkins received a letter from code enforcement stating that he was out of compliance and requested that (Hodgkins) file a variance with the ZBA by November 19, 2015 and Hodgkins didn't file until February 4, 2016. McKeon added that Hodgkins ammunition is not being kept in a bunker. The June 4, 2007 ZBA meeting minutes indicated that (Hodgkins) did not modify the decision for granting the bunker on March 20, 2007 for a bunker type facility approximately 8x16 or 20 ft. A copy of the March 7, 2016 on-line advertisement and of hours of operation reviewed indicating that Highlander Arms is open from 10:00 a.m. to 6:00 p.m. Vollbehr stated that the applicant must comply with the original agreement. Riendeau added that the applicant needs to comply with the number of employees that has been approved.

Riendeau moved to deny the request for a Variance from Article IV Sections 402.4 (2) of the zoning ordinance. No more than 3 people not residing on the premises shall be employed in the activity at the site.

Criteria for approval:

1. **The variance is not contrary to the public interest.** No.
2. **The variance will not be contrary to the spirit and intent of the ordinance.** No. It could be diminishing of value to the abutting properties.
3. **Substantial justice is done.** No.
4. **The variance will not diminish the values of surrounding properties.** No.
5. **Literal enforcement of the ordinance would result in unnecessary hardship.**

(A) **Because of the special conditions of the property that distinguish it from other properties in the area:**

(a) **There is no fair and substantial relationship between the general public purposes of the ordinance provision and the specific application of that provision to the property.**

No, there is no hardship found.

And

(b) **The proposed use is a reasonable one.** No. It is far beyond what the ordinance allows.

McKeon seconded the motion, which carried unanimously.

Review Meeting Minutes

- **March 15, 2016**– Voting will be Riendeau, Evans & McKeon.
Riendeau moved to approve the meeting minutes of March 15, 2016 as presented. McKeon seconded the motion, which passed unanimously.
- **March 19, 2016 Site Visit** – Voting will be Riendeau, Evans & Oot.
Riendeau moved to approve the meeting minutes of March 19, 2016 as presented. Oot seconded the motion, which passed unanimously.

Other Business

Evans brought in a Dell notebook for discussion for possibly purchasing the unit for the use of board members during their monthly meetings. The purchase price of the unit is \$300.

Riendeau moved to purchase the Dell 2 in 1 notebook that was presented by Evans. McKeon seconded the motion, which passed unanimously.

Adjourn: *Riendeau made a motion to adjourn the meeting. Davenport seconded the motion, which carried unanimously.* The meeting adjourned at 11.47 p.m.

Respectfully submitted,

Patricia Grace

Secretary

Approved

Burt Riendeau

Chairman, Zoning Board of Adjustment

Date _____