

**Zoning Board of Adjustment**  
**Wednesday, June 19, 2019**  
**Walpole Town Hall**  
**7 pm**

**Present:** Chair Jan Galloway Leclerc, Tom Murray, Pauline Barnes. Alternates: Don Sellarole, Bob Anderson. Absent: Judy Trow. Vice-Chair Myra Mansouri came in a few minutes late.

**Roll Call:** Ms. Leclerc called the meeting to order at 7:02 pm. She asked alternates Mr. Sellarole and Mr. Anderson to fill in for the missing Board members. Ms. Mansouri came in a few minutes late. Mr. Anderson stepped down.

**Recording:** Marilou Blaine. These minutes are unapproved and will be reviewed at the July 2019 meeting for corrections, additions and/or omissions.

**Minutes:** May minutes and April Executive session minutes: Minutes: Three typos on page 3 - "chose" to "choose" twice and "operate" to "operated." Ms. Mansouri made a motion to accept the amended minutes. Mr. Murray second the motion and the motion carried. Executive session minutes: the word on page 1 should be "compromised" not "comprised." Ms. Mansouri made a motion to seal the executive session minutes and Mr. Murray seconded the motion. The motion carried.

**New Business:**

**New Business: Sue King, 618 Cold River Rd.** Mrs. King's husband previously owned and operated a business at this address. It was called Ray's Auto Body Shop. He received a Special Exception to let him open up the shop in the early 1980s. Her husband died several years ago and she would like to rent out the building her husband used for his shop to a woodworker who makes furniture. The woodworker is M Will Hunter. Mrs. King, Mr. Hunter and Mr. Hunter's son, Christopher, were at the meeting.

Ms. Barnes said she tried to find Mrs. King's home but went down Cold River Road and it ended with a barrier and 618 Cold River Road was not on that stretch of road. Mrs. King explained that two or three years ago, the town put up a barrier to close this portion of the road. Now, in order to get to her house, you have to drive to Drewsville, go past the Drewsville store, go down the hill and turn right. The next first three houses on the road are part of Walpole and their addresses are Cold River Road. They are not on GPS. The next stretch of road continues through a part of Langdon and then Alstead and that road is called River Road.

Mr. Hunter explained he was a custom woodworker. His customers are from all over New England and New York. His color brochure shows just a few of the types of things he has made for customers: chicken coops, sheds, cabinetry and desks for businesses, tables, counters, bars, planters of all shapes and even coffins. He's currently working on a bed replica of the Lincoln funeral train and a tiny house on wheels for an artist. His work space will be the former garage of Mrs. King's husband who had an automotive repair shop there.

Mr. Sellarole asked where the garage was in relation to the house and road and if he displayed a lot of his products outside the garage. Mr. Hunter said the house is up front by the road and there is a driveway to the shop quite a ways from the house and road. He showed some pictures. The road runs along Route 123 and goes into Alstead Village. He said he's cleaned up the repair shop, put up sheet rock, painted, added new LED lights and blocked off the wood stove. Mrs. King has replaced the toilet that was there and added a new vanity and plans to add new heating. Nothing will be done to the outside. There is enough parking for Mr. Hunter and a couple of customers. He sometimes puts something he's built outside the garage for display.

Ms. Leclerc said that since the property is in a rural/ag district, Mrs. King would need to get a Special Exception for the commercial woodworking business. There was a question about whether or not Mrs. King

would need Planning Board approval. Ms. Leclerc thought Mrs. King did not have to go to the Planning Board because the total expenditures would be less than \$10,000. Mrs. King made an appointment with the secretary to meet the following Monday to get the Special Exception form and check on abutters. The Public Hearing was planned for next month, July.

Mr. Anderson asked if he was going to have more than two employees. Mr. Hunter said “no”, but he sometime hires a delivery man. Mr. Anderson read from the Walpole Zoning Ordinances, Rural/ag district, Section VIII, Part B. “Residences may be used to house such customary uses by the owner or tenant as offices for doctors, lawyers, real estate or insurance, or other recognized professions, or such home occupations as hair dressing or dress-making, except that the number of persons employed at any one location shall not number more than two persons in addition to the owner or tenant. Adequate off-street parking shall be provided on the premises.”

It would seem Mr. Hunter is the tenant and that woodworking could be construed as a home business, Mr. Anderson said. There is one on Wentworth Road near where he lives. Ms. Barnes said she thought it was a traditional home business.

So Ms. Leclerc decided that Mrs. King may rent her garage to Mr. Hunter under the provision of home business in a rural/ag district. If Mr. Hunter’s business gets so large that it employs more than two people, he must come back to the Zoning Board and discuss what the next steps would be. There will be no Public Hearing next month.

**General Dollar** – Actions Signs in Rensselaer, NY is making two signs for a proposed business – Dollar General - on property that is on the corner of Red Barn Lane and Main Street. There will be one sign attached to the building and another free-standing sign on a 19-foot pole and 60 feet from the edge of road. Signs are 100 feet from one another. One sign is 32.17 square feet and since that exceeds the 32 square-foot limit for signs in a commercial district, the sign company will have to come in for a variance. The Board felt if a person gets a permit for a sign that is .17 square feet above the permitted limit without applying for a variance then it would create a precedent for someone to ask for one .25 square feet above the limit and that could snowball into more square feet.

There were some questions about exactly where the location was and where the free-standing sign would be. It is a new building and Dollar General has to go before the Planning Board for a site plan review and get approval first. Ms. Barnes was concerned that a 19-foot lighted sign would be higher and brighter than any other signs on that stretch of road. The lighted signs would be turned off after the store closed. Representatives of the sign company will present their case to the Planning Board in July or August.

**Possible Variance:** Ellen Danielle, 56 School St. Looking for information on an addition to the house at that address. Since the property is already under a sales agreement to someone else, her questions were moot.

**Conference:** Reports from Board Members on Planning and Zoning Board Workshops in Concord attended on Saturday, June 1. Ms. Trow sent her slide presentation notes on the workshop she attended to the secretary. Since she was absent, she will report on her workshops next month.

Ms. Leclerc and Mr. Sellarole attended a workshop on the zoning boards in New Hampshire. Here are Ms. Leclerc notes on their experience.

“ZBA is quasi-judicial board, therefore, members must act like judges.

“The ZBA must have Rules of Procedure. Every member should have a printed copy of them and they should be followed at every meeting. Our rules of procedure are the bylaws.

“The legislative body (Town Meeting) has the authority to enact and amend the Zoning Ordinances. The

Planning Board may suggest amendments to the ordinance. The ZBA has authority to hear administrative appeals to grant variances and special exceptions and to grant equitable waivers of dimension requirements.

“The ZBA hears appeals to Planning Board decision if the decision deals with an ordinance. Other matters go to Superior Court.

“The ZBA can decide if a variance or special exception is really needed.

“If municipal estoppel is claimed, consult your town attorney. This is when a town official gives information that is wrong and that wrong information harms the recipient in some way.

#### Special Exceptions

“The ZBA may not waive any requirements.

“Applicants may apply for a variance from one or more of the special exception criteria. The variance must be granted before the SE hearing can take place, although both hearings may take place on the same night.

“Special Exceptions shall be valid if exercised within two years from final approval date unless an extension has been granted for good cause and provided it is not less than six months after an application or site plan has been approved, which depended on the special exception to be approved.

#### Variance

“ ‘If I can’t use my property the way I want to, there must be a good reason.’ “

“Boards must consider the purpose of the ordinance for which a variance is being requested. If the purpose is not stated, it may be implied, as in set back requirements generally provide air, light, a buffer from neighbors.

“If a use is abandoned the ordinance should state what happens to the SE or V. If it doesn’t, it is an issue for the town lawyer.

“Existing cell towers can expand up to 20 feet in height without getting a SE or V.

“ ‘Spirit of the Ordinance’ and ‘Public Interest’ are considered the same thing now. These consider the following:

“1. Will the use alter the essential character of the neighborhood? Neighborhood generally means the abutters and a “ring or two beyond.’

“2. Does the proposed use threaten health, safety, welfare?

“The proposed use does not need to serve the public interest. It only must not be contrary to it.

“Substantial justice means that the loss to the applicant outweighs the gain to the general public if the variance is denied. ZBA should focus on whether the public stands to gain from the denial.

“In deciding to grant or deny a variance, there should be very specific findings. Use the word “because” frequently and tie it to the criteria and the evidence presented.

“Consider the ‘as built’ condition of the property if a building has been approved, even if it is not built yet.

“If you disagree with any testimony, you must have reasons and say what they are.

“The Town may vote to amend the Zoning Ordinances to put time limits on previously granted variances and special exceptions.”

3.

After discussing Ms. Leclerc's written comments, the Board members discussed some things that should be added to the bylaws: time limits on decisions, specific instructions for members voting on variances. Changes to bylaws may be made by bringing the matter up at two successive meetings and the meetings must be posted.

Ms. Barnes brought two quotes from the conference back to the Board - "Process is cheap." and "Education beats litigation." A few other items Ms. Barnes mentioned:

The minutes should be detailed.

If an applicant brings an expert to the meeting, the Board can counter this measure by hiring an expert of its own at the applicant's expense.

Variance – discuss each criteria. It was recommended that the Board vote on the entire decision. You must be consistent on the method the Board uses in making a decision.

A variance is tied to the land.

A study group has been set up for Tiny Houses.

A new board has been proposed that would handle zoning appeals. It has the authority of a Superior Court in that if a decision is appealed it goes directly to the Supreme Court.

There is another planning and zoning conference in Concord on October 5. A reminder of the conference and more information will be forthcoming when the date is closer.

All presentations and handouts from the June 1 conference in Concord may be viewed by going to:  
<https://www.nh.gov/osi/planning/resources/conferences/spring-2019/index.htm>

If you want to be informed of future planning-related conferences and events, receive the weekly Planning News brief, which is published every Friday, and stay up to date with discussions and information about what is happening in the NH planning world, please subscribe to the Plan-Link listery at:  
<http://maillist2.nh.gov/mailman/listinfo/plan-link>.

**Old Business:** Map and Ordinance. Ms. Leclerc is waiting for a map from Avitar.

**Handouts:** General Dollar Sign Info

Ms. Mansouri made a motion to adjourn the meeting. Mr. Sellarole seconded the motion and it carried.

Respectfully submitted,  
Marilou Blaine  
ZBA Secretary

cc: ZBA, WPB, Town Offices, Walpolean  
Posted: Inside Town Offices, on bulletin board outside post office.

**Next meeting:** Wednesday, July 17, 2019

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