

Walpole Zoning Board of Adjustment Minutes
February 19, 2020
Town Hall
7 pm

Present: Board Members: Chair Jan Galloway Leclerc, Vice-Chair Myra Mansouri, Clerk Judy Trow, Tom Murray, Pauline Barnes. Alternates: Ernie Vose. Absent: Bob Anderson, Don Sellarole.

Recording: Marilou Blaine. These minutes are unapproved and will be reviewed at the regular March 2020 meeting for corrections, additions and/or omissions.

Roll Call: Ms. Leclerc called the meeting to order a couple of minutes before 7 pm. A full Board was present so an alternate was not needed to fill in.

Minutes: There was one correction: remove the words “come to,” page 2, paragraph 5. Ms. Trow made a motion to approve the minutes as amended. Ms. Mansouri seconded the motion. The Board approved the motion.

Signage: Edward Jones, 8 Westminster Street. Postponed until next month.

Old Business:

Public Hearing:

Variance: Marcus Lovell Smith, Boggy Meadow Farms, 13 Boggy Meadow Lane, Tax Map 7, Lot 1, rural/ag district wants to put a mobile home in the barnyard area of the farm. He is hoping to start milking cows again (he has 250 new heifers) and the mobile home is for two employees to be near the cows 24 hours a day. Article VIII, Section B.

Mr. Smith explained his proposal. He said he wanted permission to place a mobile home into the main part of the barnyard at Boggy Meadow Farm so there would be 24-hour-a-day supervision for the cows, which is needed to resume a dairy operation. Currently the milking parlor needs refitting and the hope is that once that is done, the dairy operation will be up and running, he said. The accommodations that we used before don't have a direct line of sight to the dairy barn. The mobile home will be “invisible” or hidden from the road and any neighbors. Without the mobile home, there would be no dairy operation, he said. It is absolutely crucial to have the mobile home to accommodate 24-hour-labor.

Mr. Smith read the answers to the five conditions for a variance and after he was finished reading all five conditions, the Board discussed each one and then voted on the variance.

Mr. Smith wrote “the variance is requested to erect a temporary mobile home to accommodate farm workers, and will be removed if there are no active dairy operations.”

1. The proposed use would not diminish surrounding property values because:

Site is not visible from surrounding properties.

2. Granting the variance would be of benefit to the public interest.

On-site accommodation is necessary for a dairy operation.

3. Denial of the variance would result in unnecessary hardship to the owner because of the following special circumstances of the property that distinguish it from other properties similarly zoned because:

Accommodation necessary to house farm workers.

4. Granting the variance would do substantial justice because:

It would enable the dairy operation. Without it, we wouldn't be able to operate a dairy farm.

5. The proposed use would not be contrary to the spirit of the ordinance because:

As set out in the ordinance, "the purpose for establishing a rural/agricultural district is to provide ample areas for pursuit of agriculture including but not limited to dairy farming, poultry raising and timber harvest", and this accommodation will enable the dairy operation. Furthermore, the use would fall into the category "usual and ordinary farming activities."

Ms. Mansouri asked what his statement that "you may or may not start a dairy operation" meant. Mr. Smith said there are a bunch of conditions. One is 24-hour supervision, but also the milking parlor has to be restored, which is costly. If these condition don't work out, there would be no need for a mobile home. She then asked about the two farmhouses on the property and where the septic would be? Mr. Smith said he doesn't know yet if he can hook to an existing septic system or has to put in a new one. He's waiting to see if a new system is needed and if it were, he would put in a new one. Ms. Leclerc said septic systems are part of the building permit process and must satisfy State requirements. A copy of State approved design must accompany the building application.

Mr. Vose asked if the dairy operation ceased, would the mobile home be removed? Mr. Smith said yes. Me. Vose then said that the ordinance requires that a mobile home be placed on a permanent foundation. Discussion followed on this topic. Ms. Leclerc said the requirement could be waived. What would constitute a temporary foundation? Suggestions were: a slab, a cement block foundation, cement blocks where needed as a foundation, but not the wheels of the mobile home. All would need some kind of skirt or covering to go around the bottom of the mobile home.

Comments from the Board to Mr. Smith's answers to the variance conditions:

1. Ms. Trow said the mobile home is surrounded by farmland and only visible when you're on the property.

2. Ms. Barnes said the state of New Hampshire takes a very positive view of farming and Walpole has been known for its dairy farms, so I suggest that would be in the public interest. RSA 617:1 says agricultural activities are a beneficial feature of the New Hampshire landscape and should not be unreasonably limited by a municipal zoning power.

3. Ms. Barnes said denial would make the need for employees for a 24-hour watch over the cows makes it different from other properties.

4. Ms. Trow said the variance allows dairy farming to come back into operation.

5. Ms. Leclerc said the property is zoned rural/ag and permits the land to be used for dairy farming.

Ms. Trow made a motion to grant a variance for Section VIII Section C, Tax Map 7, Lot 1, 13 Boggy Meadow Lane, to allow a mobile home to be placed on a permanent foundation as indicated on the map while it operates as a dairy operation.

Ms. Leclerc asked if she meant permanent foundation or a temporary foundation. Mr. Smith said he didn't think a permanent foundation was needed and would prefer that the motion say something about a temporary one. He knows of another dairy farm that uses cement blocks for its mobile home and he hasn't any idea of how much an additional cost would be for a permanent one. The Board discussed temporary foundations and then decided to replace the word permanent in the motion with the word adequate. The motion was amended to substitute the word adequate for permanent. Mr. Murray seconded the motion and the Board approved the motion.

New Business:

Catherine Harris: Signage - 6 Ames Plaza. Sign is 18 inches by 47.5 inches. Closest neighbor, Power Sports, has a sandwich-board type of sign that gets moved every day.

Mark Smith represented Ms. Harris. He produced a copy of the sign. It says CHS in large blue letters. The S has a picture of the globe in the bottom of the S. Wealth Management & CPAs are in much smaller black letters below that. On the right side of the sign are the services listed: investments, taxation, consulting, estates/trusts, then a telephone number (866-247-6800) and a web address. The two-sided sign will be placed on the lawn in front of the office parking lot on Ames way. It is in the permitted 65-foot distance from the center of Upper Walpole Road. A light will shine up at the sign. There will also be two lights at the bottom of the parking lot, one at each end.

There was a concern about the light shining up at the sign that would not be in keeping with dark sky lighting. Mr. Smith said the light would be on a timer and shut off at 9 pm. Another concern of the Board regarded the brightness of the lights, including the ones by the parking lot. Since lighting is under the purview of the Planning Board, the ZBA can't rule on that matter.

Ms. Trow made a motion to approve the sign as it complied with the ordinance. Ms. Mansouri seconded the motion and the Board approved it.

Chad Thurston: Variance or Expansion of a Non-conforming Use for 65-foot setback from the road for a porch at 73 Main Street, former American Legion building. He also needs to go before the PB for a site plan.

Mr. Thurston explained he planned to build a simple 6-foot-by-26-foot open farm-style porch across the front of the building. The porch would provide entry to the building for tenants who live in the two upstairs apartments as well as for customers for the proposed real estate office on the first floor. He said that a porch had been approved before when Costume Ladies was in the building, but that was in 2014 and the approval status is no longer valid.

The Board decided that since the building didn't conform to current zoning ordinances an Expansion of a Non-conforming Use application was more appropriate than a variance. A motion was made, seconded and passed to hold a Public Hearing for the addition of a porch in March.

Ryan Harrison and his wife purchased a house at 113 Prospect Hill, Tax Map 17, Residential A.

Mr. Harrison had a map and plans of the house and the addition to the house for an ADA compliant apartment for his in-laws and an attached garage. The house itself is about 45 feet from center of road and the addition is a few feet further back. They cannot push the addition towards the back of the lot because of the lot topography and a pool in the back.

Mr. Murray asked if there would be a new driveway. Mr. Harrison said he had been in contact with Road Agent Michael Rau who said it would depend on when the house was built. If it were built before 1971, he could put in a driveway directly to the new garage. If it were built after that, he would have to figure out something else. Mr. Rau is checking on that matter.

Since the house is non-conforming, the Board decided Mr. Harrison also needed an Expansion of a Non-conforming Use application. Ms. Trow made a motion to hold a Public Hearing next month for an Expansion of a Non-conforming Use. Mr. Murray seconded the motion and the Board approved the motion.

Allen and Tiffany Parker, owners of 47 River Road North, Tax Map 18, Lot 12-1, came in to discuss the letter they received from the Selectboard about three apartments at that location. Having three apartments in a Residential B district is not permitted. Therefore, they needed to get a Special Exception from the Zoning Board of Adjustment to keep the third apartment and that also required a site plan from the Planning Board

Mr. Parker said that there were not three apartments at that location, there were actually only two apartments in that building. When he and his wife bought the building, Mr. Parker said there were four apartments. They were simply making renovations to the house.

He was advised that he should check with Town Offices if indeed he had been paying taxes for a three-apartment house. The Board apologized for the mistake and the stress the couple had gone through.

Signage: Jack Franks took down the sign on Red Barn Lane. He apologized for being late in taking down the sign.

Short-term rentals such as Airbnbs: Ms Leclerc had gone to the Select Board to discuss contacting the town attorney about adding short term rentals, such as provided by companies like airbnbs, being added to the B&B ordinance. The secretary had contacted the NH Municipal Association about this matter and after reading the town ordinance to one of the lawyers at the Association, he confirmed that that ordinance would also include covering short term rentals. However, the Select Board wanted something in writing from the Association so Chair Leclerc called and asked for that confirmation in writing, which she got.

It was decided that a small change could be made to the ordinance. It would now read. "Bed and Breakfast and Short-term Rental establishments (ex. Airbnbs) for the accommodation of paying, overnight guests, may be maintained in all zoning districts provided that the number of rooms for rent in any one establishment shall not number more than four and further provided that breakfast shall be the only meal provided and that to bona fide overnight guests. The conversion of a single-family residence or other building to a bed and breakfast or short-term rental shall require Site Plan approval by the Planning Board. Off-street parking for one car per rented room plus space for owner parking shall be provided."

Copies of ordinances from Alstead, Chesterfield, Portsmouth and Winchester regarding Bnb ordinances and districts where Bnbs were permitted were distributed to the Board. New legislation before the NH Legislature was also provided.

Ms. Mansouri made as motion to adjourn the meeting. Ms. Trow seconded the motion and the Board approved the motion.

Respectfully submitted,
Marilou Blaine
ZBA Secretary

cc: ZBA, WPB, Town Offices, Walpolean
Posted: Inside Town Offices, on bulletin board out the Post Office, www.walpolenh.us

Next meeting Wednesday, March 18, 2020