



TOWN OF WAKEFIELD, NEW HAMPSHIRE
ZONING BOARD OF ADJUSTMENT

2 HIGH STREET
 SANBORNVILLE, NEW HAMPSHIRE 03872
 TELEPHONE (603) 522-6205 FAX (603) 522-6794

PUBLIC HEARING
May 18, 2009

These minutes were approved by the Zoning Board at the June 15, 2009 meeting.

FINAL

Chairman Doug Stewart called the meeting to order at Town Hall at 7:00 p.m. Attendees included:

MEMBERS		ALTERNATES		OTHERS	
Doug Stewart, Chair	x	Judith Sjostrom	x	Kathy Menici, Planning Director	x
Paul Winckler, Vice-Chair	x	Sandy Lebel	x	John Ciardi, Deputy Code Officer	x
Cecille Arnone	x	Sharon Theiling	x	Rick Sager, Town Counsel	
George Frothingham	x	John Napekoski		Ken Paul, Selectmen's Representative	x
John Crowell				Lynn Shaffer, Secretary	x

Other Attendees as signed in:

Linda Mattress
 Pam Judge

John Mattress
 John Waitner

Carol C. Leighton
 Jerry O'Connor

ROLL CALL – DESIGNATION OF ALTERNATES

Following the Pledge of Allegiance, Chairman Stewart asked members of the Board to introduce themselves. Since John Crowell was absent, Chairman Stewart asked Alternate Sandy Lebel to sit in, which she did. Chairman Stewart reviewed the processes followed in a ZBA meeting. He explained that the Board reviews the checklist, and then invites the applicant to come forward and discuss the application, the Board will ask questions, and the Planner and Code Enforcement Office can also offer information. Once this is completed, the meeting is opened to the public to express opinions for and against the application, and for people to ask questions. Once the public hearing is closed, the voting members of the Board begin deliberations, and no further questions or comments can be taken from the applicants or public. He further explained that the voting members of the Board would be seated at the main table, while the alternates are seated at the side table.

PUBLIC HEARING

Case #2009-3 Wakefield Tax Map 244, Lot 22 – Linda Mattress, agent for Carol C. Leighton, property owner, for property located at 94 Pigeon Hill Road, Union NH. The applicants are seeking a Variance from the Town of Wakefield Zoning Ordinance Article 3, Section 1, footnote 3 – Permitted Uses. The applicants are seeking to place a manufactured home on a monolithic slab where a permanent foundation is required.

and

Case #2009-4 Wakefield Tax Map 244, Lot 22 - Linda Mattress, agent for Carol C. Leighton, property owner for property located at 94 Pigeon Hill Road, Union NH. The applicants are seeking a Special Exception from the Town of Wakefield Zoning Ordinance Table 3 – Density and Minimum Dimensional Requirements – to allow the use of a 924 square foot manufactured home where the Zoning Ordinance requires a minimum living area of 1150 square feet.

Chairman Stewart reviewed the checklists for both **Case 2009-3** and **Case 2009-4**, presented by Linda Mattress. Mrs. Mattress is requesting that the application fees be waived due to financial constraints on the part of the applicants. Their home was destroyed by fire, they had no insurance, and there is no extra money to pay the application fees. They had previously gone to the Selectmen for a building permit, and the Selectmen waived the application fee. Planner Menici clarified that is just the application fee they are asking to be waived, and that they have paid the public notice and abutter notice fees.

MOTION: To waive the application fees for these applications.
Made by: Cecille Arnone
Seconded by: George Frothingham
Discussion: Vice-Chair Winckler wondered if partial payment could be made. Mrs. Mattress advised that there is no money to pay the fee.
Vote: Unanimous

MOTION: The application is complete enough to proceed.
Made by: Paul Winckler
Seconded by: Cecille Arnone
Vote: Unanimous

Chairman Stewart asked Mrs. Mattress to speak to the Board about the variance request. Mrs. Mattress advised that they would like to put the trailer on a monolithic slab instead of a foundation with a 4-foot frost wall. She explained that there is ledge up there which will be a problem, the slab is good, and it's just a trailer and not a 3-story house. Chairman Stewart asked if she had an estimate on the cost difference between a slab and a foundation. She has been advised that the slab would be about \$1895, and that a 4-foot frost wall would be 4 times that, or at least \$8000. She advised that a monolithic slab is thicker on the outside, going from 12 to 6 inches, and that there is Rebar and wire in it. They will go as far as they can with the ledge that is there.

Member Lebel asked the Planner about other mobile homes in town. Planner Menici advised that the Ordinance requires the 4-foot frost wall, and that this is as a result of the 2005-2006 rezoning. Ms. Mattress advised that other towns do not have as strict requirements as Wakefield. Selectmen's Rep Ken Paul advised that prior to 2007 there was nothing in the ordinance concerning slabs, and that the state does allow use of a slab under a trailer. He also expressed his opinion that the \$8000 quote for a foundation was probably low.

Chairman Stewart asked for input from the public either for or against the application. There was none, so Chairman Stewart invited the voting members of the Board to deliberate. Chairman Stewart reminded the Board that variances can be granted due to special conditions of the property. Member Frothingham commented that the fact that the house burned down makes the conditions of the property special, as well as the ledge that would need to be blasted. Deputy Code Officer Ciardi clarified that the building code does allow a mobile home to be placed on a slab, but the Wakefield Zoning Ordinance does not.

Chairman Stewart noted that in the interest of time, it would be worthwhile to vote on the entire application

Motion: To vote on the entire application
Made by: George Frothingham
Seconded by: Paul Winckler
Vote: Unanimous

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

Criteria 2: Granting the Variance would not be contrary to the public interest.

Criteria 3: Granting the variance would do substantial justice.

Criteria 4: The use is not contrary to the spirit of the ordinance.

Criteria 5.A: Denial of the variance would result in unnecessary hardship to the owner because:

- a. ***The zoning restriction as applied to the property interferes with the reasonable use of the property, considering the unique setting of the property in its environment.***
- b. ***No fair and substantial relationship exists between the general purposes of the zoning ordinance and the specific restriction on the property.***

MOTION: GRANT WITH CONDITIONS a Use Variance to – Linda Mattress, agent for Carol C. Leighton, property owner, to place a manufactured home on a monolithic slab where a permanent foundation is required.

Made by: Paul Winckler
Seconded by: George Frothingham
Discussion: None
Vote: Unanimous

The Board then discussed what conditions would be imposed on the granting of the variance. Chairman Stewart clarified with Deputy Code Enforcement Officer Ciardi what steps the applicants would need to take, and expressed that the slab would need to meet building code.

Granting of the variance is subject to the following condition:

- Construction of the slab and installation of the mobile home must comply with the requirements of the International Residential Code.

Made by: Doug Stewart
Seconded by: Cecille Arnone
Discussion: None
Vote: Unanimous

The Board then addressed Case 2009-4, the Application for a Special Exception. Mrs. Mattress explained that they have been able to get a trailer that is 924 square feet, less than the 1150 square feet required by the Zoning Ordinance in all residential areas. She explained that it is 14x66 feet, has 2 bedrooms, living room, kitchen and bath. The trailer was bought because it is what they could afford because they were relying on donations through organizations in town. She said that the trailer will be a much better home than the one that burned down, where they were living. That house was built in 1936 with used lumber, and had issues with mold, lumber, bad plumbing and unsafe wiring. Both of the Leightons have health issues, some of which have actually improved since they are no longer living in the house. They now have wiring, plumbing that isn't leaking, a fairly new hot water tank, and a new furnace. She stressed that the trailer is safer, better for their health, and it will enable them to take care of themselves better than they could in the home.

Planner Menici reviewed with the Board the meaning of a Special Exception. She advised them to keep in mind that a Special Exception is something contemplated by the Zoning Ordinance because the Planning Board felt that an additional layer of review would be necessary by the ZBA before approval. The Zoning Ordinance provides guidance to the Board for considerations that should be discussed, and that the criteria for meeting the Special Exceptions are not as stringent as those for a Variance.

Member Winckler expressed concern that no more than two people would be allowed to live in the house. Discussion followed concerning why the ordinance addressed the issue of minimum square footage. Chairman Stewart clarified with the Planner that a minimum of 800 square feet could be allowed by Special Exception.

Chairman Stewart asked for input from the public either for or against the application. There was none, so Chairman Stewart invited the voting members of the Board to deliberate. He expressed that the Zoning Ordinance allows the Board to make special exceptions, and that the fire caused too much damage to the house for it to be fixed, and that the trailer is a safer alternative.

Chairman Stewart again noted that it would be worthwhile to vote on the entire application

Motion: To vote on the entire application
Made by: Paul Winckler
Seconded by: George Frothingham
Vote: Unanimous

Motion: To **GRANT WITH CONDITIONS** the Special Exception to Linda Mattress, agent for Carol C. Leighton, property owner, to allow the use of a 924 square foot manufactured home where the Zoning Ordinance requires a minimum living area of 1150 square feet.

Made by: Paul Winckler
Seconded by: Cecille Arnone
Vote: Unanimous

The Board then discussed what conditions would be imposed.

Granting of the Special Exception is subject to the following conditions:

- The old structure where the fire was will be removed by January 1, 2010.
Made by: Paul Winckler
Seconded by: Doug Stewart
Discussion: None
Vote: Unanimous
- The barn and shed on the property will be removed by July 1, 2010.
Made by: Sandy Lebel
Seconded by: Cecille Arnone
Discussion: None
Vote: Unanimous

The applicants were reminded that they would need a demolition permit for this work.

Granting of the Variance and the Special Exception has been done with conditions. Chairman Stewart informed Mrs. Mattress and Ms. Leighton that they would be receiving a Notice of Decision, and that any interested person can appeal this decision within 30 days.

Case #2009-5 Wakefield Tax Map 150, Lot 22 – Pam Judge, agent for Town of Wakefield Heritage Commission, property owner, for property located at 26 Province Lake Road, Wakefield NH. The applicant is seeking a Variance from the Town of Wakefield Zoning Article 3, Table 1 – Permitted Uses. The purpose of the variance is to allow the operation of a retail sales business in the Residential I, Historic Overlay District.

Chairman Stewart reviewed the checklist. No application fee was received with this application, since the Town of Wakefield owns the property and the fee is paid to the Town of Wakefield. Planner Menici explained that when the invoices are received for the public and abutter notices, they will be sent to the Heritage Commission for payment.

MOTION: To waive the application fees for this application.
Made by: Paul Winckler
Seconded by: Cecille Arnone
Vote: Unanimous

MOTION: The application is complete enough to proceed and the Board will hear it.
Made by: Paul Winckler
Seconded by: George Frothingham
Vote: Unanimous

Chairman Stewart invited Pam Judge, the Chair of the Heritage Commission to come forward. She explained that the Heritage Commission and the Town own the building, known as the Grange. The area is residential, in the Historic Overlay district. The building is on the National Register of Historic Places, and was built as a Grange Hall – a place for meetings and public functions. The proposed use would be for a seasonal shop, selling local products, and open Friday, Saturday and part of Sunday during the warm months. The Heritage

Commission would be leasing the space to this person for a nominal fee, and she would be responsible for the insurance, utilities and Port-a-Potty that is required. The person leasing the space would go to the Planning Board for site plan review. Mrs. Judge explained that the goal is to use these historical buildings, that it would not be practical to convert this building to residential, that it would not detract from the historical aspect of the building, and that there are already a number of public buildings in that area. Mrs. Judge has spoken with abutters who have no objections.

Chairman Stewart asked about the hours of operation for the business. Planner Menici advised that on the Planning Board application the renter has stipulated Friday, Saturday and Sunday. If more time were needed, she would need to go back to the Planning Board.

Chairman Stewart expressed concern about parking. All agreed that parking is an issue throughout the historic district.

Jerry O'Connor expressed his opinion that it is an excellent idea to make use of these buildings.

John Waitner, Vice-Chair of the Heritage Commission advised that the deed restricts the building from being a home, however there is nothing in the deed that prevents it from being a shop.

Selectmen's Rep Ken Paul advised that the Board of Selectmen has encouraged the Heritage Commission to find someone to occupy the building, and he commended the group's efforts.

There being no further comments, Chairman Stewart closed the public hearing and the Board began deliberations. Member Frothingham expressed that the Variance will go with the building. He stated his confidence that the Heritage Commission and the Planning Board are taking care of this, and that another Board is not needed from here on. He suggested that the Board attach no conditions to the Variance. Chairman Stewart agreed.

Chairman Stewart noted that since there has been extensive discussion of the issues, it would be worthwhile to vote on the entire application

Motion: To vote on the entire application

Made by: Paul Winckler

Seconded by: Cecille Arnone

Vote: Unanimous

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

Criteria 2: Granting the Variance would not be contrary to the public interest.

Criteria 3: Granting the variance would do substantial justice.

Criteria 4: The use is not contrary to the spirit of the ordinance.

Criteria 5.A: Denial of the variance would result in unnecessary hardship to the owner because:

- c. The zoning restriction as applied to the property interferes with the reasonable use of the property, considering the unique setting of the property in its environment.***
- d. No fair and substantial relationship exists between the general purposes of the zoning ordinance and the specific restriction on the property.***

MOTION: to GRANT a Use Variance to – Pam Judge, agent for Town of Wakefield Heritage Commission, property owner, to allow the operation of a retail sales business in the Residential I, Historic Overlay District.

Made by: George Frothingham

Seconded by: Sandy Lebel

Discussion: None

Vote: Unanimous

Granting of the Variance has been done. Chairman Stewart informed Mrs. Judge that she would be receiving a Notice of Decision, and that any interested person can appeal this decision within 30 days.

APPROVAL OF MINUTES

MOTION: To accept the January 26, 2009 meeting minutes as written.
Made by: Doug Stewart
Seconded by: Cecille Arnone
Discussion: None
Vote: Unanimous

MOTION: To accept the April 20, 2009 meeting minutes as written.
Made by: Paul Winckler
Seconded by: George Frothingham
Discussion: None
Vote: Unanimous

NEW BUSINESS:

Copies of the Town of Wakefield Zoning Ordinance for 2009 were distributed to the Board prior to the start of the meeting.

The Board had received via E-mail a copy of “Riggins Rules” from the New Hampshire Office of Energy and Planning. All agreed that they were helpful and “common sense”.

MOTION: to adjourn the meeting at 8:15PM
Made by: Cecille Arnone
Seconded by: Sandy Lebel
Discussion: None
Vote: Unanimous

Respectfully submitted,

Lynn Shaffer, ZBA Secretary