

BOARD OF ADJUSTMENT
DEERFIELD, NEW HAMPSHIRE
APRIL 23, 2013

MINUTES OF MEETING

PRESENT: Board members George Thompson, Katherine Alexander, Sandra Logan. Alternate members Anthony DiMauro, Jonathan Leer. Prospective Alternate Peter Viar. Secretary Jane Boucher.

Vice Chair George Thompson called the meeting to order at 7:15PM and appointed Anthony DiMauro and Jonathan Leer to sit as voting members in the absence of Joshua Freed and Darlene Cumming.

APPROVAL OF MINUTES

Anthony DiMauro moved to approve the minutes of January 22, 2013. Sandra Logan seconded. The following corrections were made to the minutes;

Page 3: Last Paragraph: Correct to read "...like putting a square peg..."

Page 4: Paragraph 6: Add to paragraph "Mr. Miller gave explanations when addressing questions."

Vice Chair Thompson called for a vote on the motion. Motion carries.

OTHER BUSINESS

Anthony DiMauro moved and Katherine Alexander seconded to recommend to the Board of Selectmen the appointment of Joshua Freed as a member of the Board of Adjustment for a three year term. Voted in favor.

Anthony DiMauro moved to elect Joshua Freed as Chair of the Board of Adjustment. Katherine Alexander seconded. Voted in favor.

Anthony DiMauro moved to table the election of Vice Chair and Clerk until the next meeting. Katherine Alexander seconded. Voted in favor.

Anthony Dimauro moved to recommend to the Board of Selectmen the appointment of Peter Viar as an Alternate member of the Board of Adjustment for a three year term. Katherine Alexander seconded. Voted in favor

7:30PM CASE # 13-02 JOHN DUFFY

John and Toni Duffy and Michael Seraikas were present.

Vice Chair George Thompson explained procedure.

Clerk Sandra Logan read the Notice of Public Hearing by which

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John Duffy, 255 North Road, Deerfield, NH (Map 206 Lot 33) has applied for a variance from Article II, Section 204.1 minimum lot size and yard dimension. Section 207.1 minimum frontage. Section 207.3 side yard regulations and exceptions. Section 208 application for District Regulations. Section 305 building within 75 feet lake setback and Article III Section 330 Pleasant Lake Watershed District.

Anthony DiMauro moved to accept Case # 13-02. Sandra Logan seconded. Voted in favor.

Mr. Duffy introduced Michael Seraikas who will make the presentation.

Mr. Seraikas said he was a wetlands scientist and septic designer who has been retained by the Duffys. He noted that both the septic approval and Shoreland Impact Permit have been approved by the State.

Mr. Seraikas said that the Duffys would like to replace the existing home. The home is located on a non-conforming lot consisting of 0.75 acres. He explained that they have tried to make the situation more conforming to zoning. The existing house is 47 feet from the lake and they are proposing 53 feet from the lake. The existing house is 14 feet from the lot line and they are proposing 17 feet.

Mr. Seraikas commented that they would like to construct a garage and the existing shed will be removed. He added that they are trying to save the stone walls and will use the existing driveway. He commented that the house will be in the same area and further from the lake. Sediment erosion control plan has been submitted and no stock piles of materials will be on way to the lake.

Erosion control barriers will be put up at edge of disturbance.

Mr. Seraikas commented that a dry well will be installed to catch run off coming off roof lines.

Mr. Duffy said that this is a summer camp and they would like to convert it to a year round dwelling.

Mr. Seraikas showed the location of the existing septic on the plans. He also noted that no drainage is leaving the site and reiterated that they are trying to stay in the same area of development.

No one spoke in favor or in opposition.

7:45 The Board went into deliberative session and completed work sheets.

SPM Anthony DiMauro moved and Sandra Logan seconded to grant a variance to the applicant John Duffy.

Katherine Alexander moved that a stipulation be added that the applicant must abide by the conditions outlined in the Shoreland Impact Permit. Anthony DiMauro seconded.

Vice Chair Thompson called for a vote to approve the application with the stipulation. Motion fails with one in favor and four opposed.

Vice Chair Thompson called for a vote on the motion to grant a variance to John Duffy. Motion carries with four in favor and one opposed.

3:05PM CASE # 13-03 JCR CONSTRUCTION

Joe Reed, Matt Reed and several abutters were present.

Clerk Sandra Logan read the Notice of Public Hearing by which JCR Construction Company (Map 210 Lot 54), 27 North Road, Deerfield, NH has applied for a Special Exception, Article II, Section 204.1 to utilize the front of the lot for a Helicopter landing pad, helicopter storage, take off and housing for pilot and mechanic.

Anthony DiMauro moved to accept the application. Katherine Alexander seconded. Voted in favor.

Matt Reed and Joe Reed, JCR Construction presented information.

Matt Reed said that, due to environmental regulations, it is not possible to drive to power line locations. They have owned the property for approximately 15 years and would like to utilize it. He commented that this will be used for use of JCR Construction and not for commercial rental.

Joe Reed commented that they have used helicopters extensively for a number of years and they would like to be able to use their own helicopter and crews.

Joe Reed said that this will be a home base and depending on the location being worked on , this will determine where the helicopter would be located. Joe Reed said for example, if they were working in the Keene area, the helicopter would not be coming back to Deerfield each night.

Sandra Logan questioned the proposed housing. Joe Reed said their pilot currently lives in Austin Texas and , depending on the job location, would be staying on site.

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Anthony DiMauro questioned the location of explosives. Joe Reed felt that, if this were approved, they would not store explosives. Matt Reed said ATF has certain regulations and clearances as to storing explosives.

Jonathan Leer questioned what happens if a helicopter lands at night. Joe Reed replied that for the most part, they fly only during the day and his pilots are trained professionals.

George Thompson questioned if any approvals will be necessary. Matt Reed replied that , if they are granted the special exception, they will have to go to the Planning Board for Site Plan Review.

Vice Chair Thompson asked if anyone would like to speak in favor.

No one spoke.

Jeanne Menard asked to comment. She said when the Reeds purchase the property, it was zoned commercial, and it had been the intent to use it for a commercial venture. She felt it was a good application. She added that currently we have a commercial overlay and site plan review process. Ms. Menard said that JCR is a reputable company and any clarification the Reeds can give them will help make a good decision.

Peter Prentiss asked if he could see a plan depicting the location. Several abutters came to the table to review the plan submitted.

Joe Reed was asked by one of the abutters if this project was in support of Northern Pass. Mr. Reed replied it has nothing to do with Northern Pass.

Amy Lockwood questioned the growth of business and expressed concern regarding the number of flights going in and out.

Pat Winski questioned the number of helicopters being stored.

Joe Reed replied that the intent is to have one helicopter.

Karry Linkler questioned effect on property values. Jeanne Menard said that she sees this as a negative sell.

Craig Moser expressed concern regarding quality of daily living for abutters.

Joe Reed said that sometimes the helicopter may sit there for weeks.

Amy Lockwood expressed concern regarding noise level.

Bob Cote commented on notices from PSNH regarding upgrades and expressed concern regarding Northern Pass, to which he is opposed.

Joe Reed reiterated that this has nothing to do with Northern Pass.

Pat Winski noted she was very opposed and commented that they may say tonight that they will only be running one helicopter and in the future have more. She said that there is no noise like a helicopter. She felt there were other commercial uses for the land.

Karry Linkler questioned the distance to her property.

George Thompson suggested she speak with the applicant to obtain that information.

It was determined that Ms. Linkler's home is 1/2 mile from the landing site.

Anthony DiMauro asked Joe Reed how long the noise lasts when a helicopter takes off and lands. Joe Reed replied "minutes".

Joe Reed stated that JCR Construction is a non union company and has nothing to do with Northern Pass.

Anthony DiMauro asked Mr. Reed if it was correct to assume that the helicopter may not be flying off and onto the property every day.

Joe Reed replied that sometimes the helicopter may be gone for a month at a time depending on the location of work.

9:05 The Board went into deliberative session at this time.

Katherine Alexander voiced concern regarding the noise that will affect the quality of life for abutters.

Anthony DiMauro noted that without knowing the decimal level of the noise it is difficult to determine the level of noise.

Jonathan Leer said that is his understanding that a special exception is only good for the current owner and if the property is sold, another application will need to be approved.

George Thompson referred to "Allowed by Special Exception" # 14 Aircrafts Take Offs and Landing Strips as an accessory to a building. He then referred to D. Criteria for Special

Exception.

Katherine Alexander reiterated her position on the Board not being able to stipulate any control regarding the noise.

Anthony DiMauro said that, if the application is approved, stipulations should be made regarding the hours of operation.

9:15PM The Board went out of deliberative session at this time.

Jonathan Leer questioned the applicant asking what was his motivation in applying for a special exception.

Joe Reed replied that cost was a motive, however, using their own people was the first reason. Their people are trained and other companies want to use their own crew.

An abutter questioned if there was any method that can be utilized to quite the noise.

Joe Reed replied that he did not think anything could be done to quite the noise but would look into ways that may minimize the noise. He said they would be willing to land a helicopter on the site in order that abutters know that what the noise level will be. Mr. Reed said that they would be willing to come in and out around specific areas. He said they will look at the site and try to minimize the noise.

Peter Prentice referred to # 6 listed in Criteria " Shall not create a "nuisance" in the vicinity due to noise, vibration, odor , glare or unsightly outside storage of material or equipment and shall be in conformity with other uses and//or structures in the vicinity." He did not think there was much grey area regarding this decision.

Katherine Alexander felt there was very little they can do to minimize the noise and this will affect the abutters.

9:25PM The Board went back into deliberative session.

George Thompson referred again to the ordinance which was approved by the voters allowed specifically by Special Exception :Aircraft Take Offs and Landing Strips as an accessory to a building."

Katherine Alexander said that what the Board can minimize as far as noise level, will not affect the quality of life for abutters.

Jonathan Leer noted that we cannot control the air space above us.

Board members completed work sheets at this time.

Jonathan Leer said that the criteria listed can be applied and stipulations outlined.

After the Board completed work sheets Vice Chair Thompson reviewed the Criteria and vote on each and list any stipulation recommended. He noted that three members must vote in favor that the applicant has met all requirements.

The Board reviewed Section 206.1 General Provisions . The Board felt that the application conformed with each of the provisions outlined.

The Board then reviewed the Criteria outlined for a special Exception. A copy of those criteria is attached to these minutes.

Concern was voiced regarding

d. Equipment or activity which poses substantial danger to children.

6. Shall not create a "nuisance" in the vicinity due to noise...."

Jonathan Leer commented that stipulations can be made to satisfy the standards.

Anthony DiMauro recommended the following:

1. Under 206.2 Suitable Landscaping: a barrier can be put in place to reduce the decibel rate of noise
2. Hours of Operation: 7AM to 6PM
3. Lighting focused on landing pads
4. Property be secured at all times especially when helicopters are taking off and landing.
5. Explosives not to be stored

Jonathan Leer noted that he also recommended mitigating the noise with landscaping and hours of operation and limiting to one helicopter.

Sandra Logan recommended specifying hours of operations and outlining safeguards.

Katherine Alexander did not see how landscaping could mitigate the noise level.

Vice Chair Thompson called for a motion. Anthony DiMauro moved to grant a special exception to JCR Construction with stipulations outlined. Sandra Logan seconded. Voted in favor with four in favor and one opposed.

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The meeting was adjourned at 10:30 PM.

Recorded and transcribed by Jane Boucher
Pending Approval by the Board of Adjustment

- D. **Criteria for a Special Exception.** In order for a special exception to be granted the proposed use or structure shall meet the following criteria:
1. Shall not adversely affect the capacity of existing or planned community facilities.
 2. Shall be an appropriate location for the use or structure with respect to the character of the surrounding area, and shall fulfill all requirements for local, state and federal permit or approval.
 3. Shall not create a substantial increase in traffic in the vicinity.
 4. Shall not create a safety hazard due to:
 - a. Condition or design of roads in the immediate vicinity.
 - b. Location of driveway or parking.
 - c. Danger of fire, explosion or release of toxic fumes or material.
 - d. Equipment or activity which poses substantial danger to children, if in a residential area or proximate to a school or day care facility larger than family care home as defined in this ordinance.
 5. Shall not create a substantial increase in water onto adjacent property or roads.
 6. Shall not create a "nuisance" in the vicinity due to noise, vibration, odor, glare or unsightly outside storage of material or equipment and shall be in conformity with other uses and/or structures in the vicinity.

206.2 Standards Applicable to Special Exceptions:

If deemed necessary to protect the best interests of the surrounding property, the neighborhood, or the town as a whole, the Board of Adjustment shall impose standards which may include the following:

- ✓ A. Increasing the required lot size or yard dimensions in order to protect the adjacent properties.
- ✓ B. Limiting the coverage or height of buildings because of obstruction to view and reduction of light and air to adjacent properties.
- ✓ C. Requiring suitable on-site landscaping and screening where necessary to reduce noise and glare and to maintain the property in character and keeping with the surrounding area. *shall apply*
- D. Specifying a time limit for initiation of construction, alteration, or enlargement of a structure to house an exception.
- E. Requiring that any future enlargement or alteration of use be accomplished only with the approval of the Board of Adjustment. *shall apply*
- F. Specifying standards for operation of this special exception so that it will be no more objectionable to the neighborhood by reasons of noise, odors, vibrations, flashing lights or hours of operation than will be the operation of a permitted use at that site.
shall see appendix