

BOARD OF ADJUSTMENT  
DEERFIELD, NEW HAMPSHIRE  
JUNE 25, 2013

MINUTES OF MEETING

PRESENT: Board members Joshua Freed, George Thompson, Anthony DiMauro, Katherine Alexander. Alternate Jonathan Leer. Secretary Jane Boucher.

7:15PM Chair Joshua Freed called the meeting to order and appointed Jonathan Leer to sit as a voting member.

Chair Freed advised that Darlene Cumming had changed her residency and has resigned as a member of the Board.

Anthony DiMauro moved to appoint Jonathan Leer as a member of the Board to fill the unexpired term of Darlene Cumming. (April, 2015). George Thompson seconded. Voted in favor.

APPROVAL OF MINUTES

Anthony DiMauro moved to approve the minutes of May 28, 2013. Katherine Alexander seconded.

The following corrections were made to the minutes:

Page 2 Paragraph 9: Correct to read "...unable to obtain re-financing."

Page 2 Last Paragraph: Correct to read "...there will be no visible change.."

Page 3 Paragraph 7: Correct to read add "There was discussion regarding the trailer and the fact that it can be removed."

Page 4 Add "In the past the Board has been given advice by Town Counsel that a Special Exception has to be granted first."

Chair Freed called for a vote on the motion. Voted in favor with Jonathan Leer abstaining.

7:30PM CASE # 13-04 CHARLES SARGENT

The Notice of Public Hearing was read for Case # 13-04, Map 416 Lot 72: Charles Sargent/Pitbull Realty Group, Inc. has applied for a variance from Article II, Section 204.1, 207.1 to construct a dwelling on a lot without adequate frontage. Continued from May 28th.

Charles Sargent , Michael O'Neil, Jeanne Menard were present.

Chair Freed advised that this case was tabled due to a question regarding proper notarization. He noted that the Board had received an original copy of the notarization signed by Sheila Slade Szelog.

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Chair Freed also noted that additional correspondence has been received regarding ownership of the property. A letter from the 10th Circuit, Probate Division advised that Sheila Slade Szelog, Charlene Cartier and Charles Slade, are listed as owners with amount of interest unknown.

Anthony DiMauro moved and Katherine Alexander seconded to take Case # 13-04 off the table. Voted in favor.

Charles Sargent explained that he would like to construct a dwelling on the property that has 3.6 acres and 115 feet of frontage. He noted that all setbacks can be met. Mr. Sargent said there was an existing stone foundation that had probably been there since the 1950's.

Chair Freed asked if anyone would like to speak in favor . No one spoke.

Chair Freed asked if anyone would like to speak in opposition.

Abutter Michael O'Neil said his biggest concern was that , by constructing a home on the lot, three houses would be very close together and he expressed concern regarding property values.

Mr. O'Neal also advised that Thelma Slade was one of three heirs and his concern was if there were other owners.

Jeanne Menard noted that the unclear title has been disclosed and ownership will be clarified by title research.

Katherine Alexander said that a variance goes with the property.

8PM The Board went into deliberative session at this time and completed work sheets.

8:10 PM The Board came out of deliberative session. George Thompson moved to grant a variance to Charles Sargent. Katherine Alexander seconded. Voted in favor.

Anthony DiMauro moved to include the stipulation that the existing foundation be removed. There was no second. Motion fails.

8:15 The meeting was recessed for five minutes.

8:20 The meeting was re-convened.

CASE # 13-03 JCR CONSTRUCTION COMPANY

Joe Reed, Matt Reed and several abutters were present.

The Notice of Public Hearing was read for a Special Exception for JCR Construction, Article II, Section 204.1 to utilize the front use of Lot 54 on Map 210 for a helicopter landing pad, helicopter storage, take off and landing and housing for pilot and mechanic. A request for re-hearing was granted on May 28.

Katherine Alexander moved to accept Case #13-03. George Thompson seconded.

Joshua Freed did not think the ZBA had the authority to grant a special exception. He said that an aircraft take off and landing strip as an accessory to a dwelling is what the ordinance lists as "Allowed by Special Exception".

Katherine Alexander felt the applicant should go directly to the Planning Board to a commercial use.

Joshua Freed said he did not see there was enough information provided the the Board to grant a special exception.

Jonathan Leer commented that there is currently no commercial zone in Deerfield. He said there is a special exception provided for someone who wants to operate a business and have a dwelling on the property, either for themselves, or for employees. Mr. Leer felt that the issue of noise will be addressed by the Planning Board.

Anthony DiMauro felt the applicant has to go through due process and they need a special exception before going to the Planning Board. Mr. DiMauro said the Board of Adjustment can set the standards by which the Planning Board would apply while going through the Site Plan Review/ Commercial Overlay Process.

Joshua Freed felt that the Board does not have the authority to grant a special exception.

George Thompson disagreed and felt the Board should accepting the case.

Chair Freed called for a vote to accept Case # 13-03. Voted in favor with George Thompson, Anthony DiMauro and Jonathan Leer in favor and Joshua Freed and Katherine Alexander opposed.

Joe Reed questioned the fact that they have already gone through this process and were here because Richard Pelletier told them they needed a special exception.

George Thompson said, in his opinion, that our ordinance clearly states what is allowed by special exception, a variance can be granted for anything. He said that if the applicant goes

directly to the Planning Board they very likely will tell him that he needs a special exception.

Anthony DiMauro moved to limit discussion on the case to new information. George Thompson seconded. Katherine Alexander commented that this was technically a re-hearing and discussion should not be limited. At this time Anthony DiMauro withdrew his motion and George Thompson withdrew his second.

Joshua Freed advised the applicant that the case for re-hearing has been accepted and it will be heard from the beginning.

Joe Reed said they propose to build a residence with a 50 x 50 garage to store a helicopter.

Anthony DiMauro asked Mr. Reed where the helicopter was now. Mr. Reed replied "Raymond".

Joshua Freed said he was uncomfortable with the plan submitted. Joe Reed penciled in a 100 x 100 foot parking area with a 30 foot wide driveway coming in from North Road. Mr. Reed said there would be three vehicles parked on site.

The Board reviewed D. Criteria for a Special Exception

1. Shall not adversely affect the capacity of existing or planned community facilities. No comments
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. Peter Prentice and Cathy LaForge felt it was not an appropriate location. Joe Reed advised that it was a MD 500 E Helicopter Matt Reed provided a picture of the helicopter.
3. Shall not create a substantial increase in traffic in the vicinity. Cathy LaForge questioned increase in air traffic. Kevin Cine commented that current businesses in the area do not create much traffic, however, this will create additional traffic.
4. Shall not create a substantial 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.

Pat Winski expressed concern regarding fire danger. George Thompson commented that during the Site Plan Review Process the Planning Board typically asks Fire Chief Mark Tibbetts for his comments.

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5 . Shall not create a substantial increase in water onto adjacent property or roads. No comments.

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. Peter Prentice commented that Noise level should be addressed before the Board can grant approval.

Joe Reed said that it generally takes 2-3 minutes to take off and approximately 30 seconds to land.

Karry Linker expressed concern regarding the noise level and Cathy Forge noted that she planned on bringing her horse to her Mountain Road home and expressed concern regarding noise.

9:40PM The Board went into deliberative session at this time and completed work sheets.

10:PM George Thompson moved to Grant a Special Exception to JCR Construction. Anthony DiMauro seconded. Voted in favor with Joshua Freed and Katherine Alexander opposed.

The Board reviewed proposed standards for approval and voted on each.

C. Create suitable landscaping to reduce noise in compliance with Section 212 21 C "Noise"

Joshua Freed moved and Anthony DiMauro seconded to require this standard as a condition of approval. Voted in favor with Katherine Alexander opposed.

D. Project must be completed within three years of this decision.

Joshua Freed moved and Jonathan Leer seconded to require this standard as a condition of approval. Voted in favor with Katherine Alexander opposed.

E. As written in the ordinance and laws. Limited to one helicopter.

Joshua Freed moved and Anthony DiMauro seconded to require this standard as a condition of approval. Voted in favor with Katherine Alexander opposed.

F. Lighting to be focused towards the landing pad. Hours of takeoff and landing to be between the hours of 7AM and 6 PM (except in family or regional emergencies).

George Thompson moved and Anthony DiMauro seconded to require this standard as a condition of approval. Voted in favor with Katherine Alexander opposed.

G.Store fuel and oil , appropriate by law, secure the property during all times when unattended and during take offs and landings. Remove current cache

of explosive materials as stated during applicant's testimony. Joshua Freed moved and Anthony DiMauro seconded to require this

standard as a condition of approval. Voted in favor with Katherine Alexander opposed.

Joshua Freed moved and George Thompson seconded to add the following to Standard C "Limit air traffic, take offs and landings, to no more than fourteen per week. (Take offs and landings considered as one event." Voted in favor with Katherine Alexander opposed.

10:25PM CASE # 13-06 PAUL GINGUES

Paul Gingues and Laurette Gingues were present along with Jeanne Menard and Glenda Sorak.

Chair Joshua Freed read the Notice of Public Hearing by which Paul Gingues has applied for a variance from Article II, Section 204.1 ( Map 405 Lot 80) , to construct a dwelling on a lot without adequate acreage.

Anthony DiMauro moved to accept Case # 13-06. Katherine Alexander seconded.

During discussion George Thompson noted that no owner was listed on the front page of the application. Mr. Thompson referred to the notorization which lists Sharon Williams , Trustee, which suggests there is a trust. He then referred to the abutters list which states Katharyn Williams as Trustee c/o Sharon Williams.

George Thompson said that it is not clear who is the owner or if it is an estate.

Board members agreed to ask the applicant if they can clarify the correct owner.

Laurette Gingues said that Katharyn Williams is deceased and her daughter Sharon and son Mark are the owners of the property. She added that they have not purchased the property at this point.

Jeanne Menard said the the deed states that it is the Estate of Katharyn Williams, Sharon Williams Trustee.

George Thompson felt the terms are not correct. If it were an estate is would be executrix. He added that if this were a trust , there would be a deed at the Rockingham Registry of Deeds stating such.

Glenda Sorak , an abutter, said the Sharon Williams has the authority to sign as Trustee.

Joshua Freed said that the Board has to be clear as to who owns

the property.

Laurette Gingues provided a copy of a "Quick Claim Deed" which Chair Freed read. The deed referred to Katharyn E. Williams Trustee of the Katharyn E. Williams 1993 Trust".

George Thompson noted that this information was inconsistent with the application.

Jeanne Menard commented that, once the sale is complete, the title company will search and clarify the name of the trustee.

Joshua Freed asked if there were any members of the board that wanted to proceed with this Case. It was the consensus of the Board not to accept the case.

Anthony DiMauro withdrew his motion to accept the Case and Katherine Alexander her second.

The applicants were advised that the Case will be heard on July 23, 2013 at 7:30PM. They were requested to provide correct and consistent information regarding ownership of the property at that time.

Joshua Freed moved to waive the \$100.00 application fee. George Thompson seconded. Voted in favor. Mr. and Mrs. Gingues were advised that they will be liable to pay for abutters notices.

The meeting was adjourned at 11:05PM.

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