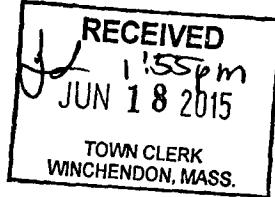


Town of Winchendon

Zoning Board of Appeals



Approved: 6/17/15

Second Floor Auditorium Zoning Board of Appeals Minutes June 3, 2015

Present: Chairman Cynthia Carvill, Vice Chair Mary Chace, Clerk Michael Potvin, Joseph Snow, and Raymond Benoit.
Recorder/Alternate Doneen Durling.
Denis McLaughlin

Materials: Agenda June 3, 2015
Minutes May 20, 2015
Packet on 83 Mill Glen Rd.

Call to Order: 7:04

New Business: The chairman asked if there was any New Business. Ms. Durling said the board had received letters from department heads on the proposed campsite, and asked if they would be discussed. The chairman asked if they were in the packets. Ms. Durling said they were not in the packets but she read them on line. Ms. Chace said they were in the packets. The Chairman said the letters were from the Fire, Police, and the Conservation Commission. The chairman entertained a motion to reopen. She said what was being discussed should be discussed as old business in the open hearing.

Ms. Chace made a motion to open the public hearing for the campground on 83 Mill Glen Road./second by Mr. Benoit

Chace (Y) Snow (Y) Potvin (Y) Benoit (Y) Carvill (Y) 5 – 0 Approved

The chairman said that the last time the board had met, they requested a written amended proposal, which they received. The board requested impact statements from police, fire, BOH, Conservation Commission, and the DPW. The board received police, BOH, and fire, and the posted campground rules, but are still waiting on the other

departments.

Ms. Chace noted that the applicant was unable to attend so the hearing would have to be continued. Ms. Chace said she had a concern about how the owners would secure the site.

The chairman asked if she should correspond with Mr. Staff to include it as an additional Concern and to be prepared should they continue.

Ms. Chace said she would.

The chairman asked if there were any other questions for the applicant. She said she would hate to open the hearing and have a discussion on any of the new information without the applicant present, or the rest of the information from the people the board requested information from

The board agreed.

Ms. Durling asked about the voting. She asked if she would vote or not on the issue.

The chairman said no.

Mr. Snow said he read Robert's Rules which he said allows an alternate to sit at the table, allowed to ask questions, but not allowed to vote unless you are part of the five.

Ms. Durling said okay, but noted she had been at all of the meetings.

The chairman said that was a good thing in case any of the members had to step out. She said the board is active right now, so as far as an official vote...

Ms. Durling noted that the Planning Agent had looked into MGL and it stated it did not allow a vote from someone who had missed a meeting. Ms. Durling said that Open Meeting Laws allow for one missed meeting as long as the person missing the meeting becomes apprised of what they missed.

Mr. Benoit said as an alternate member he did as Mr. Snow had indicated.

Mr. Snow said that as long as the five members are present, the alternate cannot vote.

Ms. Durling said she got it. She did not mind not voting. She said because she was not voting, she did not know how much to participate in the discussion.

The chairman said she should participate fully.

Ms. Chace said the more information they have. The better the decision they can make.

Ms. Durling said that a concern from the last meeting was brought forward by an abutter that used 4.6.3 of the Zoning Bylaws to point out that the applicant must be the landowner. Ms. Durling said the 4.6.3 just applied to the Golf Overlay District and did not apply.

Ms. Chace moved to continue the public hearing on June 17, 2015/second by Mr. Benoit.

Chace (Y) Snow (Y) Potvin (Y) Benoit (Y) Carvill (Y) 5 – 0 Approved

The chairman said they would follow up one more time with the request for information, She said the final request would be written that even if there were no concerns, the board requested a statement that there were no concerns.

Abutter Denis McLaughlin asked the chairman if a interpretation of Site Plan Approval and Use Special Permit had been clarified as Use goes with the property, and Site goes with the user.

The chairman said that would be discussed at the next meeting.

Mr. McLaughlin said it had nothing to do with the permit. He said it is all things. He said Site Plan is to an applicant and Use goes to the property.

The chairman said that historically in this town that has not been 100% the case.

Ms. Chace said that there was a situation with another decision, and it was ruled that the Special Permit went with the applicant. If someone else buys the property, they would have to go before the board to get another Special Permit.

Mr. McLaughlin said Use is something that goes along with the property as long as that use was not extinguished.

The chairman said what he described was a variance if they do a variance and use concurrently. The Variance goes with the property and Use goes to the owner of that property.

The chairman explained that some properties in this town, in regards to the Zoning Overlay Districts, are allowed uses without any Special Permit. In that case, the use of that land would go to another owner. If you have a commercial building in a Commercial Zone the commercial business does not require a special permit to start with, they may continue to use that building as a commercial use without special permitting. Some uses require a Special Permit due to the complexity.

Mr. Benoit said that would be his case.

The chairman said he was correct.

Mr. Benoit said he had a Special Permit for a gunsmith shop on his property. The next owner just can't open a gun shop on his property.

Mr. McLaughlin asked if he got a site plan.

Mr. Benoit said that he did.

Mr. McLaughlin said if it requires a site plan, then the site plan needs to be renewed, and the new owner has to do that.

The chairman gave an example of a few businesses that have appeared multiple times as ownership changed.

The discussion moved to site plan approval. The chairman said it was outside of the board's purview. She said the board is there for Special Permits, and Variances.

The chairman said first of all the ZBA's responsibility is to see if something is allowed or not. If it is not, there is no sense on going through Site Plan Review. She said the flow of the permitting process starts with the ZBA, and the Planning Board takes the concerns of the ZBA into account during the Site Plan Review. The ZBA gives the yay or the nay, and places conditions. The Special Permit goes with the applicant. That is how it has been done for the last 20 years without appeal.

Ms. Chace said the applicant has 24 months to get the business going after Site Plan Approval. If ~~it~~ is not up and running, the applicant must go through the whole process again.

The chairman said that in her history on the board since 1987, the Special Permit has gone to the applicant not the land, and the decisions have never been challenged.

Reorganization

Ms. Chace moved for Cynthia Carvill as Chairman/second by Mr. Potvin

Chace (Y) Snow (Y) Potvin (Y) Benoit (Y) Carvill (Y) 5 - 0 Approved

*The chairman moved for Mary Chace as Vice Char/second by Mr. Benoit
Chace (Y) Snow (Y) Potvin (Y) Benoit (Y) Carvill (Y) 5 - 0 Approved*

*Ms. Chace moved Mr. Potvin as the Clerk/second by Mr. Benoit
Chace (Y) Snow (Y) Potvin (Y) Benoit (Y) Carvill (Y) 5 - 0 Approved*

Mr. Potvin moved to adjourn/second by Ms. Chace

Chace (Y) Snow (Y) Potvin (Y) Benoit (Y) Carvill (Y) 5 - 0 Approved

Adjourned: 7:28

Cynthia Carvill
Chairman Cynthia Carvill

Mary Chace
Vice Chair Mary Chace

Michael Potvin
Clerk Michael Potvin

Joseph Snow
Joseph Snow

Raymond Benoit
Raymond Benoit

Doneen M. Durling
Doneen Durling (Alt.)