

TOWN OF WINCHENDON



Zoning Board of Appeals

Approved: 7/1 / 15 Dmd

Minutes June 17, 2015 Town Hall Auditorium

Present: Chairman Cynthia Carvill, Vice Chair Mary Chace, Clerk Michael Potvin, Joseph Snow, and Raymond Benoit.

Alternate/Recorder Doneen Durling

Jon Staff — Applicant

Denis McLaughlin — Abutter

Materials: Agenda June 17, 2015

Minutes June 3, 2015

Applicant update rules

Packet from 6-03 including letters from WPD & WFD

Call to Order: 7:01

Approval of Minutes, June 3, 2015

Ms. Chace said she found a typo on page 3.

Mr. Snow moved to accept as corrected/second by Ms. Chace

Snow (Y) Chace (Y) Potvin (Y) Benoit (Y) Carvill (Y)

Clarification for the Record

The chairman said before opening the meeting she wished to clarify for the record procedural issues. She explained that the town had adopted the Mullin Rule in 2007 from MGL Chapter 30 section 22D which allows a member to miss one public hearing session only. The member missing the meeting must fill out a form certifying that he/she has read record of the hearing. The member that has missed a meeting is not allowed to vote without the document being signed. She said that of the five members and one alternate, because the site visit was defined as a continuation of the meeting, Mary Chace had missed two meetings, and Raymond

Benoit had missed one. The chairman said Ms. Chace could participate in the hearing, as her input would be valuable. The chairman said Mr. Benoit could vote as long as he fills in the affidavit that he has been brought up to speed with the information from the missed hearing.

The chairman said that there were five members. If the hearing were to continue, the applicant would need a positive vote from 4 out of 5 to be granted the special permit. She told members to be mindful of that because much had been put into the application.

The chairman said another thing that came to the board's attention to define was the difference between a Special Permit and a Variance. She said there was also something called a Use Special Permit. She said just to be crystal clear, according to MGL, and standards of Winchendon's practice, there are two types of applications that come before the Zoning Board regularly, a Variance, and a Special Permit. The ZBA is not hearing anything on a Use Variance or a Use Special Permit, which, as defined by MGL, are two separate things.

The chairman said that Special Permits are issued to authorize specific uses within a zoning district, according to Chapter 40 A of the Winchendon Zoning Bylaws. The use allowed by Special Permit is a use that is not allowed as a matter of right because of its potential for incompatibility with the characteristics of the district, but it regulates the middle tier of uses that are so innocuous that they are not allowed as a matter of right, and those uses are so in the other direction that they are prohibited. The Special Permit is issued to the applicant for a specific use or activity, and is not transferable. On the other hand, variances are issued to authorize a deviation from the dimensional zoning requirements of structures and laws. MGL states that Variances are to be used sparingly, and only if all statutory prerequisites have been met.

The chairman said the ZBA does not authorize the granting of Use Variances, but must do a Special Permit or a Variance. The Special Permit goes to the applicant, and the Variance goes to the land and is continued on forever. What has been problematic is that other municipalities grant Use Variances. She said the purview of the Winchendon ZBA was Special Permits and Variances guided by local zoning bylaw.

The chairman said the timeline for the Special Permit process calls for opening the hearing within 65 days of the application. The board must render a decision within 60 (90?) days of closing the public hearing. She said the board could continue the hearing for as long as it takes to get information and draft everything. She said they are not under a timeline to close the hearing and vote. She said after the board closes the hearing (and makes a decision?) they have 14 days to write the decision and must give the abutters a copy by mail. There is a 20-day appeal period after the decision has been issued and stamped by the town clerk. The board may write the decision, but the town clock doesn't start until it is stamped by the Town Clerk.

Ms. Chace said that she believed it was important to note that after the 20-day appeal period, the ZBA does not hear the appeal...it goes to court.

The chairman said it also had to be appealed on good standing.

The chairman said there were criteria for the granting of a Special Permit in the bylaws and in the books. For simplification and clarification she said the ZBA when granting a Special Permit, unless specifically provided to the contrary, must make a finding that all criteria is met including that the use is in general harmony with the general purpose and intent of the bylaw, that the use is an appropriate location and is not detrimental to the neighborhood and does not significantly alter the character of the zoning district, adequate and appropriate facilities are to be provided for proper operation of the use, the use would not be detrimental or offensive to the adjoining zoning districts and neighborhood properties due to the offensive lighting, odor, smoke, noise, sewage, refuse materials, visual or other nuisances. It would no cause traffic congestion, and the proper number of site plans have been filed with the planning board and copies submitted with the application. The use or purpose must be consistent with the Master Plan most recently updated.

The chairman said those are the things to consider when going over the Special Permit. Ms. Durling asked about the bylaw requiring the application be submitted to the Planning Board for its comments. She asked if it was automatically done when the application is submitted.

The chairman said it was automatically done as a part of the application process. She said it was standard business protocol. The chairman said if the Planning Board has a problem, they attend the hearing.

The chairman asked if there were any further questions or clarifications needed.

Old Business — Hearing Continuation — Campground 83 Mill Glen

The chairman handed an affidavit form to Mr. Benoit for his signature.

7:17

Mr. Potvin moved to reopen the public hearing/second by Mr. Snow

Snow (Y) Potvin (Y) Benoit (Y) Durling (Y) Carvill (Y)

The chairman informed the board that the planning agent sent an email in regards to the concerns from the DPW. Verbally the acting director of the DPW has no problems with the proposed campground. The planning agent said she would deliver that statement in writing at a later date.

The chair suggested they should go through the revised campground rules to start then address the various department concerns.

The chairman said the applicant reduced the number of units on the plan from 3 to 1. The site has been placed further back from the street. She said there is still a proposal on the table to not cut significantly more trees. She said the shelter is 20' long and 8' wide off grid— electricity from solar panels. Water is delivered. It's on a trailer bed. There would be a single sign with reduced dimensions to fit the frontage.

The chairman called Mr. Staff, the applicant, forward. The chairman asked if there would be lighting for the sign.

Mr. Staff said there would be no lighting and there was a reduction in size reflected in the new plan.

The chairman asked if he would be extending the driveway in the path that was already there and making a circular turn around.

Mr. Staff said it would not be a turnaround; it was just marking the campsite. He said they were going to just open it up a little further so the site would be near the cart path. He said the site would be further in and less visible. He said they also clarified that the parking would be limited to 2 cars.

The chairman said noted the concerns of the fire department for 2 lanes for equipment access. She said maybe they should further clarify the width of the two lanes to accommodate a fire truck.

Ms. Durling asked Mr. Staff to clarify that gray water and compost would be taken off site. She said the current plan as stated, only provides that it would be disposed of away from the mobile shelter.

Mr. Staff said it would be transported from the site.

Ms. Durling said it should be stated that way in the proposal.

Mr. Potvin said that Mr. Staff called it a "mobile shelter" on wheels. He said he did not see a whole lot of detail about them, and added they were also called tiny houses. He said he would like to see detail on tank size, plumbing, electrical. He asked if any agency had oversight to make sure it was acceptable.

Mr. Staff said there was 225 gallons of clear water storage, 225 gallons of gray water storage, operates solar electric which really doesn't have more than a couple of lights, and uses 2 propane tanks. He said they are built to RV code.

The chairman asked who certified under RV code.

Mr. Potvin said there were many agencies that did that. He asked what model unit would be placed on the site.

Mr. Staff said the units were manufactured and popular.

Mr. Benoit asked if manufacturer's specs could be provided for the board.

Mr. Staff said he could and noted they have become quite popular on the west coast.

Mr. Benoit asked if they were UL approved and not home built.

Mr. Staff said they were.

Mr. Potvin said the reason he asked the question was because one of his old jobs was inspecting for 14 years, and he did inspect RVs and mobile homes. He said mobile homes are very restricted by HUD. He said there are two different agencies that inspect. He said his concern was there was not a whole lot of detail on the construction, which made him, question what would be there.

Mr. Staff agreed to deliver specs.

The chairman said it would answer a lot of the board's questions. She said it would also be helpful to turn into the health department and the planning department.

Mr. Staff said he wished he had known and he would have brought it for the hearing. He said the manufacturer was called Tumbleweed.

Ms. Durling asked the applicant where tents might be set up for those not using the shelter. She asked if there was a designated spot, or would the tent be set up just anywhere.

Mr. Staff said the tent would be set up in that same campsite area.

Ms. Chace asked if the tent area would be specified.

Mr. Staff said it would.

The chairman asked if the structure was handicap accessible.

Mr. Staff was not sure.

Mr. Benoit said it was probably in the specifications from the manufacturer.

Ms. Durling said she believed they talked in the beginning of the necessity for handicap accessibility if there were three or more sites, but since it had been confined to one site, the rules did not apply.

Ms. Durling noted that the new plan called for no fire ring.

Mr. Staff said there would be a fire ring.

Ms. Durling said it was not explained as such in the new plan. She said on 440.13 it stated there would be no fire area.

The chairman said that it should be altered to say "inside the structure."

Mr. Benoit asked if someone would be on site all the time.

Mr. Staff said there would not be someone on site full time. He said there would be someone coming between stays for trash compost etc. There would also be someone on call 24 hours.

The chairman said trash was another concern and asked Mr. Staff to speak to that.

Mr. Staff said the trash would not be stored outside, and there would be someone to collect it at intervals.

The chairman said it should be stated that trash would be picked up every 3 days at a minimum.

He chairman asked if there would be a picnic table outside.

Mr. Staff said there would be plus a couple of Adirondack chairs.

The chairman asked for any other questions or comments.

Ms. Chace noted she had asked the same question last time. She said people take advantage of vacant areas. She asked how the site would be secured when no one is there.

Mr. Staff said the unit itself is locked up. He said he was asking that they add a security camera. He said the property would also be posted.

The chairman asked if there would be a gate at the entrance.

Mr. Staff said there would not.

The chairman asked if the security camera would be on the outside of the building.

Mr. Staff said it would.

The chairman asked if it would be a 360-degree view for the camera.

Mr. Staff said they were flexible to add that.

The chairman said there was a concern about parties at the site and bonfires. She said there should be something that would startle off prowlers but not annoy the neighbors but keep the place safe. She said there would not be 100 percent occupancy 365 days of the year. She said it would be a year-round concern because of hunters, snowmobile riders etc.

Ms. Chace agreed it was a viable concern.

The chairman said she liked security cameras, and would like to see one out by the road.

Ms. Chace suggested trap or game cameras with sensors.

Mr. Benoit said if camera photos were to be used for legal matters, they have to be of a certain resolution.

Ms. Chace asked if there would be a fire extinguisher on hand for a campfire emergency. Mr. Staff said there would be a fire extinguisher.

The chairman said that on the water delivery and the gray water disposal, and the compost toilet processing, it is not the purview of the board because they are not the board of health, but that point is where the ZBA would condition approval per BOH regulations.

The chairman clarified parking was for two cars and 4 campers. She said it needed to be clarified that there would be no more than 4 people on site, including visitors. The maintenance person was the exception. She asked what if there were children for the four people.

Mr. Staff said it was too small for more than 4 people.

The chairman asked if Mr. Staff anticipated any other motorized vehicles such as four wheelers, dirt bikes, etc.

Mr. Staff said there would be no one that would have those in the city. He said the clients do not even know where the address is until they sign up, and they would not know if there were trails to access.

The chairman asked if he would be amendable to prohibiting off road vehicles on the property.

Mr. Staff said "sure."

The chairman said the fire ring would have an easily accessible fire extinguisher. She asked, for the record, how guests would be notified that it was a red flag day.

Mr. Staff said by text message, email, with a request that they respond. If they do not, the client would be called by phone. He said someone would also go to the site.

Ms. Chace said that on the Getaway site it encourages the client to leave cell phone and computers behind.

The chairman said that if the client does not respond, could it be written that if they do not respond in 10 to 15 minutes someone could be dispatched to the site.

Mr. Staff said someone would come to the site regardless on a red flag day.

The chairman addressed the campsite rules; check in 4 PM, check out 10 AM. The big chunk of time in the middle allows for staff to check water, fire conditions for the day etc. She asked when people check in would there be someone to greet them, or would they have a code to the door.

Mr. Staff said there is a door code.

Ms. Durling said there was a concern about firewood being brought onto the site.

Mr. Staff said he wanted to clarify that. He said clients would be told not to bring their own firewood, and if they wanted firewood, they must order it from Getaway.

The chairman asked if the code would change regularly.

Mr. Staff said it would change with each client.

The chairman said that on quiet hours from 10 PM to 8 AM. All campers must return to site by 10 PM so there is no traffic after 10 PM. She talked of MGL's limit of decibels per certain footage.

She said the site was pet friendly. Pets could not be left unattended. Must be on a leash when outside. Pet litter must be cleaned up immediately.

The chairman noted the police concern was having no one on site in case of emergencies. She said the cameras were for people coming on property, The board needed to

clarify how the police would be contacted in case of emergency since there would be no hard wired phone on site.

Mr. Staff said the shelter was hardwired to the Internet through Verizon. He said he picked up reception from his phone at the site, which is also Verizon.

Ms. Durling asked if it was all-solar powered.

Mr. Potvin asked where the batteries were for power storage. He asked how many batteries were used.

Mr. Staff said there were 2 batteries.

Mr. Potvin said even in the winter there would not be a lot of sunlight.

Mr. Staff said there was not a big need for more storage.

People would bring their own computers.

Ms. Chace asked if there was a way to put out an alarm through the Internet if there was an emergency.

Mr. Staff said they could find a way to provide something.

Mr. Benoit said the board would have to pass the solutions by the police chief to see if it solved the concern of no one overseeing the site.

Mr. Benoit said there is a difference between camping and renting a house. He said there is a different degree of respect for property and a home as opposed to a campsite.

The chairman said she would update with the planning agent the current questions and answers in regards to handling security and monitoring the site.

BOH concerns were read. There was also advice on where to apply for water approval and gray water discharge.

The fire chief's concerns were read.

The chairman asked if there would be daily visits by staff.

Mr. Staff said staff would be there between clients unless needed.

Mr. Benoit said that if no one were using the site, staff would not appear.

The chairman said that was when the security cameras would kick in.

The chairman said the fire chief spoke of a pressurized water source. He spoke of underage drinking issues with no staff. He noted there must be an adequate roadway for the fire equipment to drive on to accommodate the public safety needs. The chairman said the driveway has to be wide enough to accommodate an ambulance.

Mr. Potvin said they have to tell the board what the width is.

The chairman said she would email for information through the planning agent.

The chairman said there is better understanding. She said there are issues that still need to be addressed. She asked for the spec sheet, and BOH information.

Ms. Durling asked if the approval of the Special Permit could be predicated on the BOH requirements as opposed to making the applicant gather everything for the BOH. She said the BOH requirements are not the purview of the ZBA. It could however be a part of the conditions.

The chairman agreed.

The chairman called for comments from abutters.

Mr. McLaughlin said the board mentioned 3 letters. He asked if those were the only letters received.

The chairman affirmed.

Mr. McLaughlin asked if the time for receipt had expired.

The chairman said the planning agent sent out 4 requests. She said there was verbal information from DPW.

Mr. McLaughlin said they were talking about renting a trailer. He asked if sales/rentals was an allowed use.

The chairman said that has never been mentioned tonight.

Mr. McLaughlin said he took a look at the owner's mortgage and said there were words in there that talk about environmental permits. He wanted to know if there were issues with the environmental permits and if there would be a problem for the landowner.

The chairman said when they get special permits, the tax collector's office, the assessor's office, and a whole checklist of people have to sign off that it is a legitimate acceptable permit. If there is any delinquency, BOH violation, the special permit is sent back.

Mr. McLaughlin asked how many violations cause a problem to come back and visit a permitted use.

The chairman said it was a good question. She said if the Special Permit was issued and violated, a written violation would be sent to the zoning enforcement officer. His protocol is to immediately investigate, and inform the board the applicant should be brought back in for review.

Mr. McLaughlin said the zoning enforcement officer has the purview to cease and desist. The chairman said, as she understands it, yes.

The chairman said there were examples of how it works already for those that have gone outside their special permitted use. She said the special permits for things never tried in the town are often conditioned with reviews. She said they are trying to make people accountable at every level of the process. She said Winchendon has a lot to offer.

The chairman noted that if it seemed to be more impossible for the campground as sited, she told the applicant he could withdraw the request before the hearing closes, and reapply at any time. If the hearing goes forward and is closed, the applicant no longer has the option to withdraw, and if denied because they received less than a super majority vote (4 out of 5), must wait 2 years to apply again.

The chairman asked if board members would be around July 1.

Everyone agreed they would.

Ms. Durling moved to continue the hearing until July 1 at 7:05 PM/second by Mr. Benoit

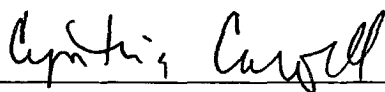
Snow (Y) Potvin (Y) Benoit (Y) Durling (Y) Carvill (Y)

The chairman said her job, before they close the meeting, is to summarize the discussion for the fire and police, and coordinate through the planning agent letters to both. Mr. Staff's task is to bring specs on the building. The chairman said she would reach out to the chairman of the planning board for input.

The chairman said the focus should be on roles and responsibility. She said it was not the ZBA's role to govern what is governed by the BOH etc. It is the ZBA's role and responsibility to ensure the zoning bylaws are adhered to.

*Ms, Durling moved to close the meeting/second by Ms. Chace
Snow (Y Chace (Y) Potvin (Y) Benoit (Y) Durling (Y) Carvill (Y)*

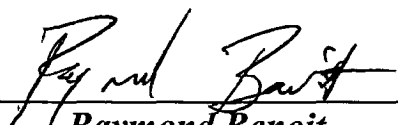
Adjourned: 8:28 PM

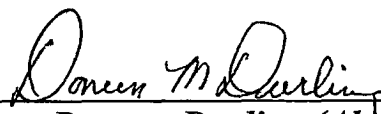

Chairman Cynthia Carvill


Vice Chair Mary Chase


Clerk Michael Potvin


Joseph Snow


Raymond Benoit


Doneen Durling (Alt)