

**LACONIA ZONING BOARD
MEETING OF NOVEMBER 18, 2013
MINUTES APPROVED MEETING OF 12/16/13**

Present: S. Perley, **Vice Chair**; M. Foote; R. Smith; K. Geraci; D. Robitaille

Absent: S. Bogert, **Chairman**; D. Greski; O. Gibbs; S. Saunders, **Planning Director**

Staff: K. Snow, Zoning Technician

S. Perley called the November 18 meeting of the Laconia Zoning Board of Adjustment to order at 7 pm. She let the public and other board members know that in the absence of S. Bogert she would serve as chair for the November 18 meeting.

MINUTES: The motion to approve the minutes from the October 21, 2013 ZBA meeting, as written, was made by R. Smith and seconded by M. Foote, with all voting in favor of approval, 5-0.

S. Perley seated R. Smith, D. Robitaille, and K. Geraci as full board members for the following hearings.

HEARINGS:

Application # 2013-0026

MSL # 162-248-16

CR Zone

C. Gulbicki

1193 Weirs Blvd

Special Exception

The applicant is requesting a Special Exception from Laconia Zoning Ordinance Section 235-26, Uses Permitted by Special Exception, in order to add the use of pre-owned car sales to their existing site.

Applicant: Jill Gulbicki and Charles Gulbicki, JR appeared for the application. C. Gulbicki said they currently do repairs and towing. They are talking about utilizing a space approximately 20 x 30 ft. They would have no more than 8 cars, probably only about 4 at a time, for sale.

D. Robitaille asked how they came about doing the auto sales and C. Gulbicki said that he filed for an application through the state who told him they had to first be approved by the city. The state issued the license so he thought he was ok to go.

R. Smith asked how long he has been doing the car sales, and he said that the dealer's license was issued in March of 2012. M. Foote asked if the license was contingent upon the fact that they were located in an area where this is an approved use and C. Gulbicki said yes, he thinks that is part of the state licensing process.

Public: No one spoke for or against the application so S. Perley took the discussion back to the board members.

Board: D. Robitaille said he doesn't want to impede upon a business, but the board has already denied another property right down the street for the same use. Considering the area, which is near the rotary, with a gas station already across the street, and being the entrance to the Weirs Beach area, he doesn't think this is the proper location.

S. Perley said the use they have now, major vehicle service, isn't a permitted one in the zone, but they have a variance to do that. She said this is a congested site with a lot already going on, with trucks and vehicles. On the lot coverage, there doesn't seem to be "setbacks", and no green space here. She said she doesn't want to impede a small business from growing but adding another use that is not permitted is doubling the use. 8

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vehicles are being asked for, and they need 4 parking spaces for the business. She said there is a lot going on here.

M. Foote said we should follow the same logic here as with the denial down the road, as that was only about 1.5 miles. He said the property owner could buy the lot next door, and get an approval for that. With all of the residential development going on, for example Langley Cove, this is a residential and commercial area. He feels this is too intense of a use on a small lot. He said there may be some other options for them to explore as the board had approved a car lot up the road that isn't there anymore.

R. Smith said he agrees. This is the center of the tourist area. People having car issues need a garage but he doesn't see a tourist buying a car. He said he thinks this is the wrong place to have a dealership.

S. Perley said this would set a precedent and that she feels M. Foote had a good idea with the other option he mentioned with the nearby lot that has closed.

S. Perley said that it appears the board members all seem to be in agreement and she asked if they want to make a decision tonight or continue this until the next meeting and think more on it.

C. Gulbicki said a number of his sales comes from tourists, as they visit the area and know they can purchase a good used vehicle. This has helped the business to sustain itself, as the repair business is down. He said he doesn't do extensive advertising; there is one small sign.

S. Perley mentioned the washing of vehicles and C. Gulbicki said the detailing is done off site.

M. Foote asked K. Snow if the signage that is currently on the site is all legal. K. Snow said she would have to look at it.

D. Robitaille asked about the fire that destroyed the original building. M. Foote said they did a good job of rebuilding, and the building is nice looking but there are other options.

S. Perley asked if the board members if they want to continue the hearing and do a site visit but D. Robitaille said he doesn't think that will change his mind. Other members agreed with him so it was determined to go forward with the hearing.

S. Perley closed the meeting to the public.

Motion: R. Smith made the motion to deny Application # 2013-0026, for a special exception in order to add the use of pre-owned car sales to the existing site at 1193 Weirs Boulevard.

The location is not appropriate for the requested use. He said this is not an area consistent with vehicle sales, as this is a commercial parcel along the water view area. Allowing this could set a precedent for other businesses to move in, and there is no other located in this area at this time.

This is not consistent with the spirit of the ordinance or with the Master Plan. The Master Plan says to maintain the character of rural and scenic roads. This is a scenic road. There are commercial businesses, but this would allow another which is not consistent.

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He said he doesn't think property values would be enhanced by adding another use. There is a hardship to the applicant, as they want to add to the business, but he is not convinced that that hardship exceeds the needs of the public as this is primarily a tourist area.

M. Foote seconded. All voted in favor of denying the application, 5-0.

AMENDMENT:

Application # 2012-0038

MSL # 175-107-7.1

RR1

C. Crosby

207 Hilliard Rd

Variance

The applicant is requesting an amendment from their approval which was granted on October 15, 2012, to change the approved size of the multi-family structure from 28' X 80'.

Applicant: Don Nevers said he is here representing the owners, who are all in attendance as well. He said he is the husband of Karen. They were here in 2013 for a variance for the multi-family structure. They had a tentative building plan at that point, which was for a structure of 28 x 80 feet. They had discussions with the builder and then the Planning Board and TRC so they modified the plans.

The back, facing the hill, is three stories tall. They felt that an 80 foot flat wall would be an eyesore so they bumped out the middle unit by 4 feet, bringing the values of the 3 units closer together. They increase the overall value of the units, with minimal additional cost in building and allows for design flexibility.

The two end units are 30 x 26 feet, and the middle unit is 34 x 26 feet. With the walls, the length is still at 80'. They plan an 8 feet deep deck on the first floor across the entire building, with 3 smaller decks on the second floor. They are delaying the building of the decks because of economics right now.

This won't be contrary to public interest as the changes will improve the design by eliminating an 80 ft long straight building. No abutters have expressed being against the proposal.

The spirit of the ordinance is observed. This is adjacent to Moulton Cove and are just maximizing their units. The difference between the square footage of the original plan and this plan is difference of only 264 square feet so this won't diminish property values by allowing the increase.

They are only requesting a modification to the building. The literal conditions remain the same. This is a reasonable change. There is only an 11% change from the tentative design to this one.

R. Smith said that the drawing provided shows a septic system, but he thought they were connecting to sewer. M. Foote said he recalled that as well. D. Nevers said there is a private system at Moulton Cove and Singing Cove signed on to that. They took a look at that system and the angle to get to it from their property was too steep, and there was some ledge that would have to be blasted through. They have determined that option is not feasible so they did not approach the owners of the private system to use their system.

M. Foote said that was part of their original approval, and they stated it had lesser impact. He read from the original minutes where they said it would minimize the distance and that they would be tying in to the state line.

S. Perley clarified for the board that they are only dealing with the use of the multi family. Everything else will go back to TRC and Planning for review. The only thing the ZBA is looking at is the square footage. The 28

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x 80 foot building was specifically mentioned at the original hearing. TRC and Planning will look at any other issues.

M. Foote asked if these are covered or open decks and was told by D. Nevers they would be open. M. Foote asked if there were plans to cover these later on and was told no, they had no plan for that. The first floor will be an 8 foot deck, which will be covered by the second floor deck, which will be smaller, but there will be no walls.

D. Robitaille clarified that they are just here to decide on the additional sq footage. He said it sounds like the consideration for this change was the potential eye sore from the street, and this proposal seems to be decreasing that issue. D. Nevers said they increased the end units by 2 feet, and the middle by 4 ft. That increases the living space and functionality dramatically. This makes it much better with no tremendous increase of cost of the building.

R. Smith asked if in the original plan were the units all connected and was told yes, it has always been a single building. There is no interior passage between the units. M. Foote asked if these are individually deeded units or in a trust and D Nevers said right now this will be a single deeded building. D. Robitaille asked if that makes a difference if changed to 3 later on.

K. Geraci said that was all talked about last time; we are just determining the increase in the size. M. Foote said Planning will discuss any other issues; we are just here to do the increase in the square footage but had already approved the use.

S. Perley mentioned the cemetery and the need for a 25 foot setback, and D. Nevers said they just found that out, and will bring changes relating to that to the TRC meeting on Wed.

Public: Joann Halperin, from Singing Cove Park, said she not sure if this is where she could ask questions. She said this is the first they were aware of the application; they did not get the notice the first time. K. Snow checked the files and they were noticed. J. Halperin was given a copy of the plans by the applicant and was told to go to the Planning Board meeting to ask her questions about drives, stream, etc.

D. Nevers said they are not planning to make additional changes but could they use the word approximate instead of making this the exact 2505 sq feet. D. Robitaille said he feels they would have to come back for the change. M. Foote said there are no issues with a decrease in size.

D. Nevers said they were all right with that. Frank Yerkes did a survey and they are well under the 4000 sq feet that Yerkes had said was buildable space.

S. Perley closed the hearing to the public.

Board: M. Foote said they don't have the purview on some of this but the applicant will deal with Planning on additional issues. He said he did not realize that at the October meeting that was a tentative plan but he sees no harm in making this change.

S. Perley said we should mention adding 265 sq feet but K. Geraci asked if they make more changes would they have to return to the board again and was told yes. D. Robitaille asked if they have to approve building plans, and was told no. S. Perley said they would have to return again if changes to the size are made and suggested making the approval for up to an additional 300 sq feet.

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Motion: S. Perley voted in favor of amending the original approval from 2012, Application # 2012-0038, to increase the size of the structure but not exceeding an additional 300 sq feet and keeping all of the original conditions, including the 2 special conditions that the board agreed upon.

M. Foote seconded the motion and all voted in favor, 5-0.

OTHER BUSINESS: a) Zoning Task Force: S. Perley let the board members know that the Zoning Task Force meets tomorrow morning. She asked if the ZBA members were aware that chickens were not approved at the Planning Board Level. She said that the process is confusing but we are going to try to work it out. She said she doesn't think the Planning Board has any idea of what went into this decision. They also wanted to shut down the PUD, which made complete sense.

M. Foote said he could not believe what they did with the chicken ordinance. He said that S. Perley did a lot of work on this; everyone did a very good job on this. This was citizen driven in the beginning and we dealt with this for 1.5 years. He said he was astounded by the Planning Board's decision. If the ZTF is doing all of this work and presenting this, the Planning Board has to understand what is going on. He doesn't feel that they understand how this came about and what work and detail went into this. He said he initially was against chickens, as many others on the ZTF were, but after hearing all of the feedback and seeing the conditions that were set, he felt it was controllable and was comfortable with approving it.

S. Perley said she doesn't think that the Planning Board realizes the work that went into this but feels, at this point, we have to let this go. The ZTF has too much to do on other things. She said she doesn't think the public even realized this had to go on to Planning Board as there are so many layers of bureaucracy here.

The other cities in New Hampshire have had no problems with chickens per S. Perley. K. Geraci asked if their strategy would change in the next presentation and S. Perley said she will make sure she is in attendance at the next Planning Board presentation so they understand everything that went into the process.

She said that signs are up next and the only real issue is the electronic sign. We have one person who is requesting this change and went to the City Council with his concerns. She said that the electronic message centers are the future of signs and need to be addressed. Off premise signs could be an issue, too. She also said the ZTF had paid special attention to vehicles which are used as signage.

M. Foote said he was just in Hilton Head, SC, which is a nice community. They have bike paths that go right through their communities. Their signs are not loud or lit, and are all set back; you must go looking for them. D. Robitaille asked if these are planned communities and was told yes. He said we are seeing new housing come into the city, which is being done differently.

b) Any other business that comes before the board. There was no other business.

ADJOURNMENT: The motion to adjourn was made by M. Foote and seconded by R. Smith, with all voting in favor, 5-0. The meeting adjourned at 8 pm.