TOWN OF
NEW LONDON, NEW HAMPSHIRE
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ZONING BOARD OF ADJUSTMENT (ZBA)
MEETING MINUTES
Tuesday, August 20, 2019
Town Office, Sydney Crook Conference Room
6:30 PM

MEMBERS PRESENT: W. Michael Todd, Ann Bedard, Katharine Fischer, Bruce Hudson

MEMBERS EXCUSED: Douglas W. Lyon, Frank Anzalone, Stan Bright, Heidi Lauridsen

STAFF PRESENT: Nicole Gage, Zoning Administrator

OTHERS PRESENT: Pat & Ray Deragon, Alison Trow, Melinda Laro, Jeff North, Katie & Peter Vedova, Michael Williams, Nic Doak

1. **Call to Order** – Michael Todd called the meeting to order at 6:30 pm.

2. **Roll Call** –Michael Todd called the roll.

3. **Review Minutes of July 2, 2019**

IT WAS MOVED (Ann Bedard) AND SECONDED (Katharine Fischer) to approve the minutes of the July 2, 2019 meeting with one correction on the last page. THE MOTION WAS APPROVED UNANIMOUSLY.

4. Case #ZBA19-12 - Variance
Parcel ID 083-010-000, 191 Parkside Rd.
Zoned R-1, 28.0 Acres
Owner/Applicant: New London Outing Club
A variance is requested from the provisions of the New London Zoning Ordinance, Article XX Section A.2, to permit an expansion of a legal non-conforming use, Recreational Facilities, as defined in Article III Section 126, to allow the construction of a 45,000-60,000 square-foot building.

5. Case #ZBA19-13 - Variance
Parcel ID 139-001-000, 41 Stonehouse Rd.
Zoned ARR, 0.71 Acres
Owner/Applicant: Jacob Messer & Mollie Messer
A variance is requested from the provisions of the New London Zoning Ordinance, Article VI Section A, to permit continuation of commercial activity of landscaping, construction, firewood, site work, materials sales and snowplowing.

Both cases scheduled for tonight have been withdrawn by the petitioners.

Katie Vedova stated that she read through the materials related to the Outing Club application and the Zoning Boards response about requiring a special exception versus a variance. She asked if that is why this was withdrawn. Michael Todd responded that it is his understanding

that they will be back before the Zoning Board of Adjustment (ZBA) in the near future with an application for special exception.

Ms. Vedova asked for an explanation about what was found in the past in the 1970's in terms of the permit. Michael Todd stated that conceptually, once that property was set aside to be used as a memorial park, in order for them to use it for a particular recreational use, it is not specifically allowed in the R2 zone. Whatever they wanted to do meant they had to seek a special exception from the zoning board in order for that use to be allowed on that property. Since 1970, they have come before the ZBA on three occasions with three separate requests for special exceptions.

A special exception is applicable for what they are intending to do now. When and if a new application comes in, everyone will be re-noticed.

Ms. Vedova asked where she could find information on the difference between a special exception and a variance. Mr. Todd directed her to the New Hampshire Municipal Association book titled *The Boards of Adjustment in New Hampshire* and to pages 81/82 of the Town of New London Zoning Ordinance. There is also case law that can be found online.

A variance is sought when the activity that is desired is strictly prohibited by the ordinance.

A special exception is a use that is allowed in a particular zone but only by special exception. In order to grant the special exception, the board must hear evidence from the petitioner sufficient to sustain a finding on all of the items required (A-H on page 81) in the ordinance.

6. Other Business

Michael Todd would like to review the differences between a variance and special exception so it is clear to the Board when these cases come back before them again.

Nicole Gage noted that at a recent "ZBA Basics in New Hampshire" webinar they discussed the topic of deciding whether applications are complete when they are coming to the Zoning Board. If all the questions are answered, the answer is yes. We are not deeming an application complete like the Planning Board would for a site plan. They have a long checklist of all the details.

Ann Bedard had two takeaways from the webinar:

1. It is important to ask for an appraisal and not just accept what the real estate agent says.
2. Our rules and regulations need to be reviewed. Our voting is not consistent and needs to be every single time.

Ms. Bedard would also like a more formal template when a motion is made. Michael Todd uses a spreadsheet with blank spaces to write in the testimony to support each criterion. Ms. Bedard would like him to bring these spreadsheets for the board to review as this may be a helpful worksheet for the board to have while they are listening during a hearing.

Ann Bedard suggested that rather than cancelling on nights when there aren't any cases for review that we use those nights as work sessions to review our rules and regulations. Nicole Gage suggested starting with the 2018 handbook. There is an outline for recommended rules of

procedure. A draft that is unique to New London could be created and they could start with that. Michael Todd had already done some work so they will use that for comparison.

Michael Todd wanted to note that the reason Continuum got continued at the July 9, 2019 meeting but didn't come back was because they withdrew the application. There was no continuation date set because it got terminated by virtue of the fact that they withdrew the application. There was no further hearing.

Ms. Gage also noted that a new RSA passed, giving ZBA's 45 days to hold the first hearing date. It has been 30 days but has now increased to 45 days. Ms. Gage would like to leave the current schedule as is, but consider making changes starting with the January 2020 schedule.

Ms. Gage noted that she emailed all the ZBA members regarding the 2019 Land Use Law Conference being held on Saturday, October 5, 2019. It is $100 to register and the town will reimburse members that wish to attend.

Nicole Gage stated there will be a new case, a variance request, on September 3, 2019.

7. Motion to Adjourn

IT WAS MOVED (Bruce Hudson) AND SECONDED (Katharine Fischer) to adjourn. THE MOTION WAS APPROVED UNANIMOUSLY.

The meeting was adjourned at 7:46PM.

Respectfully submitted,

Trina Dawson
Recording Secretary
Town of New London