

Hopkinton Zoning Board of Adjustment
Minutes
September 21, 2006

Chairman Janet Krzyzaniak opened the Hopkinton Zoning Board of Adjustment meeting of Thursday, September 21, 2006, at 7:00 PM in the Town Hall. Members present: Charles Koontz, Toni Gray, John Boatwright, and William Horsfall.

Chairman Krzyzaniak gave a brief outline of the rules that govern the meeting; explaining that during review of the Motions for Rehearing the public will not have an opportunity to provide testimony.

- Motion for Rehearing submitted by A. David and Karen Dufault, dated August 25, 2006 and received on August 25, 2006. Motion for Rehearing pertained to the Zoning Board of Adjustment decision of August 1, 2006, in which the Board granted the application (TH06-4S-8-1) of Moser Engineering for a Special Exception to construct a retreat house for lodging and meetings at property owned by Saint Methodios Faith and Heritage Center, LLC, located at 329 Camp Merrimac Road in the R-2 (medium density residential) district, shown on Tax Map 202 as Lot 8. The application was submitted in accordance with Table of Uses 3.6.B.1 of the Hopkinton Zoning Ordinance. No public testimony was accepted during review of the Motion for Rehearing.

In reviewing the Motion for Rehearing, Board members discussed Mr. and Mrs. Dufault's definition of the words, "across the stream" when determining whether the property owners across lake Josylvia should have been considered abutters. Mrs. Gray was the first member to disagree with Mr. and Mrs. Dufault's interpretation of the definition of Abutter, advising that the word is clearly defined in the NH Statutes. Chairman Krzyzaniak concurred, stating that it would be impossible to apply Mr. and Mrs. Dufault's definition to other bodies of water, such as a Lake Winnepesaukee which is located in more than one community.

Following discussion, a motion was made by Mrs. Gray, seconded by Mr. Horsfall, to vote on the Motion for Rehearing as submitted. Motion carried unanimously to vote. With five members voting, all five voted in opposition (Gray, Horsfall, Koontz, Boatwright, and Krzyzaniak). The Motion for Rehearing failed as the Board disagreed with Mr. and Mrs. Dufault's interpretation of the definition of an "Abutter". Additionally, there was no information provided that would have resulted in a reversal of the Board's original decision.

- Motion for Rehearing submitted by Robert DeFusco Et Al, dated August 21, 2006 and received on August 29, 2006. Motion for Rehearing pertains to the Zoning Board of Adjustment decision of August 1, 2006, in which the Board granted the application (TH06-4S-8-1) of Moser Engineering for a Special Exception to construct a retreat house for lodging and meetings at property owned by Saint Methodios Faith and Heritage Center, LLC, located at 329 Camp Merrimac Road in the R-2 (medium density residential) district, shown on Tax Map 202 as Lot 8. The application was submitted in accordance with Table of Uses 3.6.B.1 of the Hopkinton Zoning Ordinance. No public testimony was accepted during review of the Motion for Rehearing.

The Motion for Rehearing refers to the classification of the use of the building as being a temporary residential use. The members discussed the fact that Selectmen as the Zoning Board make the determination as to the applicable section of the Zoning Ordinance based on the use requested. If residents believe that there has been a change in use from what was originally Camp Merrimac, then it is the residents' responsibility to report the change to the Board of Selectmen. At this point, the Board of Adjustment believed it to be too late to complain about a change that may have occurred many years ago.

It was then noted that concerns raised as to the size of the building, cutting of trees, along with many other issues were discussed at the time of review of the application.

Following discussion, a motion was made by Mr. Boatwright, seconded by Mr. Koontz, to vote on the Motion for Rehearing as submitted. Motion carried unanimously to vote. With five members voting, all five voted in opposition (Gray, Horsfall, Koontz, Boatwright, and Krzyzaniak). The Motion for Rehearing failed as the Board agreed to the following:

1. That the concern as to the "change of use" from a seasonal to year-round camp was not relevant as the issue should have been addressed years ago to the Board of Selectmen (Zoning Board).
 2. That the size of the building, removal of trees, and many other issues raised were discussed at length during review of the original application.
 3. That there was no information provided that would have resulted in a reversal of the Board's original decision.
- Motion for Rehearing submitted by Charles and Sheri Myers and Karen Harman, dated August 29, 2006 and received on August 30, 2006. Motion for Rehearing pertains to the Zoning Board of Adjustment decision of August 1, 2006, in which the Board granted the application (TH06-4S-8-1) of Moser Engineering for a Special Exception to construct a retreat house for lodging and meetings at property owned by Saint Methodios Faith and Heritage Center, LLC, located at 329 Camp Merrimac Road in the R-2 (medium density residential) district, shown on Tax Map 202 as Lot 8. The application was submitted in accordance with Table of Uses 3.6.B.1 of the Hopkinton Zoning Ordinance. No public testimony was accepted during review of the Motion for Rehearing. No public testimony was accepted during review of the Motion for Rehearing.

In reviewing the Motion for Rehearing, the members disagreed with the indication that the Board's decision was unreasonable. The Board reiterated the fact that the Applicant adequately addressed the criteria to be granted a Special Exception.

In discussing the issue raised with regards to the impact on municipal services, in particular the Fire Department, the Board advised that all notices of hearings are provided to the Fire Department. If the Fire Department had comments and/or concerns with regards to the demand on municipal services it is their responsibility to bring those issues to the Zoning Board of Adjustment's attention.

In reviewing the statements with regards to the adverse affects on property values as a result of the building, the Board members agreed that it is the responsibility of the landowners to provide such proof. It was also noted that some of the concerns raised should now be addressed to the Planning Board, rather than the Zoning Board of Adjustment.

The issue raised concerning the Applicant having to pay taxes on forty (40) percent of the assessed property value is a matter that should be addressed with the Board of Selectmen as the Zoning Board of Adjustment has no authority concerning the matter.

Again, Board members reiterated the fact that the issues under the Zoning Board of Adjustment's jurisdiction had been addressed at the August 1, 2006 hearing. Any concerns with the quality of life should be directed to the Board of Selectmen; however, the Board suggested that the timing may be off as the Church activities have been taking place at the property for a number of years.

Motion made by Mr. Boatwright, seconded by Mr. Horsfall, to vote on the Motion for Rehearing as submitted. Motion carried unanimously to vote. With five members voting, all five voted in opposition (Gray, Horsfall, Koontz, Boatwright, and Krzyzaniak). The Motion for Rehearing failed as the Board agreed to the following:

1. That the Zoning Board of Adjustment's decision to approve the application was reasonable as the Applicant met the requirements to be granted a Special Exception.
2. That all notices of hearing are provided to the Fire Department. If the Fire Department had comments and/or concerns with regards to the demand on municipal services it is the Fire Department's responsibility to bring those issues to the Zoning Board of Adjustment's attention.
3. That it was the responsibility of the landowners to provide proof of a decrease in property values.
4. That there were concerns raised in the Motion for Rehearing that should be addressed to the Planning Board, rather than the Zoning Board of Adjustment.
5. That the Applicant's payment of property taxes is an issue that should be addressed to the Board of Selectmen as the Zoning Board of Adjustment has no authority concerning the matter.
6. That there was no information provided that would have resulted in a reversal of the Board's original decision.

Adjournment:

Chairman Krzyzaniak declared the meeting adjourned at 7:20 PM. The next regular scheduled meeting of the Board is Tuesday, October 3, 2006, at 7:00 PM in the Town Hall.

Karen L. Robertson
Planning/Zoning Director