

Hopkinton Zoning Board of Adjustment
Minutes
September 4, 2007

Chairman Janet Krzyzaniak opened the Hopkinton Zoning Board of Adjustment meeting of Tuesday, September 4, 2007, at 7:00 PM in the Town Hall. Members present: Toni Gray, Charles Koontz and John Boatwright.

Chairman Krzyzaniak began the hearing explaining that a vote of three members is necessary to decide in favor of any application before the Board. Chairman Krzyzaniak gave the Applicant the option of postponing review until all five members are present. Following brief discussion, the Applicant agreed to move forward with a four member Board.

I. Applications.

TH07-7S-9-1 George Munnis, Commander—Commander George Munnis addressed the Board representing members of the American Legion requesting a Special Exception to extend the liquor privilege of the American Legion Post 81 to a temporary outside fenced in area attached to the building and to an area to be used for horseshoe games. Extension would only apply to summer months. The property is located at 169 Bound Tree Road in the R-3 (low density residential) district, shown on Tax Map 221 as Lot 51. The application was submitted in accordance with Table of Uses 3.6.E.5 of the Hopkinton Zoning Ordinance.

Changes to the facility will include the replacement of a window in the members' bar so to allow access to a fenced outdoor area where there will be two to three tables. The area will be used by members only and they will not be permitted to leave the fenced areas.

Mr. Munnis reviewed the requirements for Special Exception in accordance with Section 15.8.2 of the Hopkinton Zoning Ordinance.

1. Standards provided by this Ordinance for the particular use permitted by special exception.

"Section III, Table of Uses 3.6.E.5 permits by Special Exception non-profit lodges, fraternal and membership organizations in the R-3 district. Construction of the building including the sale of alcohol was originally approved by the Zoning Board of Adjustment in 1975 and later clarified in 1976."

2. No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials.

"No hazard to the public or adjacent property as there will be no changes to the operations or functions that currently take place at the American Legion. The request to extend our liquor privilege to an outside fenced in patio area of approximately 14' x 20' and a horseshoe area has been reviewed and approved by the Hopkinton Police Department, Fire Department, Code Enforcement Officer

provided we remain in compliance with the State of NH Bureau of Liquor Enforcement Rules and Regulations."

3. No detriment to property values in the vicinity or change in the essential characteristics of a residential neighborhood on account of the location or scale of buildings and other structures, parking areas, access ways, odor(s), smoke, gas, dust, or other pollutant, noise, glare, heat, vibration, or unsightly outdoor storage of equipment, vehicles or other materials.

"It is not anticipated that there would be any changes to the property values in the vicinity or change in the character of the neighborhood. The American Legion side of Bound Tree Road is zoned residential with the opposite side of the road zoned commercial. Again, the American Legion received its original approvals in 1975 and 1976. The proposed extension of our liquor privilege would all take place within a fenced in area located on the side of the building. The area must be fenced as required by the NH Bureau of Liquor Enforcement. There will be no change or increase in traffic or parking. Nor would there be any odors, smoke, gas, dust, glare or heat associated with the proposal. Noise should be limited to voices of those people utilizing the outdoor area, including those that participate in horseshoe games. Outdoor use/sale of alcohol would take place Monday through Friday from 2 PM to 9 PM, Saturday 12 Noon – 9 PM, Sunday 1 PM – 7 PM. Use of the designated outside area will be by members only."

4. No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity.

"Again, it is anticipated that there will be no increase in traffic safety hazard or a substantial increase in the level of traffic as those currently going to and from the American Legion will be the same members that will most likely utilize the outdoor area. The request to extend our liquor privilege has been reviewed and approved by the Hopkinton Police Department, Fire Department, and Code Enforcement Officer provided we remain in compliance with the State of NH Bureau of Liquor Enforcement Rules and Regulations."

5. No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection, and schools.

"No demand of municipal services is anticipated as a result of extending our liquor privilege to the fenced in areas outside of the building."

6. No significant increase of storm water runoff onto adjacent property or streets.

"There will be no changes to storm water runoff as there is no need to excavate or make any exterior changes to the property. The space to be utilized is existing. The patio will be of a gravel surface. All fencing will be on a temporary basis as it will be only during the summer months."

7. An appropriate location for the proposed use.

"Appropriate location as the construction and use of the American Legion at this property was originally approved in 1975 and in 1976. The property consists of 3.54 acres with no abutter to the southern side, a commercial use across the street, and one residential abutter to the north in which his property is to the side and rear of the Legion property. The property is unique in that it is in a neighborhood of residential and commercial uses as the properties on one side of the road are zoned residential and properties on the opposite side are zoned commercial."

8. Not affect adversely the health and safety of the residents and others in the area and not be detrimental to the use or development of adjacent or neighboring properties.

"Again, the request for liquor to be outside of the building, in a designated fenced in area, is anticipated to be Monday through Friday from 2 PM – 9 PM, Saturday 12 Noon – 9 PM, Sunday 1 PM – 7 PM. Use of the designated outside areas will be by members only. There will be no use by events or others that rent the facility. There is no adverse affect on the health and safety of residents or detrimental use to adjacent properties anticipated. The request to extend our liquor privilege has been reviewed and approved by various Town Departments and has been reviewed by the NH Liquor Commission with a requirement that the area be fenced. Furthermore, the American Legion must apply for a separate liquor license on each occasion in which liquor would be used during horseshoe events while the current liquor license will extend to the patio area."

9. In the public interest and in the spirit of the ordinance.

"The extension of our liquor privilege will be in the public (our members) interest as it will allow members the same privileges allowed in the interior of the building. For safety and liability purposes the use of the exterior patio and horseshoe area will not be allowed by the general public or those that utilize the facility for special events. The spirit of the Ordinance would not be broken by granting the permit as the Ordinance specifically allows non-profit lodges, fraternal and membership organizations in the R-3 district with no restriction as to the sale of alcohol. Again, the request to extent our liquor privilege has been reviewed and approved by various Town Departments and has been reviewed by the NH Liquor Commission with a requirement that the area be fenced. The American Legion must apply for a separate liquor license on each occasion in which liquor would be used during horseshoe events while the current liquor license for the Legion will extend to the patio area. The patio and horseshoe areas are temporary in nature in that they will only be utilized during the summer months."

Mr. Koontz inquired as to how the liquor would be brought out to the patio area. Mr. Munnis stated that the liquor would be purchased from the members' bar and carried out to the patio. All liquor at the horseshoe events will be purchased from an adjacent building (garage) and will require a separate liquor license for each occasion.

Mrs. Gray asked Mr. Munnis to provide the Board with a timeline during the summer months that the patios will be utilized. In response, Mr. Munnis estimated a timeline from May 1 through September 30.

Brief discussion ensued as to the number of members with Mr. Munnis estimating 220 members with seating available in the building for 40 to 50 people.

Mrs. Gray inquired as to whether there are plans for additional outside lighting. In response, Mr. Munnis replied no, but then suggested that they may add a light outside of the door used to enter onto the patio.

Chairman Krzyzaniak suggested that there should be a contact person should problems arise as a result of the outside use. Mr. Munnis agreed, stating that he would be available anytime and the bartenders may be contacted. The bartenders are aware that should problems occur inside or outside of the building that they are to immediately contact the Police Department.

With regards to the horseshoe events, members of the various posts will go to other posts for events. Mr. Munnis estimated one to two horseshoe events per month to take place at the Contoocook site. It was estimated that between 20 to 25 members with a maximum of 40 people attending each event. The maximum in attendance would include players and those observing the events.

Chairman Krzyzaniak questioned who would be responsible during the events for enforcing the requirement that liquor remain within the fenced in area. Mr. Munnis stated that the person in charge of the event or the server will be responsible to insure that the rules are enforced.

There was no public testimony.

Motion made by Mr. Boatwright, seconded by Mrs. Gray, to vote on the application with the condition that the use of alcohol outside of the building shall be limited to the months of May 1 – September 30. Motion carried unanimously. With four members voting, all four voted in favor (Gray, Koontz, Boatwright, and Krzyzaniak) of approving the application with the above condition. The Board unanimously agreed that the Applicant successfully addressed the criteria to be granted a Special Exception in accordance with Section 15.8.2 of the Zoning Ordinance.

- II. Action to clarify its interpretation and understanding of uses permitted at St. Methodios' property, located at 329 Camp Merrimac Road in the R-2 (medium density residential) district, shown on Tax Map 202 as lot 8 –** The Board of Adjustment decided not to take any action until such time as a decision is made by the Superior Court on the pending appeal. Depending upon the outcome of the appeal, it may be unnecessary for the Board to take any further action, or any action it might take may need to take into account the Court's views on the matter.

III. Adjournment.

Motion made by Mr. Boatwright, seconded by Mr. Koontz, to adjourn at 8:45 PM. Motion carried unanimously. The next regular scheduled meeting of the Board is Tuesday, October 2, 2007, at 7:00 PM in the Town Hall.

Karen L. Robertson
Planning/Zoning Director

Pursuant to New Hampshire RSA 677:2, any party to the action or proceedings, or any person directly affected thereby, may apply for a rehearing. Application, in writing, must be submitted to the Zoning Board of Adjustment within thirty (30) calendar days beginning the date upon which the Board voted to approve or disapprove the application. Such a request must set forth the grounds on which it is claimed the decision is unlawful or unreasonable. The Board must decide to grant or deny the rehearing within thirty (30) days.