

**Hopkinton Zoning Board of Adjustment**  
**Minutes**  
**June 2, 2009**

Chairman Janet Krzyzaniak opened the Hopkinton Zoning Board of Adjustment meeting of Tuesday, June 2, 2009, at 7:00 PM in the Town Hall. Members present: Toni Gray, Harold Perkins, John Boatwright and Charles Koontz.

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**I. Applications.**

Case #: ZO2009-3: Deep Woods Extreme, Inc. Request for a **Special Exception** to hold a four-wheel drive truck show and rock crawl event at the Hopkinton Fairgrounds, located at 392 Kearsarge Avenue in the R-1 district, Tax Map 221, Lot 61. The application was submitted in accordance with Section 3.8.6 of the Hopkinton Zoning Ordinance.

Tammy Van Gemert, member of Deep Woods Extreme, addressed the Board explaining that the event proposed is in its eighth year with it being the sixth year at the Hopkinton Fairgrounds. Prior years, the number of people in attendance had not exceeded 1,000 people; therefore, there was no application submitted before the Board. However, last year, the attendance was estimated at between 800 – 900 people, so they did apply for the necessary permit.

While the attendance was less than 1,000 people, members of Deep Wood Extreme and the Hopkinton Fair Association thought that it would best to apply for the Special Use Permit in the case they exceed that number.

Mrs. Van Gemert advised the Board that the money raised last year was donated to CHAD (Children's Hospital at Dartmouth) and a local four-wheel drive association. All remaining funds were used to cover the actual expense of putting on the truck show and rock crawl event.

The event is considered a stadium-style four wheel drive competition. There are safety and technical inspections done to all vehicles. The Fire Department has staff on-hand during the show and event. Additionally, there are fire extinguishers on all vehicles and spill kits available.

In addition to the rock crawl event there is a truck show and shine event in which people bring in their trucks and park them in a designated area for showing. There are various categories and trophies awarded for this event.

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

"The use is permitted by Special Exception per section 3.8.6, non-fair uses, of the Zoning Ordinance."

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

"The Fire Department is aware of our event and emergency personnel are at the show. We also require safety equipment on vehicles such as fire extinguishers and kill switches."

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.

"This is a one day event that takes place at the Hopkinton Fairgrounds. This is the sixth year at the Fairgrounds. In the six years the only complaint received was that our DJ had played the National Anthem to loud."

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

"There is an increase in traffic; however, traffic is much less than that created from the Fair. We pull as many vehicles in through the gate as possible to avoid back-up in the street. The Police Department patrols the event and the area and there have been no concerns brought to our attention."

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

"Fire and EMS services are on-site during the event. In fact, the Fire Department has, over the years, decreased the amount of personnel."

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

"There is no change in storm water runoff anticipated. The event takes place in a designated area on the fairgrounds."

7. An appropriate location for the proposed use.

"We believe this is an appropriate location as the use is a non-fair use in accordance with section 3.8.6 of the Ordinance. This is the eighth year of the event and the sixth year at the Hopkinton Fairgrounds."

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.

"During the event there is a designated traffic pattern in which everyone must follow for safety purposes. Additionally, there are on-site personnel from the Fire Department and the Hopkinton Fair Association. This is a one-day event with set-up the weekend before and the event held on July 12<sup>th</sup> from 8:30 AM to 4:00 PM."

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

"We feel that this has been a positive event. We use our show to educate the public and four-wheel drive enthusiasts about our sport and responsible recreation. Part of our proceeds go to local charities such as CHAD."

Abutter Carol Breault, owner of property at 490 Kearsarge Avenue, addressed the Board with concerns of traffic and noise. She noted that it is one thing to have the Fair each year, but

the residents should not have to be exposed to the traffic and noise caused by the other events. Mrs. Breault mentioned that during the weekend in which the dog show was held at the fairgrounds the dogs barked constantly.

Mrs. Robertson informed the Board of a telephone conversation she had with Mrs. Breault with respect to her concerns with noise and traffic caused by events held at the Fairgrounds. During the conversation, Ms. Breault had noted that in the past the Fair Association had been good to her and that at the time she didn't feel it was appropriate for her to "complain".

Ms. Breault noted that, at one time, she had discussed her concerns about the loud speaker with the Police Chief and thought that he was going to address the issue.

Attorney Jack Crisp representing the Hopkinton State Fair Association addressed the Board advising that the Fair Association supports the rock crawl event. The event has taken place at the Fairgrounds for the past six years and they are not aware of any change in circumstances from the previous years.

Attorney Crisp advised of a pending matter between the Fair Association and Ms. Breault involving their property line; however, he believed the matter was not an issue before the Board.

Ann Breault of 490 Kearsarge Avenue informed the Board that she has lived at the property for approximately twenty years. She has horses and dogs and believes that it has become dangerous for her and her animals to walk along side the road due to the increase in traffic and the speeding along the street. Ms. Breault noted that the events over the years have become larger. She expressed concern with trash being thrown onto her property; her animals getting sick, and the proximity that vehicles park to her property line. Ms. Breault stated that the fact that they have not complained in the past or that there is an issue involving the boundary line should not take away from the fact that these concerns need to be addressed.

In response, Chairman Krzyzaniak stated that the concerns with traffic and speed is an issue in which the Breaults need to bring to address with the Police Department. If there was a concern then the Department Head would address the issue with the Town Selectmen.

Mrs. Carol Breault inquired about events at the Fairgrounds being allowed. In response, Chairman Krzyzaniak briefly explained the differences between a use being permitted by Special Exception or not permitted and requiring a Variance. She further explained that there are uses that require a Special Use Permit.

In rebuttal, Mrs. Van Gemert did not believe that it was her event that was causing the concerns of the abutter. The rock crawl and tuck show event does not use Kearsarge Avenue to access to the Fairgrounds, but rather uses the yellow and blue gates off of Park Avenue. All vehicles that participate at the event are street legal with the largest tire being 35-inches. She is not aware of anyone from her event "peeling out" when leaving the fairgrounds. The Police Department patrols the event during the day. In the past, the Fair Association has warned Deep Woods Extreme that there had been concerns with respect to speeding that involved another non-affiliated event, so that they should be aware of their speeds when traveling through Town. Mrs. Van Gemert noted that their first priority is to insure safety at all times.

In rebuttal, Attorney Crisp noted that the event has been on-going for the past six years. The Fair Association does not believe there are any changes proposed in how the event has been operated. Attorney Crisp stated that if there are concerns from any abutter, then the Fair Association would be willing to work with them.

Public testimony was closed.

Mrs. Gray believed that the Applicant had more than adequately addressed the criteria for Special Exception and Special Use Permit. She suggested that the minutes of the meeting be provided to the Police Department, so that they are made aware of the neighbors concerns. All members concurred.

Motion was made by Mr. Boatwright, seconded by Mr. Perkins, to vote on the application as presented. Motion carried unanimously. With five members voting, all five voted in favor (Gray, Perkins, Boatwright, Koontz and Krzyzaniak). The Applicant adequately addressed the standards set forth in paragraph 3.8.6 which included addressing the criteria for a Special Exception set forth in paragraph 15.8.2 of the Zoning Ordinance.

Case #: ZO2009-4 Emily Lucas and Nathan Nichols Request for a **Special Exception** to raise poultry at property located at 174 Park Avenue in the R-1 district, Tax Map 225, Lot 75. The application was submitted in accordance with Table of Uses 3.6.D.2 of the Hopkinton Zoning Ordinance.

Ms. Lucas and Mr. Nichols addressed the Board explaining that they propose to raise no more than twelve laying hens in an existing outbuilding that strongly resembles a chicken coop.

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

"Agricultural practices, including raising laying hens, is permissible through Special Exception provided the proposal is consistent with the Table of Uses as defined in the Zoning Ordinance, section 3.6 and the definition of Agriculture (2.1.A.4)."

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

"The hens will be housed in an existing agricultural structure on the premise. The structures are noted on the tax card for the property."

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.

"As stated before, there is no change in structure or detriment to property values. The chickens will be raised in accordance with the Best Management Practices for Agriculture (UNH Cooperative Extension). The outdoor pen will be screened with native vegetation and designed to blend with the environment."

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

"There will be no change in traffic as a result of the hens."

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

"No additional demand on utilities. Rainwater collection systems will provide water and the manure will be composted for garden fertilizer."

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

"Our proposal will result in no increase of stormwater run-off. The hens will be housed in an existing agricultural structure located on the property."

7. An appropriate location for the proposed use.

"The hen house will utilize an existing structure."

Mr. Nichols referred to a map of the property indicating the location of the existing structures as it relates to the property lines.

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.

"Our proposal will not adversely impact the health or safety of residents or others. The hens will be quiet and safely contained. The manure will be composted on site and recycled in our gardens. There will be no roosters at the property."

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

"The property is zoned residential. The boundaries are vegetated and secluded from neighbors. The hens will promote sustainable living practices and local community spirit."

Mrs. Gray informed Ms. Lucas and Mr. Nichols that they would need to come back before the Board should they decide to have roosters at the property, since that would be different from what is being reviewed this evening. Furthermore, there may be a concern with respect to noise. Ms. Lucas and Mr. Nichols indicated that they understood, but have no plans to have roosters at the property.

A butter AI Waite of 177 Park Avenue addressed the Board in favor of the application. Mr. Waite and Chairman Krzyzaniak recalled that the property had once been used as a chicken farm. Mr. Waite was pleased that there would be no roosters and the number of hens would be limited.

Mr. Koontz believed that the Applicant had adequately addressed the criteria for Special Exception and that the Applicant is fully aware that there should be no more than twelve laying hens with no roosters at the property. All members concurred.

Motion was made by Mr. Perkins, seconded by Mr. Boatwright, to vote on the application as presented. Motion carried unanimously. With five members voting, all five voted in favor (Gray, Perkins, Boatwright, Koontz and Krzyzaniak). The Applicant adequately addressed the criteria for a Special Exception set forth in paragraph 15.8.2 of the Zoning Ordinance.

**II. Review of the Minutes and Notice of Decision of April 7, 2009.**

Mr. Perkins, seconded by Mr. Gray, moved approval of the April 7, 2009 Minutes as presented. With five members voting, four voted in favor (Gray, Perkins, Boatwright, and Krzyzaniak) and one voted in abstention (koontz). *Note: Mr. Koontz was not present at the April 7, 2009 meeting.*

**III. Adjournment.**

With no other business to come before the meeting, motion was made by Mr. Perkins, seconded by Mr. Boatwright, moved to adjourn at 8:04 PM. Motion carried unanimously. The next regular scheduled meeting of the Board is Tuesday, July 7, 2009, at 7:00 PM in the Town Hall.

Karen L. Robertson  
Planning/Zoning Director

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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.