



Town of Hopkinton

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HOPKINTON ZONING BOARD OF ADJUSTMENT MINUTES MAY 3, 2016

Members present: Chairman Daniel Rinden, Toni Gray, Charles Koontz, Jessica Scheinman and Gregory McLeod. Staff present: Planning Director Karen Robertson.

Note: The Zoning Board of Adjustment's Rules of Procedure was available during the application process and additional copies were available at the meeting for the general public.

- I. **Call to Order.** Chairman Rinden called the meeting to order at 5:30 PM in the Hopkinton Town Hall.
- II. **Application(s).**

Special Exception (#2016-03), Alexander M. & Jeannette H. Klan, 2201 Hopkinton Road, Tax Map 240, Lot 3, R-3 District. Applicant proposes to operate a Home Business for the production and sale of cast stone garden ornaments, figurines, planters and related products. The application was submitted in accordance with Zoning Ordinance Table of Uses 3.6.

Applicant's response to the criteria for a Special Exception as outlined in Section XV of the Zoning Ordinance was as follows:

1. **Standards provided by this Ordinance for the particular use permitted by Special Exception.** "Producing and selling cast stone planters and ornaments and related products in a small shop. Even though the production process is very safe not endangering the equipment operator or the environment the owners/operators have identified all unlikely but possible hazards. Main hazards are dust for the equipment operator and injuries during lifting or tipping of figurines as they are cast stone and they are very heavy."

Home businesses are permitted by Special Exception per Table of Uses 3.6.H.16.

2. **No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials.** "The production process is not hazardous to the environment, public or adjacent properties. As the main ingredients are sand, cement and water, there is no danger of fire or explosion. Toxic materials are not used therefore cannot be released."
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.** "The production does not need any special buildings other than what is existing on the property. All existing structures parking areas and access ways will be used; no addition needed which could affect any property values."

Subject to review and approval.

No odors emitted, dust emission during the production process is very little and is maximum affecting an area of 5-10 feet around the cement mixer as well as a small vibration table. Noise is way less than a motor lawn mower.”

- 4. No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity.** “Production does not affect the traffic. For the shop, as the house was a hotel/inn at one time. There is sufficient parking areas on the property, and the access to the main road is good. Therefore, no increased safety hazard or congestion to the road traffic is expected. We are expecting a customer flow of 5 to 50 cars maximum to stop at the shop, daily, during the summer months. In winter, due to seasonal products there will be most likely no production and customer traffic in the shop will be reduced.”
- 5. No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection, and schools.** “The property uses well water, and sewage is not produced in the production. Waste is not excessive as all raw materials are used, broken products will be used as landfill. No police and fire protection is needed as the process is not hazardous.”
- 6. No significant increase of storm water runoff onto adjacent property or streets.** “There will be no changes to the infrastructure of the property so no changes in water flow off the property. The property is lower than the main road; therefore, no disturbance of the traffic is anticipated.”
- 7. An appropriate location for the proposed use.** “The production does not need much space. Curing the molds needs to occur on even ground, which can be anywhere on the property. During good weather periods the production will be outside and on rainy days, if productions needs occur, it will take place in the barn. The shop will be integrated in the barn which is attached to the main house.”
- 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.** “Next neighbors are about 50 yards away. As described above, no dust will reach out to their property. Production will also not be on a daily basis. The neighboring properties will not be affected.”
- 9. In the public interest and in the spirit of the ordinance.** “Located directly at the Currier and Yves Byway, we think a business like this would slow down tourists along the road and may encourage them not only to shop locally with us, but also to check-out the surrounding businesses. The product created is unique for New Hampshire and this area, which also might attract people to Hopkinton/Contoocook.”

Mr. and Mrs. Klan explained the process by which they had operated their business in Europe, prior to moving to the United States. Currently, the Klans deliver smaller stone products to boutiques/shops that are sold on consignment. They anticipate continuing to do so, along with selling their merchandise at Farmer’s Markets and Flea Markets.

Chairman Rinden opened the public hearing portion of the meeting with Abutter Michael Martin questioning whether the use is permitted in the area. He noted the number of items that are currently displayed/visible from the street; suggesting that this may be in violation of the Ordinance.

Mr. Martin expressed concern with the potential impact that the run-off from the waste cement

will have on his property. He suggested that the remains of an old septic system used by the Klan's property is partially located onto his property. Therefore, he is concerned with the impact that the residue from washing the stone figures may have on his property.

Lastly, Mr. Martin believed that the location of the access/egress from the property may be dangerous as it is located at the top of the hill and on the sharp curve that along Hopkinton Road.

In response to Mr. Martin's comments, Mrs. Klan explained how the products are developed from old molds that they had purchased while in Europe. The cement comes from regular bag of cement that can be purchased at any hardware store. The process involves using a small cement mixer, sand, water and other natural ingredients, such as buttermilk and/or moss. There are approximately ten (10) or so molds poured at one time, and it can take up to three (3) weeks, depending upon the size of the figurine, for the cement to cure. With the exception of very small items, urns, fountains and statues are usually not made unless ordered by a customer. There are no hazardous materials or products used in the process of making the stone products. Furthermore, if there is any stone residue it is used in the construction of a concrete path to the shop.

Mr. and Mrs. Klan did not believe there would be any traffic safety hazard as their home was used, many years ago, as an inn. There have been vehicles coming and going from the property for many years.

Mr. Charles Gangel addressed the Board speaking in favor of the application. Mr. Gangel suggested that the Town should make every effort to assist people, like the Klans, in developing their craft. He believed it the Klan's business will be a great asset to the Town.

Abutter George Schell addressed the Board in favor of the application.

Mrs. Gray noted that the Applicant will go before the Planning Board for Site Plan Review. At which time, the Planning Board will review concerns raised with respect to traffic and sight distance.

Brief discussion ensued concerning the number of products made from the business that are on display in the front yard of the property. Mrs. Klan noted that many of those products are their own personal stone items. That being said, all members of the Board agreed that the number of personal items that are products from the business will need to be limited. Mr. Koontz noted that to operate a home business there can be no goods visible from the street. In response, Mr. and Mrs. Klan agreed to limit the number of personal items, which are products of the home business, to no more than ten (10).

Charles Koontz, seconded by Toni Gray, motioned to **APPROVE** the application for Special Exception (#2016-03) with conditions. Motion carried unanimously in favor (Gray, McLeod, Koontz, Schienman, and Rinden). The Applicant successful addressed all conditions to be granted a Special Exception and requirements for a Home Business as outlined in sections III and XV of the Zoning Ordinance.

Conditions of approval as follows:

1. Site Plan Review by the Planning Board shall be required.

2. Immediately following issuance of the Use Permit, all manufacturing and retail items, including associated material and equipment, must be located within the barn.
3. In the front of the property, there shall be no more than ten (10) personal items that are products of the Home Business.
4. The hours of operation of the Home Business shall be limited to 10 AM – 7 PM, Mondays – Sundays.
5. The ingredients of the products shall be as represented by the Applicant.

Special Exception (#2016-04), Hopkinton State Fair Association, 329 Kearsarge Avenue, Tax Map 222, Lot 61, R-1 District. Applicant proposes, annually, to erect two (2) 4' x 8' signs advertising the Hopkinton State Fair. The application is submitted in accordance with Zoning Ordinance Section 7.8 (c).

Karl Thulin, Director of the Hopkinton State Fair, addressed the Board explaining that the signs that will be utilized are the same as was previously used to announce the celebration of the Hopkinton Fair's 100th anniversary. It is anticipated that the signs will be erected after Memorial Day and removed shortly after the Fair, each year.

For the record, the written response for a Variance as outlined in Section XV of the Zoning Ordinance was as follows:

1. **Standards provided by this Ordinance for the particular use permitted by Special Exception.** "Section 7.8.2(c) Signage is allowed by Special Exception."
2. **No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials.** "Sign is professionally created and meets conventionally accepted safety guidelines. Same sign was previously approved and installed when celebrating our 100th anniversary fair."
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.** "Tastefully designed signage to welcome guests to our annual fair."
4. **No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity.** "Signage only. Not applicable."
5. **No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection, and schools.** "Signage only. Not applicable."
6. **No significant increase of storm water runoff onto adjacent property or streets.** "Signage only. Not applicable."

7. **An appropriate location for the proposed use.** “Signage will highlight green and yellow fair entry portals (access gates to fair); reminding those that enter the fair of the number of years that the fair has been operating.”
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.** “Signage only. Not applicable. Same sign will be used that was previously approved and installed in celebration of the fair’s 100th anniversary. Each year the number of years and anniversary will change.”
9. **In the public interest and in the spirit of the ordinance.** “In the public interest and spirit of the Ordinance to provide guests with tastefully designed signage with information as to the number of years of operation of the Hopkinton fair.”

There was no one in the audience to offer public testimony.

Greg McLeod, seconded by Jessica Sheinman, motioned to **APPROVE** the application for Special Exception (#2016-04) as presented. Motion carried unanimously in favor (Gray, McLeod, Koontz, Schienman, and Rinden). The Applicant successful addressed all conditions to be granted a Special Exception as outlined in section XV of the Zoning Ordinance.

III. Review of the Zoning Board of Adjustment Minutes and Notice of Decision of February 4 and April 5, 2016.

Toni Gray, seconded by Daniel Rinden, motioned to **APPROVE** the Minutes and Notices of Decision as presented. Motion carried in the affirmative.

IV. Adjournment.

Gregory McLeod, seconded by Toni Gray, motioned to **ADJOURN** the meeting at 6:55 PM. Motion carried in the affirmative. The next regular scheduled meeting of the Hopkinton Zoning Board of Adjustment is at 5:30 PM on Tuesday, May 23, 2016, at the Hopkinton Town Hall.

Karen Robertson
Planning Director