



Town of Hopkinton Planning Department

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HOPKINTON ZONING BOARD OF ADJUSTMENT MINUTES MAY 7, 2019

Members present: Chairman Daniel Rinden, Toni Gray, and Jessica Scheinman.

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

At this time, all applicants were given an opportunity to post-pone review of their applications as there were only three (3) members of the Board present. As a result of discussion, the applicants agreed to move forward with their proposals.

- II. **Applications.**

#2019-02 James Laboe addressed the Board to request a Special Exception to construct an access way (driveway) and associated utilities, crossing four (4) wetland areas on two (2) lots, to a single-family residence. The properties are located off Crowell Road, owned by James and Julie Laboe and Delbert Kilpatrick, in the R-4 district, shown on Tax Map 259 as Lots 1.1 and 1.2. The application was submitted in accordance with Zoning Ordinance 12.7.2.

Mr. Laboe explained his intentions in constructing a single-family residence, and the need to construct an access way (driveway) that extends over two (2) lots, due to the configuration of the property in relations to existing wetlands. The proposed driveway will be approximately 1100 feet in length and cross four (4) wetlands classified as intermittent streams.

Mr. Laboe has worked with a wetland scientist to review the property and assist in submitting a wetland application for approval by NH Department of Environmental Services. Approval was granted on January 31, 2019. As a result, four (4) culverts will be installed. Two (2) corrugated culverts and two (2) clear-span concrete culverts. Furthermore, according to Mr. Laboe, the Hopkinton Conservation Commission was involved early in the process for NH DES approval and had no objections.

Chairman Rinden questioned whether the design of the driveway extends over both lots. Mr. Laboe replied yes, explaining that the driveway will be primarily on Lot 1; however, it will slightly travel onto an area of Lot 2. The new residence will be constructed on Lot 1.

Chairman Rinden suggested that if a residence were constructed on Lot 2, the driveway will be shared with Lot 1. Mr. Laboe agreed.

Subject to review and approval.

At this time, the Board reviewed with the Applicant the route of the driveway, crossing over two (2) lots to get to the proposed new home site on Lot 1.

Mr. Laboe'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.** "Driveways and utility right-of-way easements are permitted by Special Exception per Zoning Ordinance subsection 12.7.2(a)."
2. **No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials.** "The installation of the driveway and utilities will not expose the public nor adjacent property owners to any potential fire, explosion or release of toxic materials."
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 installation of a driveway and utilities to serve a single-family home will not have a detrimental effect on property values."
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 significant increase in traffic due to a single-family home."
5. **No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection, and schools.** "There will be no excessive demand on municipal services due to a single-family home."
6. **No significant increase of storm water runoff onto adjacent property or streets.** "There will be no significant increase in stormwater runoff."
7. **An appropriate location for the proposed use.** "This is the most efficient and least impactful location for the proposed use."
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.** "Installing a driveway and utilities for a single-family home will not be detrimental to the use or development of neighboring/adjacent properties."
9. **In the public interest and in the spirit of the ordinance.** "Installing a driveway and utilities for a single-family home is in accordance with the residential neighborhood."

Chairman Rinden asked for further details about the construction of the driveway. In response, Mr. Laboe stated that the culverts have been designed. The installer of the driveway will follow standard practices for stump and grub, and removal of organic materials. Then, the driveway will be constructed using typical driveway pack. A Driveway Permit was approved by the Director of Public Works, and the length of the driveway was discussed with the Fire Chief, who had no concerns.

Mr. Laboe noted that the Wetland Permit from the State prohibits the installation of the culverts until after receipt of the septic approval, which has since been approved. Furthermore, the Wetlands Permit requires that the installation of the culverts be done at “low flow”. Mr. Laboe explained that the Wetland Scientist has indicated that once there is a “leak” there will be a significant low flow of water. They hope that this will occur by the end of May.

Ms. Scheinman questioned the distance from the third (abutting) lot to the proposed driveway. Mr. Laboe estimated 50-feet.

Toni Gray asked about combining the two (2) lots owned by the Applicant. Mr. Laboe said that they had considered it but liked the option of selling the second lot.

Chairman Rinden inquired about the total number of acres of the property. Mr. Laboe responded that both lots combined total 39 acres.

Chairman Rinden declared the public hearing portion of the meeting closed; at which time, the Board began deliberations.

Ms. Scheinman and Mrs. Gray both indicated that the Applicant had satisfied the criteria for a Special Exception.

Toni Gray, seconded by Jessica Scheinman, moved to **APPROVE** Application #2019-02 as presented. Motion carried in the affirmative (Gray, Scheinman, and Rinden). The Applicant successfully addressed all criteria to be granted a Special Exception as outlined in Section XV of the Zoning Ordinance.

#2019-03 Darragh Madden addressed the Board for a Special Exception to change a non-conforming use from manufacturing of solar panels and associated equipment to electrical prefabrication or other light manufacturing, assembly, or storage. The property is located at 672 Currier Road, owned by Irish Holdings, LLC, in the R-4 district, shown on Tax Map 258 as Lot 18. The application was submitted in accordance with Zoning Ordinance 5.3.1.

Mr. Madden explained the history of the businesses that have operated from the property, such as Lett Manufacturing, who had manufactured gun parts, and Sundance Solar, who had manufactured and assembled solar panels and associated equipment. He noted that his business, Irish Electric, owns the building across the street that had also been used by Lett Manufacturing.

Mr. Madden explained his intentions of preassembling light fixtures. The fixtures will be shipped to the property for assembly and/or fabrication. The fixtures will then be stored at the property, until they are ready to be installed. He suggested that this process will allow for flexibility and quicker installations. At this point, Mr. Madden reviewed the pre-fabrication and assembly processes for light fixtures.

The Applicant’s written 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.** “The Ordinance provides for the change from one non-conforming use to a new non-conforming use (subsection 5.3.1).”
2. **No hazard to the public or adjacent property on account of potential fire, explosion or release of toxic materials.** “Changing the use to light manufacturing and assembly will not increase risk of public hazards.”

Ms. Scheinman assumed that the materials to be stored are not hazardous or no more hazardous than the materials used in the previous operation. Mr. Madden agreed.

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.** “We plan to improve the look of the property by performing cosmetic upgrades. The property will look significantly better than it does now. The proposed use of light manufacturing will not cause any odor, dust, gas, or other pollutants.”
4. **No creation of a traffic safety hazard or a substantial increase in the level of traffic congestion in the vicinity.** “This is not a retail operation. There will be no substantial increase in traffic and presently exists.”
5. **No excessive demand on municipal services, including, but not limited to, water, sewer, waste disposal, police and fire protection, and schools.** “The property has its own well and sewer system and will be used for business purposes. Installing a new septic system.”
6. **No significant increase of storm water runoff onto adjacent property or streets.** “We are not making any structural changes to the property; therefore, the runoff should not change.”
7. **An appropriate location for the proposed use.** “The building was used by Lett Manufacturing for at least 30 years, and then by Sundance Solar. We are keeping with the light manufacturing theme.”

Ms. Scheinman asked when Sundance Solar had stopped using the property. Mr. Madden responded that they had moved from the property in November of 2018.

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.** “We are not proposing any major changes that will affect the health or safety of the residents.”
9. **In the public interest and in the spirit of the ordinance.** “The Ordinance allows changing from one non-conforming use to another. We plan to improve the building to provide space for business opportunity in Hopkinton.”

Chairman Rinden noted that there appeared to be sufficient parking. Mr. Madden agreed, indicating that there are 12 existing parking spaces with room for approximately 20 spaces. Mr. Madden reviewed a site plan he had submitted with his application.

Chairman Rinden asked Mr. Madden if it is his intentions to rent out the space. Mr. Madden explained that, at the present time, he will be using the space for Irish Electric.

Ms. Scheinman inquired about the narrative attached to the application that indicates that there is an interest in possibly renting the space. Mr. Madden responded by explaining that he had wanted to keep his options open. Prior to purchasing the property, he had planned to start a prefabrication shop. Then, the Sundance Solar property became available.

The narrative references the possibility of renting the property out to "...a light manufacturer (i.e., kitchen and dining products, beauty or personal care, household sundries, baby goods, etc.)". Mr. Madden suggested that a light manufacturing use would be similar to YAYA Organics and its operation. While he plans to use the space for prefabrication, assembly, and storage of light fixtures, he wanted to keep his options open to renting the property for light manufacturing.

Ms. Scheinman asked Mr. Madden if he was asking the Board to approve the application for general, unknown, light manufacturing, or for the storage and assembly of the light fixtures for his business. Mr. Madden's response was that he wanted to have the option of renting the space to a business that may assemble light fixtures or kitchen cabinets. The narrative included examples of the several types of light manufacturing that may take place at the property.

Ms. Scheinman expressed concerned in granting approval for light manufacturing but having no way of knowing whether the use is similar to the previous non-conforming use. She suggested that tenants interested in using the building should come back before the Board to show that the use is not substantially different. Mrs. Gray concurred.

At this time, Board members reviewed the Zoning Ordinance for a definition of light manufacturing or similar uses in the Table of Uses to determine the types of light manufacturing that may take place at the property.

Ms. Scheinman asked Mr. Madden if he believed that the words "light assembly" would cover what he is proposing to do at the property. In response, Mr. Madden suggested that once the word "manufacturing" is no longer used the ability to have the use is lost for good. He believed that manufacturing is in keeping with what was previously approved.

(Note: There was no public comment concerning the proposal.)

Again, the Board reviewed the various uses listed in the Table of Uses to find the correct terminology for what Mr. Madden was proposing.

Ms. Scheinman suggested that the approval of assembly of lights is similar to what was previously operated at the property. Any other use would need to come back before the Board to determine whether the proposed use is a similar non-conforming use.

Chairman Rinden suggested that if the manufacturing resulted in changes that affected the special exception criteria, then the Applicant would need to come back before the Board.

The Board members agreed that the Applicant had satisfied the criteria for a Special Exception and that the Applicant's proposal is a similar non-conforming use from the use operated by the solar panel business.

Toni Gray, seconded by Jessica Scheinman, moved to **APPROVE** Application #2019-03 with the following conditions:

- 1) That the approval is for a use that is not substantially different from the solar panel business (Sundance Solar);
- 2) That the proposed use is a similar non-conforming use from the solar panel business, and
- 3) That the use includes storage and assembly of light fixtures on the property.

Motion carried in the affirmative (Gray, Scheinman, and Rinden). The Applicant successfully addressed all criteria to be granted a Special Exception as outlined in Section XV of the Zoning Ordinance.

II. Approval of meeting Minutes and Notices of Decision for February 5, 2019.

Toni Gray, seconded by Jessica Scheinman, moved to conditionally approve the Minutes of February 5, 2019, absent changes or revisions by Jonathan Eck. Motion carried in the affirmative (Gray, Scheinman, and Rinden).

All members voted in favor of approving the Notice of Decision of February 5, 2019, as presented.

II. Adjournment.

Chairman Rinden, seconded by Toni Gray, moved to **ADJOURN** the meeting at 6:38 PM. Motion carried unanimously in the affirmative. The next regular scheduled meeting of the Hopkinton Zoning Board of Adjustment is at 5:30 PM on Tuesday, June 4, 2019, at the Hopkinton Town Hall.

Karen Robertson
Planning Director

Ordinance §15.10. "Representations made at the public hearing or material submitted to the Board by an applicant for a special exception or variance concerning features of proposed buildings, structures, parking, or uses which are subject to regulations pursuant to subsection 15.8.2 or 15.8.3 shall be deemed conditions upon such special exception or variance."