

**TOWN OF CHESTERFIELD, NH  
ZONING BOARD OF ADJUSTMENT**

**MINUTES  
March 18, 2014**

**Present:** Vice Chairman Andy Cay, Harriet Davenport, Renee Fales and Alternate Kristin McKeon

**Absent:** Lucky Evans, John Perkowski and Burt Riendeau

The Zoning Board of Adjustment met at the Chesterfield Town Office on March 18, 2014. Cay opened the meeting at 7:33 p.m. and explained the process of the meeting.

- 1. Donald and Mary Mackey Living Trust** request a variance from Article 203 Section 4 & 6 to exceed the current square footage non-permeable percentage by an additional 121 square feet. The property is located at 96 North Shore Road, Spofford, NH 03462 (Map 5D Lot B2) Residential/Spofford Lake District (Continued from November 12, 2013)

Voting on this application will be Cay, Davenport, Fales and McKeon.

Mackey stated the he didn't complete the addition from the variance the he received in 2011 but he did modify the patio. The main interior living area of the house opens by a slider to the existing deck. The deck comes out five feet in depth from the house, with a 19 foot permanent bench. Mackey stated that there is much less square feet being requested than in the original variance requested, approximately 121 square feet. Mackey would like to add seven feet to the existing, to make it 12 feet. It's not a true rectangle. It is 19 feet at its widest point and seven feet running along the front of the house to accommodate people coming out of the slider on to the deck. Mackey stated that his builder suggested that 10" sonar tubes be used under the deck. The previously approved addition was 14x16 feet. The previous net reduction in coverage was 198 square feet in the prior ruling. 172 square feet of slate was taken out. McKeon stated that Mackey is asking for less a variance that it less than the first variance was. Mackey stated that the work was not done from the variance that was requested in 2011. The original addition request was for 144 square feet of 9x16 feet. The current plan is to make the lot more conforming and less non compliant by taking away more than was is being added.

*McKeon moved to close the public portion. The motion was seconded by Davenport, which passed unanimously.*

*Fales made a motion to approve the variance requested by Donald and Mary Mackey at 96 North Shore Road in Spofford, NH for a request from Article 203, Section 4 & 6 of the Chesterfield Zoning Ordinance to allow for a deck as presented, that is 7x19, with a corner taken off, so the total area of impermeable coverage is 121 square feet. Previously Mr. Mackey had come before the board on April 12, 2011 and requested a variance for an addition by taking away some slate, impermeable coverage and putting on a one story addition. He has decided,*

since then just to do the deck portion of that. He has taken away 172 square feet of slate, impermeable coverage and will be adding 121 square feet of impermeable coverage of the deck.

Criteria for approval:

- *The variance is not contrary to the public interest. Yes, he is taking away impermeable coverage and adding a lesser amount. He went from 172 to 121.*
- *The variance will not be contrary to the spirit and intent of the ordinance will be observed. Yes, he has taken away from the impermeable coverage and there is a net of less amount of impermeable coverage with this deck.*
- *Substantial justice is done. Yes, the deck will be more usable for him and his wife. Adding the larger size will allow table and chairs to enjoy the outdoors.*
- *The variance will not diminish the values of surrounding properties. Yes, the deck is not going to be in anyone's line of sight and does not add height to the house, therefore, will not impact the value of other houses.*
- *Literal enforcement of the ordinance would result in unnecessary hardship.*
  - (A) *Because of the special conditions of the property that distinguish it from other properties in the area:*
    - (a) *There is no fair and substantial relationship between the general public purposes of the ordinance provision and the specific application of that provision to the property. Yes, since he is taking away more impermeable coverage he is putting on, that is justified.*
    - (b) *The proposed use is a reasonable one. Yes, it is reasonable to have a deck to be able to enjoy, rather than the narrow walkway he has, at the moment. They will be able to have tables and chairs out there.*

McKeon seconded the motion.

The vote was called.

The motion carried unanimously.

2. **Kevin Blake Amacker** requests a special exception from Article II, Section 206.3, to allow the building to be used to germinate, malt, dry, mill, ferment, distill, age and bottle spirits for retail sale. The property is located at Lyman Way, W Chesterfield (Map 14 Lot A11.2) Commercial/Industrial District

Voting on this application will be Cay, Davenport, Fales and McKeon.

Amacker gave the background of his work as a distiller. Amacker is requesting to start a Copper Cannon Distillery in Chesterfield. His goal is to produce between 1,000 to 10,000 cases of alcohol per year for distribution, which consists of six bottles per case. The retail space will be approximately 350 square feet. The base unit, base of the barn is 2,500 square feet. The second floor is approximately 1,700 square feet with a third tier is approximately 150 square feet. There will be either one or two employees at this location, with low traffic expectation. The hours of operation will be approximately 10:00 a.m. to 3:00 p.m. with actual operations will be done from 5:00 p.m. to 11:00 p.m.

Germination will be performed at this location by laying out 1-1/2 to 3-1/2 inches of seed, being corn, barley or rye. That will be dried by forced hot air for the malting process. The grain will be frozen at this stage. This process creates enzymes to break down the sugars. The lower level sugar odors are used to create the alcohol. Amacker plans to purchase grain locally. The molasses will be purchased from Louisiana. The byproduct, when separating the beer from water, will be a grain mash, minus the alcohol and will barrel it into 250 gallon drums and give that to local farmers, with very low alcohol content. The other contents will be barreled from six months to five years, depending on what the end product for taste.

Amacker does not plan to have any outdoor lighting. He will have 4-9 products of a clear rum, an aged rum, a spiced rum, a rye whiskey, both a clear whiskey and an aged whiskey and move into possibly bourbons.

Amacker stated that the germination consists of drying and milling. The milling will be contained within the building. There will be proper ventilation for the milling. Amacker added that there should be minimal noise. There should be odors similar to Elm City Brewery. There will be a more distinct odor from the distillery in the distilling process but it should not escape the building.

The distillery won't consist of boiling off a flame but will be a steam boiler and will not have an open flame, which will produce 120-150 proof alcohol. That alcohol will be barreled and aged for a period of time. It will be bottled, packaged and shipped.

Mike Bentley stated that the property for the distillery is owned by David Gale on Lyman Way, being a private road. Bentley suggested that there may be a private road maintenance agreement. Bentley added that the applicant is here because requirements of 206.3 requiring a special exception for manufacturing, which will get you to 601.3. Therefore the special exception authorized is under 206.3 of not being injurious or detrimental to the neighborhood. James Loney, abutter to the property, stated that he speaks in favor of this project and does not find the process objectionable. Bentley stated that he is not aware of any demands on municipal services, other than the normal police protection. Bentley added that he doesn't foresee any generated traffic volumes, with the potential 350 square feet and sees no adverse impact on the natural environment, with all the work being done within the building.

Bentley stated that Amacker will still be required to work with the Planning Board for site plans. He feels that this would be a perfect facility for this type of operation, especially because of the clearances within the building.

Amacker will be installing fire protection in the building. Per TTB regulations, the liquor will be stored on the second floor of the building, under conditions of the calculations of engineering, prior to using the second floor for storage.

Amacker stated that the signage will consist of a 32 square foot sign attached to the front of the building. He added that there will be no hazardous materials on site. Amacker has a preliminary lease with David Gale on the building, waiting for the approvals from Zoning and the Fire

Marshall. He added that it will take approximately three to six months go get his permits from the federal government to make spirits, after he has met with the Planning Board.

Amacker stated that he is working with boiler companies to determine if the boiler will be electric or propane.

Cay stated that the special exception request is for the distillery permit only. The type of business cannot change under this special exception request.

*McKeon made a motion to close the public portion and it was seconded by Davenport.*

*Fales made a motion to approve the Special Exception for Kevin Blake Amacker for Section II of 206.3 for Special Exception to allow a distillery at Lyman Way, property and barn owned by David Gale.*

*Criteria for Special Exception are found in Section 601.3.*

- A. The special exception is specifically authorized by Article II of this ordinance. Section 203.6 authorizes this as a place of manufacture as a place of manufacturing, assembly, testing or packaging of goods.*
- B. The proposed use will not be injurious or detrimental to the neighborhood. All of the distillery and processes involved will all take place within the building. There will be no odors or waste on the outside of the building. It will all be placed inside the building*
- C. Any special conditions required by Article II, Article III or Article V will be complied with.*
- D. The proposed use will not make an excessive demand on municipal services. The road of Lyman Way is currently a private road.*
- E. The proposed use will not generate traffic volumes that will overburden existing roads and streets. It will be a small retail operation at this time.*
- F. The proposed use will not have an adverse impact on the natural environment. The applicant has stated that his waste will be given to farmers for feed and there will be no odors from his distillery operation.*

*Davenport seconded the motion.*

The vote was called.

*The motion carried unanimously.*

**3. Nine A LLC** request a variance from Article II, Section 203.6a, to allow a five (5) unit cluster subdivision in the Spofford Lake District. The property is located at Route 9A, Spofford (Map 5K Lot B3, Map 5N Lots B1, B2, and B9) Residential/Spofford Lake District.  
***CONTINUATION REQUESTED FOR APRIL 8, 2014***

**4. Planning Board Letter – Presented by Brad Chesley, PB Chairman & James Corliss, PB Vice Chairman**

Chesley stated that he is not at the meeting to discuss Nine A LLC. Cay asked if their letter pertained to a particular case and Corliss and Chesley replied “no”. Corliss added that the letter

relates to Chesley and Corliss attempting to be helpful and asking for further information in complex cases that end up going to the Planning Board. Cay asked Chesley and Corliss if they recognize that they are here as citizens and not as Planning Board representatives. Corliss stated that they are here on behalf of the Planning Board. Cay replied that they are not. He added that Corliss and Chesley are standing before this board, if they want to be on the agenda as citizens. Cay stated that they could request a joint meeting between the boards. Cay stated that this board is empowered to do four things: the board does variances, administrative appeals, equitable waivers and special exceptions. Corliss stated that they are not asking the Zoning Board to make a decision. Cay replied that they are here for consultation and we don't do consultations. Chesley inquired as to the procedures to share information between two boards. Cay replied a joint meeting and that would be chaired by the chairman of the Planning Board. Cay added that it could be case specific or it could be policy related; it could be broad in discussion, if it's case specific, then it has to be a noticed meeting.

Corliss presented the letter to each Zoning Board member. Cay stated that he sees the language about cluster development and he felt that it is about Nine A. Cay instructed the board members to give the letters back to Corliss. Cay stated that he will invite Corliss back to next month's hearing but technically they shouldn't be on the agenda because this is not one of the four things that we do. Cay added that we don't do consultations and we don't do consultations if they are remotely related to a case, but we will hear Corliss's testimony at the hearing next month.

Chesley inquired that if two boards want to have better communication or better relations to discussions that may come to the Planning Board and it may be a little gray when it comes to the Planning Board, the Planning Board wants to get clarification. Cay agreed that the boards need to be able to compare notes and have good operating policies and procedures. He added that it needs to be done under the venue of a joint meeting. In the joint meeting, if it isn't regarding a specific application, we have to be guarded about talking about something specific, such as, cluster subdivision, if that's the subject matter that's before us right now. Chesley asked if the Zoning Board can deny a meeting, if this type of meeting is requested, is it optional. Cay replied that both boards have to agree but the Zoning Board would appreciate respect of a request like that, that would be chaired by the Planning Board chairman and it would be a public session and it needs to be non specific to a particular case. Cay stated that it doesn't need to be an application; it can be a rules and procedure discussion. Corliss stated that it would give a clearer picture of what are the limits of the Zoning Board decisions with more detail decisions.

Chesley stated that the Planning Board would like to have more specifics on variances granted by the Zoning Board of what the applicant needs to do or not do, instead of just granting the whole regulation. Cay replied that an application is granting relief for a very specific thing. He added that applicant has to operate within the confines of the variance that was granted, which is fact specific of their presentation. If an entirely different site plan is brought to the Planning Board, other than what is approved by the Zoning Board, that issue might get raised. Cay stated that it's incumbent on the Planning Board to dig deeper than just a two paragraph notice of decision and to look at the file to understand context of what the decision included, if the matter is before the Planning Board.

**5. Review February 11, 2014 Meeting Minutes**

Cay suggested that the minutes be discussed at the April 8, 2014 meeting.

**6. ZBA Rules of Procedure**

Cay stated that he feels that a separate document for Rules of Procedure needs to be created. It will need to be voted by the Town to change it. Cay suggested that the board draft Rules of Procedure to incorporate them into the document. Davenport stated that many towns have their Rules of Procedure on line. Cay requested that Grace pull four to six samples from New Hampshire towns of their Rules of Procedure and email them to the board members to discuss at the next meeting. Selectboard Chairman Jon McKeon suggested that Roberts Rules of Procedure be eliminated for the Rules of Procedure, which could cause procedural missteps. Cay agreed.

**7. Other**

Selectboard member, James Larkin, introduced Scott Riddlemoser to the Zoning Board. Riddlemoser discussed his interest of serving the Zoning Board, as an alternate member. He met with the Selectboard on March 12. He purchased land in Chesterfield in 2011 and now lives in the new home that he and his wife have built on the property. The board thanked him for his interest in serving on the board. Cay stated that Riddlemoser would need to be sworn in by the Selectboard as an alternate.

**Adjourn:** The meeting adjourned at 9:30 p.m.

Respectfully submitted,  
Patricia Grace  
Secretary

Approved

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Andy Cay  
Vice Chairman, Zoning Board of Adjustment

Date\_\_\_\_\_