

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

**MINUTES
June 14, 2016**

Present: Vice Chairman Harriet Davenport, Lucky Evans, Renee Fales, Kristin McKeon, and Selectboard Representative Norman VanCor. Alternate Roland Vollbehr arrived at 7:45 p.m.

Absent: Burt Riendeau and Alternate Christopher Oot

The Zoning Board of Adjustment met at the Chesterfield Town Office on June 14, 2016. Davenport opened the meeting at 7:30 p.m. and explained the process of the meeting. Vollbehr will be voting in place of Riendeau.

Hearings:

- **Mark Lanoue** requests a Variance from Article II Section 208.2 of the zoning ordinance to permit commercial use to allow for the sales and servicing of vehicles with outside display of the vehicles. The property is located at 1763 Route 9, Spofford, NH 03462 (Map 10A Lot A5) Office/Retail Space/Service District.

(Continued from meetings of May 10, 2016 and April 12, 2016)

Present: Mark Lanoue and Attorney Steve Bonnette

The board continued the hearing in closed to the public session, as it was left from the April 12 meeting. The board members read emails from questions asked of town counsel by Riendeau on May 17. Various documents were read by the board from prior Zoning Board meetings, including decisions and uses of the property. The meeting minutes and decision of the February 11, 1992 meeting were in that the storage of vehicles and boats were allowed outside because the building was too small for them to be stored indoors. It was also noted that Robert Goderre was able to have his property rezoned to sell automobiles. McKeon noted that the grandfathering status is lost because the property wasn't used for auto sales and the zoning in that area has since been changed. Davenport stated that it is not a requirement of the ZBA to conduct the investigation and research into the matter.

McKeon stated that the board has to decide if there is a hardship into what the applicant is requesting. In 1974 permission was granted to house an automobile dealership as requested. McKeon noted that in 1974 the property owner didn't need ZBA approval to allow an automobile dealership and it has since been rezoned. She added that the variance given on February 11, 1992 was for storage and the variance was not given for sales.

Fales moved to approve the request for a variance from Article II Section 208.2 of the zoning ordinance for Mark Lanoue to allow the sales and service of vehicles for outside display of vehicles. This is based on a variance that was approved for the property on February 11, 1992 allowing for the outside storage of recreational vehicles, boats and automobiles. The variance was not specific in allowing of sales, due to the zoning ordinance at the time of allowing retail sales in that district and did not specify that selling of cars or boats was allowed. The business

was selling boats, recreational vehicles and RV's after February 11, 1992, based on the variance that was issued.

Criteria for approval:

1. *The variance is not contrary to the public interest. Due to the fact that there have been several car dealerships at this property over the years since 1974, which is what it was originally constructed for.*
 2. *The spirit of the ordinance is observed. There is a retail component to this where the cars will be sold in the retail space.*
 3. *Substantial justice is done. The benefits the applicant are not outweighed by harm to the public or other individuals.*
 4. *The variance will not diminish the values of surrounding properties. Due to the fact that this has been retail space, and in the past has sold automobiles, RV's and boats in the past.*
 5. *Literal enforcement of the ordinance would result in unnecessary hardship. 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. Because of the February 11, 1992 variance was granted. This shows that there was outside storage of the vehicles and the sales were allowed.*
- And*
- (b) *The proposed use is a reasonable one. Yes*

Vollbehr seconded the motion.

Discussion:

McKeon noted that when the applicant came to the ZBA in April he stated that he was requesting 65 cars on the lot, that they were not going to do any outside sales and he was only going to be doing internet sales. The only servicing of vehicles were going to be only the vehicles that were sold by Mark Lanoue. She added that the February 11, 1992 only granted storage and not sales and service and it was noted that the building was vacant. McKeon stated that the building has been used for other things and she has a hard time seeing the hardship. Because there has been other businesses at the location and income has been generated from this property. Goderre was not granted a variance when they requested a variance for the same reason, at the property next to Lanoue's. Goderre requested his property to be rezoned.

Evans noted that he has an issue with safety and the number of cars that pass at this location on Route 9 which may create more traffic issues with not having a third lane for turning. Neighbors had concerns with the outdoor lighting when the Manny's business was going into that location. The neighbors also spoke of the decreased value of their land. Vollbehr noted that those issues should be handled at the Planning Board level.

The vote was called: No – McKeon, No – Evans, Yes – Vollbehr, Yes – Davenport, Yes – Fales
The motion passed by majority vote.

- **Scott W. Samson** requests a Special Exception from Article II Section 207.6 of the zoning ordinance to allow a gazebo on an existing cement foundation within a side setback of less

than 20 feet. This property is located at 23 Barn Road, Spofford, NH 03462 (Map 5J Lot A1) Spofford Lake District.

Present: Scott W. and Cathy Samson

Scott Samson stated that he is looking for a special exception to build a gazebo, with post and beam structure with no walls. The gazebo will be less than 14 ft. square that will be built on an existing concrete structure that was previously used to hold a cistern for the house. The concrete structure is approximately 5 ft. from the property line. The Samsons plan to landscape around the gazebo and plant an apple orchard on the property. The composite slate roof will measure 13.6 x 14 ft. There will be no changes to the concrete foundation.

McKeon moved to approve the Special Exception of Article II Section 207.6 of the Zoning Ordinance for setback for Scott Samson at 23 Barn Road, Spofford, NH 03462 (Map 5J Lot A1) Spofford Lake District as presented. The gazebo will remain open, except for screening and will be constructed on the existing concrete structure. The following requirements were met:

- A. There are no objections from abutters,*
- B. That the structure is designed and utilized solely as a landscaping amenity,*
- C. Buildings, parking lots, driveway, dwellings, garages, storage sheds, tennis courts, swimming pools and other structures not designed and utilized exclusively as landscaping amenities, shall not be permitted by special exception under this section.*

Fales seconded the motion, which passed unanimously.

Review Meeting Minutes

- **May 10, 2016 –**

Fales moved to approve the meeting minutes of May 10, 2016 as presented. McKeon seconded the motion, which passed unanimously.

Other Business

The board was notified that ZBA Chairman Riendeau and Town Clerk Barbara Girs were served with summons from the Superior Court on a Zoning Board Appeal brought by Robert C. Hodgkins III.

Next Meeting Schedule – July 12, 2016

Adjourn: *McKeon made a motion to adjourn the meeting. Evans seconded the motion, which passed unanimously. The meeting adjourned at 9:45 p.m.*

Respectfully submitted,
Patricia Grace
Secretary

Approved

Harriet Davenport
Vice Chairman, Zoning Board of Adjustment

Date