

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

**MEETING MINUTES
AUGUST 14, 2018**

Present: Kristin McKeon, Lucky Evans, John Zannotti and Alternates Eric Barron, Joe Hanzalik and Select Board Representative Jeanny Aldrich
Absent: Joe Parisi

The Zoning Board of Adjustment met at the Chesterfield Town Offices on August 14, 2018. Kristin McKeon called the meeting to order at 7:04 p.m.

McKeon requested that Hanzalik and Barron vote as a regular member on the hearings.

Review:

July 10, 2018 Site Visit Minutes

Zannotti moved to approve the July 10 Site Visit meeting minutes as amended. Barron seconded the motion, which passed unanimously.

July 10, 2018 Meeting Minutes

Evans moved to approve the July 10 meeting minutes as amended. Barron seconded the motion, which passed unanimously.

Rules of Procedure – 3rd Reading

Under Public Hearings and Meetings – the ZBA should change opening/closing, opening/closing public input, as it appears on Page 4, under XI, vi, vii and viii, “A#6” is not legal, the ZBA can’t ask questions after closing the public portion and questions can’t direct questions to members of the public and receive answers during deliberations. The public hearing must be opened.

Hanzalik moved to approve the third reading on Public Hearings and Meetings for the Rules of Procedures that were discussed from the minutes of last month for the third time. Evans seconded the motion.

Vote called: Evans – yes; Hanzalik - yes; McKeon – yes; Barron – yes; Zannotti– yes
The motion passed unanimously.

Rules of Procedure – Further modifications:

Hanzalik has offered to write a paragraph requesting that all applications include the lot size, total permeable and impermeable coverage, building square footage and building cubic footage. The paragraph will be presented at the September 11 ZBA meeting for further discussion.

Other:

Joe Hanzalik was working on a help sheet. He will have it available by the end of this week.

Attorney Ratigan’s office has submitted to the ZBA of a copy of the Certified Record of documents in the case of Xpress Natural Gas, LLC v. Town of Chesterfield Zoning Board of Adjustment.

Hearings:

- **Margaret Bailey** requests a Variance from Article II Section 203.6b of the zoning ordinance to permit construction within the side setback with a reduction of non-conforming square footage within the front and rear setbacks. This parcel is located at 16 Silverdale Lane in Spofford, NH 03462 (Map 5B Lot B19) Spofford Lake District (Continued from April 10, 2018, Site visit of May 1, 2018, May 8, 2018, June 12, 2018 and July 10, 2018)
Present: Timothy Sampson and William Cormier

Tim Sampson requested to withdraw the Variance request.

- **Margaret Bailey** requests an Equitable Waiver of Dimensional Requirement where a garage has been constructed. This parcel is located at 16 Silverdale Lane in Spofford, NH 03462 (Map 5B Lot B19) Spofford Lake District (Continued from July 10, 2018)
Present: Timothy Sampson and William Cormier

McKeon noted that the variance is only for the stairs that are in the side setback. The equitable waiver comes into play because it was already over the impermeable coverage and there has been added cubic feet and more impermeable coverage. Evans stated that the stairs are 1-1/2 feet into the side setback. McKeon noted the equitable waiver covers how far they have come and would cover the stairs and everything else because it's part of the building that they have planned and on their paper. McKeon stated that the equitable waiver must meet four requirements. Hanzalik suggested that the ZBA address the equitable waiver first.

McKeon noted that the violation wasn't discovered until after the structure was substantially built. McKeon noted that the applicant addresses both the stairs and the coverage, both area and volume, in their Equitable Waiver. Zannotti noted that the increase in impermeable is well above what it's supposed to be. The applicant is asking the ZBA to look at four criteria for the stairs, the deck and the second floor of the building, McKeon stated.

McKeon read the following:

Equitable Waiver of Dimensional Requirement

Owner has burden of proof on four (4) criteria:

- A. That the violation was not noticed or discovered by any owner, agent or municipal official until after the violating structure has been substantially complete, or until after a lot or other division of land in violation had been subdivided by conveyance to a bona fide purchaser for value. RSA 674:33-a, I(a);
- B. That the violation was not an outcome of ignorance of the law, failure to inquire, obfuscation, misrepresentation or bad faith on the part of the owner or its agents, but was instead caused by either a good faith error in measurement or calculation made by the owner or its agent, or by an error of ordinance interpretation or applicability by a municipal official in the process of issuing a permit over which he has authority. RSA 674:33-a, I(b)
- C. That the physical or dimensional violation does not constitute a public or private nuisance, nor diminish surrounding property values, nor interfere with or adversely affect any present or permissible future use of any such property. RSA 674:33-a, I(c); and

D. That due to the degree of past construction or investment made in ignorance of the violation, the cost of correction so far outweighs any public benefit to be gained such that it would be inequitable to require a correction. RSA 674:33-a, I(d).

This section shall not be construed to impose upon municipal officials any duty to guarantee the correctness of plans reviewed by them or property inspected by them.

McKeon noted that this means that the official bases their decision on what is supplied by the applicant and it is not their job to make sure that it is correct.

Tim Sampson noted that he didn't have anything else to add from what was submitted in the application except some calculations that someone had asked for on the drawings for setback and lot coverage, located on the top right of the drawing. (Revised 11x17" A0 drawing was included in the Equitable Waiver application submitted on May 23, 2018, Revisions dated of 22 May18.) McKeon asked Tim that the percentage of the lot covered by impermeable materials is 13.5. So you're saying that's for total impermeable coverage. Sampson verified that this was based on 16,553 sq. ft. and there is no other impermeable coverage except the building. He stated that there are no other outbuildings and there is no driveway. The deck is on the main house. The extra floor adds just over 3,000 sq. ft. McKeon noted that Sampson had a substantially different number than the ZBA had. She added that we can only go with what information is supplied to us in the application. Zannotti noted that whether it's .37, .38 or .27, it's still well above 10% either way. McKeon stated that the cubic feet gets greater by a substantial percentage and well over 13%.

McKeon asked Sampson if he was aware of the amount of impermeable coverage that is allowed on a lot in Chesterfield because Sampson has been before the ZBA in the past and discussed impermeable coverage that is allowed, i.e., the First Universalist Church for a variance. Cubic footage is involved when you are over the amount of impermeable coverage. She added that, with Mr. Cormier has been doing business in Chesterfield for more than 20 years, should be familiar with the Zoning Ordinances. McKeon asked Cormier if he is familiar with the Chesterfield Zoning Ordinances and he said he was not and never looks at them and depends on the building inspector. She asked how this has happened. There was nothing that indicated that you were over coverage or that anything had even been measured. Sampson stated that Rod (Parsons) said to proceed but keep the building in the setback and all is fine. Sampson stated that he presented this 3 or 4 years ago. Sampson did not remember if any information provided of the impermeable coverage at that time. McKeon noted that we have two different numbers on the lot coverage; one on the tax card and another one on the application. Sampson stated that it was never brought up but he knew that we were going up two stories and Sampson noted that he didn't know if it was an oversight on the building inspector or on Sampson in that the discussion never came up; that it was always discussed "same footprint, two stories". Sampson noted that the building inspector came to his (Sampson's) office for 1-1/2 hours going over the drawings. Cormier stated that he's been building for 35 years and when he turns in a permit application, he "never looks at that stuff". He noted that Tim got the permit. He never looks at the zoning ordinances or the building ordinances. He stated that we did everything that we were supposed to and he relies on the building inspector.

Selectboard Representative Jeanny Aldrich noted that Rod was not the building inspector 3 or 4 years ago. Sampson stated that he doesn't remember who he originally talked to when he first

started to discuss the drawings and he doesn't remember if the original drawings were submitted at that time.

McKeon reads from New Hampshire Office of Energy and Planning, Revised November 2016, page II-19, "The fact that a waiver is available under certain circumstances does not alter the principal that owners of land should understand all land use requirements. In addition, the statute does not impose upon municipal officials any duty to guarantee the correctness of plans reviewed by them or compliance of property inspected by them".

McKeon opened the meeting to public comment.

John Koopmann, of Spofford: It's incumbent of people submitting plans to be aware of the zoning requirements and to submit a plan that is compliant with the zoning requirements and if there is any variation that is required, they would request a variance prior to submission of a plan. Submitting a plan, then building and then requesting a variance after the fact is not the town's responsibility, it's the applicants responsibility, due diligence and professionalism.

McKeon noted that the equitable waiver is based on RSA 674:33-a

- A. That the violation was not noticed or discovered by any owner, agent or municipal official until after the violating structure has been substantially complete, or until after a lot or other division of land in violation had been subdivided by conveyance to a bona fide purchaser for value. RSA 674:33-a, I(a);

McKeon stated that it's substantially finished. Whether no one thought to do the math or the ordinance was just missed, at least between the builder, the architect and the code enforcement, they do know that cubic feet is included once you are over the impermeable coverage. Impermeable coverage was not addressed and square feet was not addressed and it wasn't noticed by the municipal official. We're hearing that the owners agent did not notice it, assuming that the owner was depending on the builder and the architect that they did not know.

- B. That the violation was not an outcome of ignorance of the law, failure to inquire, obfuscation, misrepresentation or bad faith on the part of the owner or its agents, but was instead caused by either a good faith error in measurement or calculation made by the owner or its agent, or by an error of ordinance interpretation or applicability by a municipal official in the process of issuing a permit over which he has authority. RSA 674:33-a, I(b)

Evans stated, no one thought that it needed to be measured. McKeon replied, it can't be the ignorance of the law or ordinance. It fails "B". She added that if there's no interpretation of an ordinance if it's not addressed at all. Sampson stated that foot print was discussed because he (Parsons) said, as long as the footprint is the same. Sampson noted that he doesn't recall whether he and Parsons discussed lot coverage percentage during their discussions. Zannotti stated that we need to get past the ignorance of the ordinances. On behalf of the owner, owner's agent or representative, it doesn't say anything about Rod. How do we get past the two agents unaware of the ordinance, therefore, that's where the calculations come in. Then code enforcement would say you do or don't need to get a variance.

Barbara Kendall, Spaulding Hill Rd.: She stated that the word "calculation" is related to measurement and is about physical dimensions. Perhaps that needs to be clarified in the ordinance. Taking measurements of things and then multiplying , subtracting, adding whatever.

Jeanny Aldrich: She asked how you get past the ignorance of the law portion. That ignorance of the law is not obfuscation of the ordinance. McKeon replied that we're stuck on "B".

McKeon noted that there are lots of case law on equitable waivers. The owner or their agent has the burden of proof on all four criteria. We can't create that proof for them. They have the burden of proof that the violation wasn't noticed or discovered by anyone until the structure had been substantially complete. They have the burden of proof that the violation was not the outcome of ignorance of the law, failure to inquire, obfuscation, misrepresentation or bad faith on the owner or its agents but was instead caused by either good faith error in measurement or calculation made by its owner or its agent or error made by ordinance interpretation or applicability by a municipal official in the process of issuing a permit, over which he has authority. She noted that there hasn't been information provided that interpretation was done in error but rather it wasn't addressed at all.

Jim Phippard, Brickstone Land Consultants: Phippard stated that he doesn't have standing on this application and happens to be here on another application. He has worked on many equitable waivers over the last 41 years. All kinds of errors are made so it isn't always an error in measurement that occurs that results in a need for an equitable waiver. The comment that we hear earlier from the builder is that he does his best on the plans, I turn them into code enforcement and code enforcement will say, "Give me a list" of what is needed. He notes that the engineers in the construction industry don't make the final determination of compliance. That can only be made by the town or the town's official or the town's engineer or the Zoning Board or the Planning Board. It can't be made by the private individual. We study the codes and try to go by the codes and it sounds like, in this case, that it got missed. When it got turned into code enforcement, someone determined that their codes complied with your regulations because that's the only way they can issue a building permit. McKeon replied that if all the information is not there, and when you're over but not close, who's responsible. We can only work with the information given. The code enforcement officer is not responsible for doing the calculations for the applicant.

John Koopmann: Relative to the equitable waiver or the variance, whichever application that they need to have approved, if we have a garage with no impermeable coverage in front of it that a note should be made on the plans to the effect that it is not included for the coverage for this lot. If that garage is used, it will require a driveway permit issued. Please be aware for a potential problem if notations are not made on the plans.

McKeon closed the public portion of the hearing.

Discussion:

The permit was issued by Parsons in November of 2017. The application for the permit was not supplied to the ZBA and no copies of drawings or calculations that were submitted at the time of the application for permit were provided. There was also a question on the lot because at some point, there were questions on the survey. McKeon stated that "B" addresses a miscalculation. McKeon describe Case No. 2015-0495, The RDM Trust & a. v. Town of Milford & a. the court on March 31, 2016:

The owner built the structure and the neighbor said you're way in my setback. In response the owner submitted an application after the structure was completed. Then the town's building official issued a notice of violation, in which he measured the distance between the deck and the boundary line of the plaintiff's property was approximately 10-12 ft. The zoning ordinance requires a side setback of 15 ft. and so the building official required the owner to submit a

survey. The owners survey showed that both his house and the newly constructed deck were approximately 4 ft. from the side boundary line. The building department informed the owner that he would need to either remove the deck or obtain a special exception from the ZBA. The owner instead applied for an equitable waiver to allow for a reduced side setback for a deck on an existing nonconforming structure. In his application, the owner stated that he, “in good faith, reasonably calculated that the existing house met any required side setbacks, and the new deck was well within the rear setback.”

At public hearings, the owner stated that he estimated that the distance from the deck to the side boundary line was ten to twelve feet, and that after the survey was completed, he realized his mistake. The ZBA found that the violation was the result of a “good faith error” in calculation and granted the owner an equitable waiver of the 15-20 ft side setback requirement.

The plaintiff appealed, and the superior court affirmed.

The neighbor then took it to Superior Court and they state that in this case, the applicant has to meet all four requirements for purposes of this appeal, they need to address only “B”. That subsection states that absence of certain conditions of violation for which the applicant seeks an equitable waiver must have been caused by one of two conditions, an error in measurement or calculations by owner or by owners’ agent or an error by municipal permitting official interpreting or applying the ordinance. In this case the owner does not assert that the violation was a result of a municipal permitting officials’ error. So the issue was, is it a calculation issue. The Superior Court noted that it would have been better if the owner had sought a permit, as required, and that the permitting process would likely have revealed the actual lot line. The court found, however, the owners estimate of 10-12 ft. was a good faith error in calculation and on that basis, it affirmed the Zoning Boards finding the application that the criteria.

In Taylor, they rejected the argument that “B” should be construed to allow an equitable waiver for an honest mistake or a legitimate mistake when the record did not support a finding that the violation was caused by an owners error in measurement or calculation. In this case, nothing in the record supports the finding that the owner’s mistake in estimate caused the setback violation. Even if there were 10-12 ft. separating the deck from the boundary line, the property owner would still be in violation of the setback requirement. Accordingly, the conclude that the court erred in finding that the record supported the ZBA’s finding that the requirements of RSA 674:33-a, I (b) were met.

They note that the building official advised the owner that he would need to apply for a special exception, and in its brief the town states that its ordinance contains a provision that allows for a limited expansion of nonconforming uses by special exception. The decision is without prejudice to the owner’s right to pursue such other remedies.

McKeon noted that issues the applicant raises determines what the courts look at. Whatever the applicant puts in to address an issue is the information that the ZBA has to go by, in whatever they submit or assert.

Barron asked if the ZBA can get past “B”, perhaps by saying that this was caused by our municipal official in ordinance applicability. McKeon asked if that information is anywhere provided to the ZBA. Barron replied that we have the statement from the applicant’s agents in talking about the process and there is a reasonable inference there that Rod missed the applicability of the ordinance in question.

Zannotti asked about the nonconforming garage, same footprint, and went into a conforming situation. Does the volume issue still apply? It's a nonconforming lot. The impermeable coverage is nonconforming, so any increase in volume applies. Zannotti asked, how is going vertical change the impermeable. McKeon replied it's about the impact of use and density of use. She noted that once you are over the impermeable, it then goes beyond that and you are expanding the nonconforming vertically.

McKeon noted that nothing has been submitted by the applicant on what was submitted to the code enforcement officer for the building permit.

If the equitable waiver is denied, they can come back with a variance for everything. The property would need to be unique and must meet all five criteria.

Evans read:

- C. That the physical or dimensional violation does not constitute a public or private nuisance, nor diminish surrounding property values, nor interfere with or adversely affect any present or permissible future use of any such property. RSA 674:33-a, I(c); and

Evans asked if they are blocking someone's view. No. The ZBA does not have any information about the impact, good or bad, about affecting other property values.

McKeon asked if the ZBA assumes that the owner's agent had no part in this. Evans stated that the CEO spent a lot of time with the guy. If they gave the building inspector everything he needed and he overlooked it, then it meets "B". McKeon noted that she doesn't find that all information was supplied. Barron stated that after everything that Tim and Bill said, that probably Rod didn't consider the applicable ordinance. Zannotti noted that the owner's agent should have brought all sufficient information to Rod. The burden of proof is on the property owner or their representative.

- D. That due to the degree of past construction or investment made in ignorance of the violation, the cost of correction so far outweighs any public benefit to be gained such that it would be inequitable to require a correction. RSA 674:33-a, I(d).

The Board was okay with "D".

Evans moved to finish the discussion and take a vote. Barron seconded the motion.

Vote: Evans: yes; Hanzalik: yes; Barron: yes; Zannotti: yes; McKeon: yes

Motion passed unanimously

- A. That the violation was not noticed or discovered by any owner, agent or municipal official until after the violating structure has been substantially complete, or until after a lot or other division of land in violation had been subdivided by conveyance to a bona fide purchaser for value. RSA 674:33-a, I(a);

Vote: Evans: yes; Hanzalik: yes; Barron: yes; Zannotti: yes; McKeon: yes

Motion passed unanimously

- B. That the violation was not an outcome of ignorance of the law, failure to inquire, obfuscation, misrepresentation or bad faith on the part of the owner or its agents, but was instead caused by either a good faith error in measurement or calculation made by the owner or its agent, or by an error of ordinance interpretation or applicability by a

municipal official in the process of issuing a permit over which he has authority. RSA 674:33-a, I(b)

Vote: Evans: yes; Hanzalik: no; Barron: yes; Zannotti: no; McKeon: no

Motion denied by majority vote.

C. That the physical or dimensional violation does not constitute a public or private nuisance, nor diminish surrounding property values, nor interfere with or adversely affect any present or permissible future use of any such property. RSA 674:33-a, I(c); and

Vote: Evans: yes; Hanzalik: no; Barron: yes; Zannotti: yes; McKeon: no

Motion passed by majority vote.

D. That due to the degree of past construction or investment made in ignorance of the violation, the cost of correction so far outweighs any public benefit to be gained such that it would be inequitable to require a correction. RSA 674:33-a, I(d).

Vote: Evans: yes; Hanzalik: yes; Barron: yes; Zannotti: yes; McKeon: yes

Motion passed unanimously

Zannotti made a motion to deny the Equitable Waiver request based on "B" of Section 674:33-a I(b) based on a negative vote of 3 to 2. Hanzalik seconded the motion

Vote: Evans: no; Hanzalik: yes; Barron: no; Zannotti: yes; McKeon: yes

Motion passed by majority vote to deny the Equitable Waiver request.

McKeon noted that if the applicant wants to appeal the decision, they can introduce new information. They will be allowed to submit that information.

- **GS Precision** requests a Special Exception under Article II Section 206.3A of the zoning ordinance to allow light assembly and manufacturing use in the existing building. This parcel is located at 2 Spaulding Hill Rd., West Chesterfield, NH 03466 (Map 14C Lot D22.1) Commercial/Industrial district
Present: James Phippard, Brickstone Land Use Consultants and Norm Schneeberger GS Precision owner

James Phippard is making this presentation on behalf of PP Brothers LLC, owners of 2 Spaulding Hill Road in West Chesterfield. He is also here on behalf of GS Precision. GS Precision is proposing the change the use to light assembly and manufacturing. This is the location of the former Prospect Park Press. The applicant is not changing the building, not adding on to the building, not changing the paved areas and will utilize that area for onsite parking and access to the property.

This property is serviced by an onsite well and septic system. Prospect Park Press formerly had up to 20 employees. The septic system was approved for up to 20 employees. GS Precision is planning to move in up to 8 to 10 employees as soon as possible. There are no problems discovered with the onsite septic system. They have adequate facilities on site to support the proposed use.

The access will remain the same off Spaulding Hill Road off of Route 9. Route 9 has both left and right turn lanes in both directions at this intersection and provides excellent and safe access, with good line of site in both directions. This use is specifically authorized in your ordinance under Section 206.3A. It is subject to several restrictions.

The proposed use will not be injurious or detrimental to the neighbors. All the activities that they are proposing will be inside the building. There is no outside storage of equipment or materials that are used in their processes and it is all stored inside the building. Waste products from their processes are collected and recycled. They are collected in containers that are stored inside the building. Any products that need to be wasted that are considered to be hazardous waste are picked up by a hazardous waste disposal service and removed from the site and disposed to a proper facility.

GS Precision is a well established company that has been in existence for many years and they know how to operate safely to do what they do. Immediately next door is Pete's Tire Barn and NH State Liquor store is next to that. Across Route 9 is Perkins Lumber, PJP Realty and also service stations and convenient stores. The only residential area is Spaulding Hill Road. There is a residency on the corner of Spaulding Hill Road and Route 9. There is open space land, which is part of the common land for Spaulding Hill Road. Further up the road are the residential buildings. There is an inset plan on this location with single family homes up Spaulding Hill Road. The closest location is 263 feet from the property line at 12 Spaulding Hill Road. All of the other residences are further away. The building on the corner of Route 9 was 172 feet away and we don't feel that they should be disturbed by the operations of the small work force that will be there. We do anticipate some growth and they may increase the number of employees to 15. That would still accommodate the onsite parking and existing septic plan and well, which supports up to 20 people.

Any special conditions required by Articles II, III, IV, V and VI of your zoning ordinance are: Under Article II: Requirements and restrictions of the Commercial and Industrial District. The manufacturing activities have been addressed above. The use will not be offensive to surrounding properties because the activities will be performed indoors. The hours of operation will be from 7:00 a.m. to 5:00 p.m. and will not be operating during night time hours or weekends. Occasionally they may meet for a special project or an occasional Saturday. Deliveries to the property are typically UPS or FedEx vans that deliver on a daily basis and they have their own delivery vans that deliver product and materials between their facilities in Keene and Chesterfield, NH and Brattleboro, VT. There are typically 20 to 25 deliveries per week.

Nonconformities: None that Phippard is aware of. The lot is a conforming lot in a commercial/industrial zone and exists on a 2.23 acre lot with more than 200 ft. of frontage. Total lot coverage is just over 29%, 70% is allowed in the C/I district. The building coverage is only 5.6% and 50% coverage is allowed in the C/I district.

The proposed use will not make an excessive demand on municipal services and will have very little impact on any municipal services. If there is a need for the fire department to come to this location, there is a water storage system on two properties down from this location. There is 145,000 gallons of water stored under the parking lot at the fireworks store.

Proposed use will not generate traffic volumes that will overburden the existing roads or streets. There will be only 25-30 vehicle trips per day, including the deliveries. They will not be driving up into the residential section of Spaulding Hill Road unless one of the employee happens to live there.

The proposed use will not have an adverse impact on the natural environment. They are not proposed to change anything on the property outside the building.

Evans asked if the chemicals were collected inside. Phippard replied that chemicals are stored, handled and collected for disposal inside and handled by a certified waste management company. Zannotti asked what kind of are the hazardous materials. Norm Schneeberger noted that they are mineral spirits would be the worst type of chemical used. The machining will be done with water-based coolant. Phippard noted that the heating system is not going to be changed. They have CNC machines, which are computer controlled, mostly lathes and cutting machines so it's not a loud or noisy process and doesn't generate a lot of heat. The chemicals are less flammable than inks and paper products. They will be producing small machine parts. The scrap tips will be collected in 55 gallon drums and will be stored inside. There is a possibility that they may expand to a second shift. Their second shift would be less than half of what the first shift employs. Phippard stated that they will have to go to Planning Board if this gets approved.

Aldrich noted that the Board of Selectmen felt that this application would be a good fit for the town.

Zannotti moved to close the public portion. Evans seconded the motion, which passed unanimously.

Discussion: Evans stated that all his concerns and questions have been satisfied. Zannotti noted that the scrap is being stored inside. There aren't many employees and there is not going to be any huge trucks.

Evans moved to allow the Special Exception under Article II Section 206.3A of the zoning ordinance to allow light assembly and manufacturing use in the existing building at the former Prospect Park Press location, as presented by the applicant. Zannotti seconded the motion, which passed unanimously.

- **Chesterfield Board of Selectmen** request for Clarification/Rehearing for Variance Granted to Chesterfield Board of Selectmen for property located at 504 Rt. 63, Chesterfield, NH 03443 (Map 12B Lot C9)

McKeon noted that there is no public input on this request. The applicant has standing and they requested the rehearing within 30 days of the ZBA decision. Their motion comes under RSA 677:2. They need to set forth the grounds upon which they claim that the decision of order complained of is either unlawful or unreasonable. No ground not set forth in the application shall be urged, relied on, or given any consideration by a court unless the court for good cause shown shall allow the appellant to specify additional grounds.

The Board has to decide if what they said to us this time is enough for us to say that that's different than what we heard last time or that may make us rethink what we said in our original decision.

Hanzalik stated that the ZBA shouldn't have been so specific to whether they had mentioned it as an example if their intention was not specific. However it should be what is the best interest of the town. It should be small retail or not so general as a coffee shop. McKeon noted that how they wrote it is exactly what the ZBA voted. Probably what they wrote wasn't necessarily what they meant to write. Evans stated that the decision was too restrictive.

Hanzalik moved to rehear the request for clarification/rehearing. Barron seconded the motion, which passed unanimously.

The next scheduled meeting is September 11, 2018.

With no further issues to discuss, the meeting was adjourned at 10:12 p.m.

Respectfully submitted,
Patricia Grace
Secretary

Approved

Kristin McKeon, Chairman
Zoning Board of Adjustment

Date