

# MEETING MINUTES

## ZONING BOARD OF ADJUSTMENT MEETING

**Barrington Annex Building**

**(next to Elementary School)**

**(NEW LOCATION) 572 Calef Highway**

Barrington, NH

August 20, 2014

7:00PM

### Members Present

Karyn Forbes, Chair

George Bailey

Raymond Desmaris

Gerard Gajewski

Dawn Hatch

### Members Absent

Meri Schmalz-Alt

George Schmalz-Alt

## MINUTES REVIEW AND APPROVAL

1. Approval of July 16, 2014 Regular Meeting Minutes.

*A motion was made by G. Bailey and seconded by R. Desmaris to approve the July 16, 2014 meeting minutes. The motion carried unanimously.*

## ACT ION ITEMS

2. **238-4-TC-14Appeal of Decision of The Town of Barrington, New Hampshire Planning Board** Pursuant to New Hampshire R.S.A. 676:5 (III)/George A. Calef and Arvilla T. Calef, Trustees of The George A. Calef Living Revocable Trust of 2008 u/t/a dated May 21, 2008 and Arvilla T. Calef and George A. Calef, Trustees of the Arvilla T. Calef Living Revocable Trust of 2008 u/t/a dated May 21, 2008 v. Town of Barrington, New Hampshire. **Appeal of Planning Board Decision Case # SR12/240 (Owner: The Three Socios, LLC Map 238, Lot 4) Conditional Approval on April 15, 2014 based on alleged violation of the Zoning Ordinance.**

*A motion was made by G. Bailey and seconded by R. Desmaris to continue the appeal to the August 27, 2014 meeting. The motion carried unanimously*

3. **256-37-GR-14-ZBA (Charles & Janice Pierson)** Request by applicant for a variance from Article 4 Dimensional Requirements, 4.1.1 Minimum Standards, for a shed 16' x24' that is in the side setback 22.9' right and 29.9' left

setback where 30' is required located on a 1.84 acre at 158 Mica Point Road (Map 256, Lot 37) in the General Residential (GR) Zoning District.

Mr. Pierson provided a packet to the Board. The packet included photos and cost estimates for moving the shed. Mr. Pierson explained the information provided. He explained the estimates for moving the shed, along with an explanation of the pictures. Mr. Pierson also cited the Americans with disabilities act, which requires he be allowed adequate access.

M. Gasses, Town Planner explained she had visited the site and there were visible wetlands on either side of the home, which limited the placement of the structure.

K. Forbes opened to public in favor.

Lori & Bernie Keenan who directly abutted the property expressed they had strong support for the applicant's request. The Pierson's had approached them prior to building the shed to make them aware of their intentions.

K. Forbes asked for those in opposition.

No one spoke.

R. Desmaris expressed the applicant had provided the evidence requested by the Board.

G. Bailey expressed they had time to move the shed, knowing that they were close to the property line.

D. Hatch expressed there were special conditions in the land.

*A motion was made by R. Desmaris and seconded by G. Bailey to approve the variance request. The motion carried unanimously.*

- 118-49-GR-14-ZBA (Dwight & Deborah Chick Trustees)** Request by applicant for a variance from Article 4, Section 4.1.1, Table 2 to allow a front setback of 25' where 40' is required; a side setback of 26' where 30' is required and a side setback of 20' where 30' is required to remove existing 32 x 33 home and construct a 28 x 30 with a garage under located on a .28 acre lot at 111 Bulley Road (Map 118, Lot 49) in the General Residential (GR) Zoning District. By: Timothy Mason, Manager, Cabernet Builders of Stratham, LLC; PO Box 291; Stratham, NH 03885

Sharon Somers, Attorney represented the applicant. Ms. Somers explained there was an existing home to be replaced with a 28'X38' home. An 8" overhang is accommodated in the design, along with front steps. Ms. Somers showed where the leach field was along with the well.

G. Bailey asked for verification of setbacks.

Ms. Somers identified the setbacks on the plans.

Ms. Somers explained the subject parcel was a corner lot. The applicant proposed to remove the existing non-conforming structure which has dimensions of 32' X 33' and square footage of 1056 sq. ft. A new dwelling that would be constructed with dimensions of 28' X 38' and 1064 sq. ft. of first floor space and a garage under with dimensions of 28' X 26'. The proposed structure would be centered in the lot. In doing so, the new structure would become

conforming as to the rear lot line and would become more conforming as to the front setback. The other setbacks would remain nonconforming.

R. Desmaris asked how many houses were located on Bulley Road.

The Chicks stated 11 houses.

K. Forbes asked if there was anyone to speak in favor.

Sandy Winter 75 Bulley Road spoke in favor.

K. Forbes asked if there was anyone to speak in opposition.

No one spoke.

D. Hatch expressed the proposal was an improvement over what currently existed on the site.

*A motion was made by R. Desmaris and seconded by D. Hatch to approve the application for a variance. The motion carried unanimously.*

5. [224-1-NR-14-ZBA \(W. Paul Cullen-Cullen Woods\)](#) Request by applicant for a Special Exception from 4.1.2 Lot Frontage to allow for driveways for 5 of the proposed lots to access the lots from a different side of the property than the street frontage located on a 47 acre lot on Smoke Street (Map 224, Lot 1) in the Neighborhood Residential (NR) Zoning District. By: Michael Garrepy, Tuck Realty Corp.; 34 Raeder Drive; Stratham, NH 03824

Mike Garrepy with Tuck Realty explained the original application asked for Special Exceptions for 5 lots to utilize driveway easements over adjacent lots to minimize (eliminate) any wetland buffer impacts, provide for safe an adequate sight distance and to reduce curb cuts along Smoke Street to provide better access management along the street. The applicant explained they had modified their plans and were now asking for a single Special Exception for one driveway which would be serviced from a side not its frontage. They had worked to eliminate some sight distance issues on Smoke Street. They were asking for the special exception to avoid impact to the wetland buffer on lot #2 by running across lot #3. He and Scott Frankiewicz had met with Peter Cook, Road Agent and Marcia Gasses, Town Planner on site August 18<sup>th</sup> to discuss creating better sight distance along Smoke Street, with the cutting back of two embankments.

K. Forbes took a question from the audience.

Kenneth Smith of Leanna Drive asked if they had considered a frontage Road.

Mike Garrepy explained they had looked at the possibility of a frontage Road but the topography was limiting, due to wetlands.

M. Gasses explained the town encourages frontage roads on State Highways. The current proposal meets Town regulation's and effectively keeps most of the development closer to Smoke Street and away from the more ecologically important areas to the rear of the site. As proposed the subdivision would not create any new road for the Town to maintain.

R. Desmaris asked if the Conservation Commission had made a recommendation on the application.

M. Gasses explained they had not. The Conservation Commission had reviewed the subdivision and made comments regarding the overall plan. The Commission had been predominantly interested in the open space and trail system and the offering of the applicant to deed the open space to the Town.

R. Desmaris requested that the Conservation Commission submit comments on similar applications in the future.

M. Gasses explained she would let the Conservation Commission know. In this instance the request by the applicant avoided an impact to a wetland buffer, which had been looked upon favorably by the Conservation Commission in the past.

K. Forbes expressed that allowing the access from the side of lot #2 would be consistent with protecting the safety, health, and welfare of the community.

*A motion was made by R. Desmaris and seconded by D. Hatch to approve the special exception. The motion carried unanimously.*

- 220-18-GR-14-SR (Stephen & Lorraine Flynn-owners)** Request by applicant for Appeal of the Planning Board Decision Case # 220-18-GR-14-SR (Owner: Stephan & Lorraine Flynn Map 220, Lot 18) Approved on July 8, 2014 for a 3.4 Conditional Use Permit and Site Plan Approval. Applicant: Deborah Rogers; 68 Greenhill Road; Barrington, NH 03825

K. Forbes called the appellant.

Deborah Rogers of 68 Green Hill Road expressed her and her husband Craig was appealing the Conditional Use Permit granted by the Planning Board to their neighbors the Flynn's. Mr. Flynn does not live at the property but his sons do. She believed the Planning Board should not have waived the site review without obtaining more information on how the applicant was going to run the business. The applicant had been vague in his responses to questions from the Planning Board. He was not able to give the Planning Board the size of his CNC machine. Under the waiver criteria the Planning Board should only waive the requirement if it does not affect the purpose and intent of their regulations. They believed there were major issues regarding potential groundwater contamination, pollution and noise which make the waiver inappropriate. The applicant had expressed there would be no waste, but they had done research to the contrary. There was no cleanup management practice in place that would ensure they know how to deal with it. He had explained at the Planning Board meeting that any spilled powder paint would be cleaned up with a shop vacuum, D. Rogers expressed that it should be an explosion proof vac. D. Rogers expressed she did not believe Mr. Flynn knew everything he needed to know before starting a chemical business on top of an aquifer. The site was located in the Stratified Drift Aquifer Overlay District. The Roger's believed the Planning Board had not addressed the proper safe guards that needed to be in place for the type of industrial business to be proposed to be put in the General Residential district.

K. Forbes asked for the Planning Board Application.

M. Gasses clarified that the Planning Board had not waived site review but had waived the requirement for preparation of a new site plan because a prior approved site plan existed and the site itself was not proposed to be changed. The plan in the Town records was from 1998.

Deborah Rogers asked that M. Gasses recuse herself from the discussion as she was a member of the Planning Board. The Planning Board had actually suggested the applicant expand his hours of operation.

M. Gasses explained she was not a member of the Planning Board, but the Town Planner.

K. Forbes explained that the board was asking for information from the Planner, but she did not have a vote. Ms. Rogers could rebut what was said if she did not believe M. Gasses interpretation was correct.

M. Gasses explained that Mrs. Rogers was correct regarding the Planning Board suggesting the applicant expand his request for hours of operation in the event he needed to stay and work on a project. The applicant had expressed at the Planning Board meeting that he would not be open late unless he had a project to complete.

Deborah Rogers explained that the hours originally proposed of 8 to 5 Monday through Friday would have been acceptable if not for the paint contaminants. The contaminants would be placed in an open dumpster on gravel in an area over the aquifer. They owned 9 acres of wetlands behind the Flynn's which could be affected. The applicant had stated he would be milling mostly aluminum, but the MSDS sheet he provided for the coolant was not recommended for aluminum.

K. Forbes asked if there was a copy of the site plan.

M. Gasses explained she had not brought the Town's large plan.

K. Forbes expressed she was looking for dimensions of the structures.

Deborah Rogers explained the site had been an EPA site two years ago due to a leaking underground oil tank. The EPA had not answered whether it was okay for them to drink their water and they were still drinking bottled water.

G. Bailey asked M. Gasses if the Town had received notice that the property had been cleaned up.

M. Gasses explained she had been through the property and spoken with the plumber who confirmed the tank had been removed and the spill remediated.

G. Bailey asked if the Planning Board had asked for MSDS sheets.

M. Gasses stated yes, the MSDS sheets are included in the Planning Board application materials. The board had talked extensively about the process and what was going to be used in the operation. Pam Failing who was a member of the Conservation Commission did speak and support the application.

K. Forbes asked Mr. Flynn to explain his business. She did not know if it was in one building or two because she did not have the site plan.

M. Gasses explained that the business would be located in a separate structure from the house. There had been a prior approval for a pallet business, which never opened and at one point an equipment rental business had been operated from the structure.

D. Hatch expressed there had been an equipment rental business and the wife had operated a craft store.

K. Forbes read the three reasons the Rogers were appealing.

- #1 We believe this stated business is too industrial in nature and does not belong in such a residential area. The proposed hours alone are excessive.
- #2 Too little is known as to the abilities of the owners of stated business concerning pollution/toxic waste control and Fire Prevention methods.
- #3 This is a protected water overlay area, and this business could contaminate the surrounding property.

K. Forbes asked the applicant if he could start by address the concerns raised by the Rogers.

Stephen Flynn explained they wanted to do a home powder coating business, powder coating small parts, bicycle parts, motor cycle parts.

K. Forbes asked how many employees.

Stephen Flynn explained himself and his two sons for now. His sons were the residents and he was the owner of the property. He was also proposing a small CNC machine as part of his business.

K. Forbes asked if the CNC machine was part of the same business.

Stephen Flynn stated yes.

G. Bailey asked Mr. Flynn how he would use the CNC machine as part of his powder coating business. He asked because one operation was being a machinist and one operation was the powder coating.

K. Forbes asked if they would have one business name. She expressed she knew very little about the types of processing he was talking about. She asked if he would take in parts and mill them but not powder coat them, or powder coat parts he has not milled.

Stephen Flynn explained he would do both. He would be taking in pieces which are probably painted and sand blasting them in a sand blasting cabinet, prior to powder coating them.

K. Forbes asked how many square feet the building was.

Stephen Flynn explained the building met the regulation of less than 2500 sq. ft.

K. Forbes asked if the business would be conducted entirely within the accessory structure.

Stephen Flynn stated the business would be conducted entirely within the accessory structure.

K. Forbes asked if no wares would be visible from the street except for one unlighted 4 sq. ft. sign.

Stephen Flynn agreed there would be no wares visible from the street and he would have one unlighted 4 sq. ft. sign.

K. Forbes asked if they would have no more than two commercial vehicles related to say home business will be stored on site.

Stephen Flynn stated they may have a truck.

K. Forbes asked the building or premises containing said home business shall not be rendered objectionable or detrimental to the residential character of the neighborhood because of exterior appearance, traffic, emission of odor, smoke, dust, noise, on-site storage of hazardous materials as determined by the Barrington Fire Department.

Stephen Flynn explained he had turned in MSDS sheets to the Fire Chief.

R. Desmaris expressed the Fire Chief had commented that he had no issues.

G. Gajewski expressed that this was the business he was in and it was quite possible to operate the business without changing the outside appearance, without increased traffic, odor, smoke, dust or noise. It was also possible to violate all of those things.

Stephen Flynn expressed he did not want to violate any of the provisions. He stated he had been a general contractor for 30 years and he was accredited by the Better Business Bureau, you didn't get to that point by being a knucklehead. He wanted to branch out into this business with his boys.

R. Desmaris asked if this needed to be done in a hood.

G. Gajewski explained that it doesn't have to be but if you did not want any emission you should. 5.2 lbs. per gallon voc's are currently permissible but the law would be changing to 3.2 in 2016. At 5.2 there would be an odor if you did not have filters. He explained you did not have to paint with a filter if you were 5.2 lbs. or under but your neighbors would smell it. Until it was built how could you prove he violated the regulations?

R. Desmaris asked if he had provided the MSDS sheets to the chief.

Stephen Flynn explained he had provided the information to both the Fire Chief and the Building Inspector.

R. Desmaris asked if they would be spraying the surface with a chemical to make it adhere.

G. Gajewski explained that Mr. Flynn was using powder and then it would be baked on, something would flash off, but none of it was really bad.

Mr. Rogers expressed they are only bad if you breath in the powder before it is baked on or you are breathing the fumes directly. He expressed there were ways of handling the materials.

G. Gajewski expressed the powder relatively inert but breathing powder is not good for you.

K. Forbes asked where on Green Hill Road the site was.

M. Gasses explained it was located right before N-BAR-H heading toward Route 202.

G. Gajewski explained painting and powder coating in particular was really quiet. CNC machines could be noisy. He asked how big the CNC machine would be. Aluminum should not be too bad, unless you were cutting 3 foot blocks.

Stephen Flynn stated no, small parts such as valve covers for cars, differential covers.

G. Gajewski expressed it could be done so it could not be heard in the driveway.

G. Gajewski expressed the danger of not having specifics was that if he violated the conditions he could be forced to stop.

K. Forbes expressed that G. Gajewski was saying that it could be done in a way that would not render the building objectionable.

G. Gajewski stated it could be done where the sound was no louder than a home vacuum cleaner, maybe less.

M. Gasses expressed that the applicant had indicated they would be using a water cooled machine similar to those used by Turbocam.

G. Gajewski expressed that he would need a cooling solution, water can be used but he agreed it was not recommended for aluminum.

K. Forbes asked why the hours went from 7 am to 9 pm.

M. Gasses explained that the Board encouraged the applicant to ask for extended hours in the event he had work he needed to complete. It was not the applicant's intention to stay open those hours on a regular basis.

G. Gajewski asked how far the building was from the Rogers.

Deborah and Craig Rogers said it was close, they had a setback issue.

M. Gasses clarified the building was close to the property line but not close to the Rogers home.

G. Gajewski asked if there was a noise issue.

Craig Rogers stated not for them.

Deborah Rogers expressed there could be for the neighbors across the street.

Craig Rogers expressed there would only be a noise issue with the horse people if they were working Saturday. They are not really close enough to have a noise issue; everything should be inside and closed.

Craig Rogers expressed that during the presentation Mr. Flynn's son had said they would be using baking soda to clean the parts. Mr. Rogers expressed that if he was going to keep his business he would need to do a proper cleanup of his parts, there was mechanical and chemical processes. If parts were brought in pre-painted, the recommendation was usually for a steam clean and then an industrial degreaser. There could be contamination.

G. Gajewski expressed, that was so hypothetical, yes he could bring in items with pcb's, etcetera, but he would be breaking the law.

G. Gajewski explained there were regulatory agencies such as OSHA and NHDES.



Craig Rogers expressed there was no site review; they don't know what is in the building, if there are floor drains.

M. Gasses explained that the issues mentioned by Mr. Rogers were not issues the Planning Board looks at, they are issues addressed through the permit process with Code Enforcement. That each of the machines would require a permit and inspections for installations and a Certificate of Occupancy is required to be issued from Code Enforcement prior to operation of the business.

G. Gajewski expressed it is a case where he would have to be breaking the law. There were also State regulations. It really did not have much to do with the Zoning Ordinance.

K. Forbes explained a certificate of occupancy for the proposed use shall be issued by the Building Inspector once verification with all the preceding standards is confirmed. This was what Marcia was referring to. She was not sure who verified.

M. Gasses expressed the Code Enforcement Officer verifies and is designated to by our regulations as the person who enforces the site plan.

K. Forbes expressed sometimes things grow and are magnified.

M. Gasses stated that they would then be in violation.

K. Forbes expressed that the Code Enforcement Officer then does nothing about it.

M. Gasses expressed that at this time if Code Enforcement gets a complaint of a violation they follow through.

K. Forbes asked if M. Gasses was saying that Code Enforcement follows through on every violation in Town.

M. Gasses expressed that currently the Code Enforcement is following through and are even taking parties to court.

D. Hatch said there is a long list of several violations which are five years old and still under investigation.

K. Forbes closed the public portion of the meeting.

G. Bailey expressed the Fire Chief had already signed off on the application. The applicant had given the MSDS sheets to the Fire Chief to review. He had taken care of the safety aspect of what the Fire Chief has to do.

D. Hatch expressed she understood the applicant did not want to spend a lot of time on the exact machine if he was not going to be able to operate, but a better idea of the size of the machine and noise level it produced would be helpful.

M. Gasses explained that in the information given to the Planning Board the applicant had compared the machines to those used by Turbocam. She expressed that you could hold a conversation next to one of those machines without raising ones voice.

G. Gajewski expressed they were the same type of machine.

R. Desmaris expressed it was an industrial process and he would not want it in his neighborhood.

K. Forbes expressed that it was allowed provided they meet the conditions.

D. Hatch expressed that it would be contained to the building, no display outside, except for a 4 sq. ft. sign and a dumpster.

G. Gajewski reviewed the material in the folder.

G. Gajewski expressed what was in the folder was appropriate for what Mr. Flynn wanted to do, what was not there was the type of paint to be used, the machinery and paint booth which were there was appropriate. It would be done in such a way that it was undetectable from the street. It would be nice to know what kind of paint system.

K. Forbes opened up the hearing so that G. Gajewski could ask what type of paint system Mr. Flynn was going to use.

G. Gajewski asked Mr. Flynn what type of paint system he was going to use.

Mr. Flynn stated PPG; he had already turned in the information and MSDS sheets. He had given them to the Fire Chief and Tom Abbott, Code Enforcement.

G. Gajewski found the sheets in the folder.

Deborah Rogers wished to point out that the paint was an explosion hazard.

K. Forbes explained the Fire Chief had signed off on the application.

R. Desmaris questioned whether the Chief was knowledgeable of the details. There could be explosive dust.

G. Gajewski expressed “maybe”. That those points he thought were more regulatory.

K. Forbes read “because of exterior appearance, traffic, emission of odor, smoke, dust, noise, on site storage of hazardous materials as determined by the Barrington Fire Department.

G. Gajewski expressed he believed that was already done.

R. Desmaris asked if the board could ask the Fire Chief to make another review.

K. Forbes asked G. Gajewski what should they ask for.

G. Gajewski expressed they could ask if the Chief considered the potential consequences of explosive dust. He may say yes he did, or no, he did not consider it.

K. Forbes asked if they needed more MSDS sheets.

G. Gajewski expressed what was there was representative and should be fine, they would not vary that much.

K. Forbes stated she would like to see the site plan, the location of the building in relation to other people’s houses.

G. Gajewski for the next meeting the applicant should show how they plan to control odor, smoke and dust, any filters, hoods, chimneys, etc.

R. Desmaris asked if there were MSDS sheets for any solvents they would use.

Mr. Flynn stated everything would be dry.

G. Bailey asked if they would need to put a basin under the machine in case it leaked.

G. Gajewski stated that would be regulatory.

K. Forbes summarized saying they were looking to continue in order to receive more information including filters, how they were going to control odor smoke and dust.

Mr. Flynn expressed it would be part of the machine.

G. Gajewski explained it was not part of the oven shown, but it could be added, or a stack to the outside which could have a filter added to it. He asked that Mr. Flynn show the method to the Board. He explained that the parts would be baked in the oven and something would flash off, it wouldn't be much and then it would go up into the smoke stack and it should be filtered somehow. Mr. Flynn should look into the option from the oven manufacturer.

R. Desmaris expressed the parts being brought in could have anything on them, pcb's chromium, etc.

G. Gajewski expressed those wastes are regulated by the State at least in a large company; he was not sure how it worked with a home business.

Mr. Flynn explained he would call a waste disposal company and he would pay them to dispose of it.

Deborah Rogers expressed if you needed to see CNC machines it was recommended visit Turbocam their machines leaked oil.

G. Gajewski expressed all machines leak oil, including automobiles.

Deborah Rogers expressed that was recommended by a man at the Planning Board.

Mr. Flynn expressed the man was Paul Mausteller who was not a member of the Planning Board and was a machinist 25 years ago and said that the machines leaked everywhere. Mr. Flynn expressed was talking about a modern enclosed machine.

*A motion was made by R. Desmaris and seconded by G. Bailey to continue to September 17, 2014. The motion carried unanimously*

Respectfully submitted,

Marcia J. Gasses  
Town Planner & Land Use Administrator