

BOLTON BOARD OF APPEALS
Minutes of Meeting
April 24, 2007 at 7:00 P.M.
Bolton Town Hall

Present: Jackie Smith, Kay Stoner, Brad Reed, Andy Kischitz

DISCUSSION

1. Bolton Orchards Request – Addition of an Ice Cream Stand

Present: Sarah O'Toole, Kenny Janda, Frank Krysa (Building Inspector)

A discussion ensued on the proposed addition of an ice cream stand at Bolton Orchards. Previous additions to the property have been handled as a pre-existing non-conforming use and structure, as the property is located in a Residential District and the building is non-conforming due to setbacks. O'Toole has asked the Board for its thoughts on adding an ice cream stand. Previous to November 2004, outside food service was not allowed in any district. The bylaw was changed in November 2004 to prohibit drive-through establishments. The applicant received a building permit from the building inspector to construct a window. The applicant was advised that using the window to sell ice-cream could require a special permit from the Board of Appeals.

The Board discussed whether the proposed ice-cream constituted enough of a change to warrant a special permit. Issues were raised on whether the change would require expansion of parking areas, hours of operation, outdoor seating, lighting, and other food items to be sold. The Board stated they believed other food items would certainly require a special permit. If the change required additional parking, that would also constitute a substantial change and would require granting of a special permit. The potential applicant stated they were not sure that adding ice cream would be worth the expense.

After September 3, 2007, if the applicant wishes to operate an ice cream stand on the premises, they will be required to obtain a special permit from the Board of Appeals to expand a pre-existing non-conforming use.

HEARINGS

2.Variance Hearing – J&J Construction 60 Annie Moore Road

Present: Whitney Robbins (Property Owner); Jim Small of J&J Construction (Applicant); John Ruark (Neighbor)

Small stated the property owners are building a proposed addition on an undersized lot. The addition would include a living room and a deck and porch in back. The design of the addition unintentionally exceeded the required 20 foot sideyard setback. He explained they designed the addition based off the dimensions from their Deed, and intended for the addition to comply with the 20 foot setback. Because the original Deed did not include correct dimensions, the design of the addition unintentionally encroached into the 20 foot setback. The owner stated the unique diagonal shape caused the problem. The problem was discovered when the applicant surveyed for preparation of a new plot plan showing the proposed addition for a building permit. Robbins stated it would be an economic hardship to redesign the structure as additional engineering costs would be imposed on the applicant, extra building materials would need to be purchased, and the schedule for work would have to be altered.

This would be problematic for the owners as they have already arranged alternative living arrangements during the summer and are concerned the work would drag on into the fall. Ruark stated he was not in opposition to grant of the variance.

Tipton reviewed the required findings with the Board.

The Board closed the hearing, and unanimously voted to approve the variance request at 60 Annie Moore Road. It was agreed that a decision would be filed with the Bolton Town Clerk within 14 days.