

TOWN OF DERRY
ZONING BOARD OF ADJUSTMENT MINUTES
October 7, 2010

Members Present

Allan Virr, Chairman
David Thompson, Vice Chairman
James Webb, Secretary
Cecile Cormier
Ernest Osborn

Members Absent

Alternates Present

Michael Fairbanks
Albert Dimmock

Alternates Absent

Betsy Burtis
Stephen Popp
John DeBonis

Staff Present

Robert Mackey, Code Enforcement Director

Mr. Virr called the meeting to order at 7:01 p.m. with the salute to the flag, and notice of fire and handicap exits.

Mr. Virr noted for the record that Case #10-119, Keith Garside, Owner: Barbara True has withdrawn their application via letter dated September 29, 2010 and will not be heard this evening [and the letter requesting the withdrawal was read for the record.](#)

It was noted for the record that Mr. Thompson would recuse himself from this [meeting case](#) and Mr. Dimmock would sit for the following case

10-125 Samuel L. Parten

Requests a special exception as provided in Article VI, Section 165-48.A.1, to operate an automobile/motorcycle sales business (office only) from the residence at 257 Island Pond Road, Parcel ID 07054, LDR District.

Samuel Parten, owner, said that he was here tonight to obtain a special exception to have an office in his home so he could be able to sell [motorcyclesbikes](#) at shows as he was

unable to sell at Laconia Bike Week as he did not have the proper licensing. He read his application for the Board.

Ms. Cormier asked if there would be repairs done on the property. Mr. Parten said that there would be no repairs done on the property as he has another location for that.

Ms. Cormier asked if it was for an office only and if a sign was being requested. Mr. Parten said yes and that he would like a small sign with his name and phone number.

Mr. Thompson asked the applicant to initial the original application request form item #7 to note that a sign was being requested. Mr. Parten initialed the application.

Mr. Webb said that he believes that the Auto Licensing Bureau requires a sign. Mr. Mackey said that typically yes but if the Board stipulates no sign to be posted then it can be waived.

Ms. Cormier asked if it was a small sign with business name and phone number being posted and not the State sign. Mr. Parten said yes just a small sign with his name and phone number.

Mr. Fairbanks asked if the office was to be located in a separate building other than the home. Mr. Parten said yes.

Mr. Dimmock asked if he would be opposed to a condition that no repairs or sales be done on the property and asked if he was only seeking a broker's license which does not allow for sales and is an office only. Mr. Parten said that he personally has 2 dune buggies and 2 motorcycles and that there would be no sales or repairs of vehicles at the property.

Mr. Virr asked if there would be any objection to a condition that no storage or sale of vehicles. Mr. Parten said no.

Mr. Virr asked if there would be any clients. Mr. Parten said that there would be no clients.

Mr. Virr asked what hours of operation would be required. Mr. Parten said that there would be no need for hours as he would be just using his phone.

There was some discussion with regard to hours of operation.

Mr. Webb asked how long had the applicant been in business. Mr. Parten said that he has been in business since 1974 but the laws changed 2 years ago and no w-require you to be a dealer in order to establish a price on the vehicle.

Mr. Osborn asked if it was needed in order to sell multiple items and why couldn't he just sell his own. Mr. Parten said that he was a design builder er and ~~which~~ makes customized vehicles.

Ms. Cormier asked if a condition that the State license sign not be posted. Mr. Parten said that he would abide but if the State required it he would need to do it.

Ms. Cormier asked if a stipulation be made that the State sign not be posted for public viewing. Mr. Mackey said that they could stipulate that but he can still have a standard 3 square foot sign which is allowed.

There was some discussion with regard to the posting of the State sign.

Code Enforcement

Mr. Mackey said that the applicant's request is for a Special Exception for an office only to allow the sale of automobiles and motorcycles. The applicant is requesting a "Sales" Office at his residence in order to obtain the required State of N.H. Division of Motor Vehicle dealer licensing at his address. The applicant has stated he does not intend to store or display automobiles/motorcycles at this property. If approved by the Board, I would request that this be stipulated as a condition. There are pictures in the file for the Boards review.

Favor

No abutters were present.

Opposed

No abutters were present.

Mr. Virr motioned to go into deliberative session.

Seconded by Mr. Webb.

Vote: Unanimous.

Mr. Dimmock, Mr. Osborn, Ms. Cormier, Mr. Webb, Mr. Virr

Deliberative Session

Mr. Virr reviewed the conditions for the Board.

Ms. Cormier said that she would like it stipulated that the State sign not be posted.

Mr. Mackey said that he believed that the sign that Ms. Cormier is speaking about is the State inspection sign and believes that the applicant is not seeking to perform inspections at the property and only seeking approval for an office only. [The sign required by the State only needs to have the name and address and is not the sign required for a State Inspection Station.](#)

Mr. Osborn motioned on case #10-125, Samuel L. Parten, to Grant a request for a special exception as provided in Article VI, Section 165-48.A.1, to operate an automobile/motorcycle sales business (office only) from the residence at 257 Island Pond Road, Parcel ID 07054, LDR District, as presented with the following conditions:

1. Sign requested and approved.
2. Subject to all Town and State inspections and permits
3. No storage of vehicles for sale.
4. No clients to property.

Seconded by Mr. Dimmock.

Vote:

Ms. Cormier: Yes.
Mr. Webb: Yes. Believe will not harm neighborhood.
Mr. Osborn: Yes.
Mr. Dimmock: Yes. Feel that there would be no impact to the neighborhood.
Mr. Virr: Yes.

The application was Granted by a vote of 5-0-0. Anyone aggrieved by a decision of the Board has 30 days to file a request for a rehearing. After that the recourse would be to appeal to Superior Court.

Correspondence

LGC 69th Annual Conference – November 17-19, 2010

NH OEP Annual Fall Planning & Zoning Conference – November 13, 2010

Other Business

Mr. Virr said that at the next meeting the Board would be voting on a new Notice of Decision form that would list the reasons for denial. He said that he would email the members of the Board the notice for their review.

There was some discussion with regard to the proposed ~~notice~~ Notice of ~~decision~~ Decision form.

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Approval of Minutes

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Mr. Thompson motioned to approve the minutes of August 19, 2010 as amended.

Seconded by Mr. Osborn.

Vote: Unanimous

Mr. Dimmock, Mr. Fairbanks, Mr. Osborn, Ms. Cormier, Mr. Webb, Mr. Thompson, Mr. Virr

Mr. Thompson motioned to approve the minutes of September 2, 2010 as amended.

Seconded by Mr. Osborn.

Vote: Unanimous

Mr. Dimmock, Mr. Fairbanks, Mr. Osborn, Ms. Cormier, Mr. Webb, Mr. Thompson, Mr. Virr

Mr. Thompson motioned to approve the minutes of September 16, 2010 as amended.

Seconded by Mr. Webb.

Vote: Unanimous.

Mr. Dimmock, Mr. Fairbanks, Mr. Osborn, Ms. Cormier, Mr. Webb, Mr. Thompson, Mr. Virr

Adjourn

Motion to adjourn by Mr. Thompson.

Seconded by Mr. Osborn.

Vote: Unanimous.

Mr. Dimmock, Mr. Fairbanks. Mr. Osborn, Ms. Cormier, Mr. Webb, Mr. Thompson, Mr. Virr.

Adjourn at 7:38 pm

Minutes transcribed by:
Ginny Rioux

Recording Clerk

DRAFT