

**MINUTES
NEW DURHAM ZONING BOARD OF ADJUSTMENT
26 AUGUST 2014**

Chairperson Larry Prelli called the meeting to order at 7:17 pm.

Roll Call: Larry Prelli (Chair), Wendy Anderson (Vice-Chair), Joan Swenson, Cecil Williams, Dave Shagoury (Alternate), Stephanie Kearns (Alternate), Recording Secretary Amy Smith.

Others Present: Baysider Reporter Cathy Allyn, Videographer Corky Mork, Town Attorney Justin Richardson, Russell Weldon, Evan Goldner, Atty. John Cronin, Atty. Arthur Hoover, Dan & Jan Bell, Chris & Kathy Cairns, John Goyette, Bob Snow, Dennis Neyland, Bill Bassett, Ray & Pat Weigle, Faith & Jim Fenske, Tom & Tammy Hutchinson, Brenda Conery, Jim & Sue Jagielski.

Public Hearing - CASE: 2014-02 - Application submitted by Atty. John Cronin on behalf of Water Monkey Camp, LLC. The applicant is seeking a Special Exception as specified in Article VIII Section A (1)(a) of the New Durham Zoning Ordinance in order to permit a seasonal water ski and activity camp to be rented at the Cove Cottages. The property in question is located at 298 Merrymeeting Road (Tax Map 119, Lots 11 & 32) and is owned by Russell Weldon. (Recessed from 12 August 2014)

Chair Prelli introduced Board members and designated Mr. Shagoury and Ms. Kearns to sit in as voting members. Chair Prelli noted since this was a continuance of a public hearing held 12 August 2014 he designated both alternate members as voting members as they were present at the original public hearing and Mr. Williams was not. Chair Prelli also introduced Town Attorney Justin Richardson.

Chair Prelli stated the Board is continuing their deliberation to determine whether the lots in question (11 & 32) meet the criteria listed in the Zoning Ordinance for granting a Special Exception. Board members reviewed Article VIII Section A 1 of the Zoning Ordinance. Ms. Swenson suggested Board members review the 'Land Use Suitability Map' referenced in Article VIII Section A 1 a. Mr. Shagoury held up the map for Board member's review and noted based on the map's color coded key the lots in question do not appear to be in the areas designated 'most suitable for urban growth', 'moderately suitable for urban growth' or 'slightly suitable for urban growth' as is required in order for a Special Exception to be granted under Article VIII Section A 1 a or b. Board members viewed the map themselves. Chair Prelli noted he is color blind and would need to rely on the information provided by the other Board members regarding the color coding.

Board members unanimously agreed that the applicant did not convincingly prove that the two lots in question (Tax Map 119 Lots 11 & 32) meet the criteria necessary for a Special Exception to be granted as specified in Article VIII Sections A 1 a and b.

Board members agreed Article VIII Section A 1 c did not apply to the application.

Board members reviewed Article VIII Section A 1 d of the Zoning Ordinance. Chair Prelli asked Board members if they felt the applicant established that the commercial use would have an impact equal to or less than a single-family dwelling for lot 32. Atty. Richardson suggested the Board discuss whether both lots 11 and 32 meet this criterion. Atty. Richardson stated while lot 11 is currently being used for a commercial operation that use is being changed and therefore must adhere to the current Zoning Ordinance requirements.

Chair Prelli stated he felt Article VIII Section A 1 d of the Ordinance has not been satisfied for lot 11 or lot 32 as no impact assessment was submitted that proves that the commercial use would have an impact equal to or less than a single-family dwelling. Chair Prelli asked Board members for their opinion. Atty. Richardson asked Board members to consider whether the issue is simply a paperwork failure (lack of impact assessment) or if the applicant has proven in the information presented and documents submitted that the requirements of Article VIII Section A 1 d are satisfied. Ms. Swenson stated that is unclear as the Board was focusing on Article VIII Section A 1 a and b and not on part d.

Board members unanimously agreed that the applicant did not convincingly prove that the commercial use for Tax Map 119 lots 11 and 32 would have an impact equal to or less than a single-family dwelling as specified in Article VIII Section A 1 d.

Ms. Swenson asked if the application would fall under the 'Campgrounds' section of Article VIII. Ms. Smith asked if legally the Board could make a determination on this as the application submitted and notice that was posted was for Article VIII Section A 1 a of the Ordinance and not Article VIII Section A 6. Atty. Richardson stated the Board could not approve the application under VIII Section A 6 as the hearing was not noticed for that section but they could discuss it. Atty. Richardson also stated he is aware the Town's previous Code Enforcement Officer suggested Article VIII Section A 1 as the section the applicant should apply under.

Board members reviewed Article VIII Section 6 of the Zoning Ordinance. Discussion followed. **Board members unanimously agreed that they are unclear whether the application meets the definition of campground under Article VIII Section 6 as this was not addressed in the materials submitted or the presentation made.**

Chair Prelli made a motion to deny the application submitted by Atty. John Cronin on behalf of Water Monkey Camp, LLC for a Special Exception as specified in Article VIII Section A (1)(a) of the New Durham Zoning Ordinance in order to permit a seasonal water ski and activity camp for property known as Tax Map 119 Lots 11 & 32 and owned by Russell Weldon based on the following three findings:

1) The applicant did not convincingly prove that the two lots in question (Tax Map 119 Lots 11 & 32) meet the criteria necessary for a Special Exception to be granted as specified in Article VIII Sections A 1 a and b.

2) The applicant did not convincingly prove that the commercial use for Tax Map 119 lots 11 and 32 would have an impact equal to or less than a single-family dwelling as specified in Article VIII Section A 1 d.

3) It is unclear whether the application meets the definition of campground under Article VIII Section 6 as this was not addressed in the materials submitted or the presentation made. Mr. Shagoury seconded the motion. The motion was unanimously approved.

At 8:10 pm Chair Prelli called for a 5 minute break.

At 8:20 pm Chair Prelli reconvened the meeting.

2015 Budget

Board members reviewed their 2014 budget and year to date expenditures through 4 August 2014 (the most current sheet given to Ms. Smith by the Finance Officer.)

Ms. Swenson made a motion to recommend the ZBA's 2015 budget be kept the same as the 2014 budget. Mr. Williams seconded the motion. The motion was unanimously approved.

Review of Mail

There was no mail other than the letters submitted to the Board regarding Case 2014-02.

At 8:25 pm Mr. Williams left.

Review of Minutes

Board members reviewed the minutes of 12 August 2014. Various grammatical and formatting issues were corrected, as well as, corrections to improve clarity. **Mr. Shagoury made a motion to approve the minutes of 12 August 2014 as amended. Ms. Kearns seconded the motion. The motion was unanimously approved.**

At 9:20 pm Ms. Swenson made a motion to adjourn. Ms. Anderson seconded the motion. The motion was unanimously approved.

Respectfully submitted,

Amy Smith
Recording Secretary