

ZBA Meeting
03 October 2001
7:30pm

Mr. Iafolla, Chairman called the regularly scheduled ZBA meeting to order at 7:30pm. Those present included Dick Wollmar, Bob Field, Mark Johnson, Russ McCann, Russell Jepperson (ZBA members) and Russell McAllister (recording secretary).

Discussion ensued regarding the previous meetings minutes. It was agreed that the sale of landscape materials like a Home Depot type of business operation was a permitted use within the IB/R. The use of trucks and loaders was an accepted accessory use in the IB/R. A special exception was granted Jim Jones for processing loam on site with the stipulation that the use required site plan review by the planning board. The permit was modified by planning board as per a list of conditions outlined during the August 29th ZBA meeting. Previous minutes were corrected to reflect an accurate reporting of the vote on Mr. Jones' special exception. The previous vote was 3-2 in affirmative with Messrs. McCann, Jepperson & Iafolla voting in affirmative. Dr. Kelleher and Mr. Checkovich voting against. Mr. Field recused himself from the Jim Jones application.

The members reviewed correspondence from Mark Sullivan. Mr. Sullivan made an appeal to the Board requesting that it grant a rehearing on the regarding the issue of 187 Lafayette Road. Mr. Fields recused himself from participation in the discussion and Board action on the issue. Mr. Wollmar made a motion to grant a rehearing. Mr. Iafolla asked for a second for the purpose of discussion. Mr. Jepperson seconded the motion for the purposes of discussion. Mr. Wollmar noted that a rehearing would provide an opportunity to present a larger issue prior to going to superior court. Mr. McCann noted that granting a rehearing usually involves the discovery of new information and he could not discern any new information within the correspondence that would provide the impetus for a new hearing. Mr. Iafolla noted that the issue regardless of what was decided by the Board was most likely headed for superior court. Mr. Jepperson noted that he could not discover anything new within the correspondence that could support a rehearing on the issue. Mr. Johnson was not present at the last meeting (like Mr. Wollmar), but felt that the issue had been debated for several years and that there was nothing new to review in the issue and that it was time for a judge to make a decision. Mr. Iafolla called for a vote to grant Mark Sullivan a rehearing. Mr. Wollmar voted to grant a rehearing. Messrs. McCann, Jepperson & Johnson voted not to grant a rehearing. The motion to grant a rehearing was defeated (1 yes, 3 no)¹.

Case 2001:35 – 180 Lafayette Road / Rick Fucci: Requests variance to Article IV, Section 405 for construction of storage units in the Industrial Business/Residential zone where such use is not permitted.

Attorney Jim Lucas addressed the Board on behalf of his client, Rick Fucci. Mr. Fields noted that the Board had no grounds on which to hear the case because the criteria necessitating such a hearing were not present. Mr. Field noted that the Building Inspector had not denied a building permit and Mr. Field questioned under what grounds Mr. Fucci was before the Board. Mr. Lucas responded that his client Mr. Fucci had appeared before the Planning Board and had subsequently been directed by that board to appear before the Zoning Board. Mr. Lucas continued by explaining the basis of the request for variance was based on the general purpose of the ordinance of itself. When first crafted the ordinance did not address the use of storage units because no such use was yet extant. However, such use is consistent with other uses now in the IB/R zone. Mr. Lucas explained that compatibility of the use within the IB/R zone was underscored because of a lack of performance issues. It was noted that setbacks will be maintained and that similar uses have been previously approved. Mr. Johnson asked about traffic flow and congestion. It was explained that a gate controlled entrance to and exit from the site and access times to the storage units were limited to the hours of 6:00am to 9:00pm. There was also a restriction on commercial storage to insure that businesses were not operated from the storage units and that hazardous materials were not stored within the units.

Mr. William Adinolfo, an abutter (Lafayette Terrace) to the proposed use, voiced concerns about the buffer zone that now had trees within them. Mr. Adinolfo was concerned about noise, snow storage and debris and whether the proposed fence was adequate to maintain a privacy barrier. Mr. Fucci explained that he was not

¹ The Chair votes only to break a tie.

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planning on removing the trees. It was suggested that a three-foot berm be installed with arbor vitae plantings located along the length of the ridge.

Mr. Johnson made the motion to accept the variance as presented on the plan with the addition of a 3-foot berm along the Lafayette Terrace portion of the property, and planting six-foot tall arbor vitae shrubs spaced six to eight feet apart, and that the petitioner maintain the arbor vitae shrubs. Mr. Wollmar seconded the motion. Mr. Iafolla also instructed the petitioner to work with the abutter Mr. Adinolfo to insure that his concerns regarding the privacy barrier are worked out to his satisfaction. The vote was unanimous with the exception of Mr. Fields who abstained on the sole grounds that the matter was not properly before the Board. The application was lacking evidence of any denial on the part of the Building Inspector and the Code Enforcement Office of the Town of North Hampton. The petition for variance was granted.

Case 2001:39 – 289 Atlantic Avenue / Jane Kirk. Request Special Exception to Article IV, Section 405 and Article V, Section 507 for a home occupation (beauty salon).

Mr. Craig Solomon addressed the Board on behalf of his client Jane Kirk. Mr. Solomon noted that the special exception was required because the proposed use was in the R1 zone. The proposed use was a home occupation (beauty salon) and was not inconsistent with the ordinance. It was noted that other such uses have previously been approved. A new septic system had been installed and approved by the DES. The DES also asked that a list of materials (shampoos, hair coloring) be submitted for review. The materials used in the operation of the beauty salon were water based and posed not potential hazard according to the DES. Mr. Solomon also noted that they were proposing 5 parking spaces, that the salon would have its on electric meter and heat. The salon would have two stations and there would only be two employees. Mr. Johnson raised concerns about the parking layout because of the surrounding residential character. Mr. McCann thought that the parking configuration was okay from a safety perspective. Mr. Kendall Chevalier spoke in favor of the proposed use noting that he lived next door and that the sound of tractor represented more of nuisance than the salon. Mr. Fields asked about the disposal of chemicals such as nail polish and so on. It was explained that the salon does not use nail polish and that a list of products used by the salon was reviewed and subsequently approved by the DES. Mr. McCann noted that a similar use was granted to the Spooner's. Mr. Wollmar made the motion to grant the special exception. Mr. McCann seconded the motion. The vote was unanimous and so moved. (Messrs. Wollmar, Fields, McCann & Johnson voted in the affirmative).

Case 2001:40 - 120 Atlantic Avenue / Edward & Amy Hopkins applicants; (Kathleen & Barry Dyke owners): Request for Special Exception to Article V, Section 507 for a home occupation (dressmaking by appointment).

Mr. Hopkins addressed the Board regarding his request for a special exception. He noted that Ms. Hopkins was looking for a special exception to establish a dressmaking business. The business was by appointment only and therefore there would not be any additional parking and neither would there be a need for a sign. Mr. Hopkins also explained that there would not be other employees. Mr. McCann made the motion to approve the application. Mr. Wollmar seconded the motion. The vote was unanimous and so moved. (Messrs. Wollmar, Fields, McCann & Johnson voted in the affirmative).

There being no further business to come before the Board the meeting adjourned at approximately 8:45pm.
Respectfully,

Russell McAllister
Recording secretary