



TOWN OF GRAFTON
ZONING BOARD OF APPEALS

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MINUTES

ZONING BOARD OF APPEALS
THURSDAY, AUGUST 27, 2015
FIN. COMM ROOM
AT THE MUNICIPAL CENTER

A meeting of the Zoning Board of Appeals was held on Thursday, August 23, 2015 in the Fin. Comm. Room, on the 2nd floor of the Municipal Center.

Members present: Mr. William McCusker- Chairman, Mr. Robert Nault – Vice Chairman, Mr. Michael Robbins- Clerk, Mr. Peter Adams- Member, Mr. Elias Hanna, Mr. William Yeomans-Alternate Member, Mr. Robert Berger – Zoning Enforcement Officer, and Mr. Joe Laydon-Town Planner.

Absent: Kay Reed – Alternate Member

Meeting called to order at 7:31 p.m.

Re-Organization of the Zoning Board of Appeals

Chairman:

Motion was made by Mr. Nault and 2nd by Mr. Robbins to nominate Mr. William McCusker as Chairman of the Zoning Board of Appeals. On a roll call vote: Mr. Adams-yes; Mr. Nault-yes; Mr. Hanna-yes; Mr. Robbins-yes; Mr. Yeomans-yes.
5-yes-0-no, motion passed, Mr. William McCusker will remain Chairman of the Zoning Board of Appeals.

Vice Chairman:

Motion was made by Mr. Robbins and 2nd by Mr. Adams to nominate Mr. Robert Nault as Vice Chairman of the Zoning Board of Appeals. On a roll call vote: Mr. Adams-yes; Mr. Hanna-yes; Mr. Robbins-yes; Mr. Yeomans-yes; Chairman-yes.
5-yes, 0-no, motion passed, Mr. Nault will remain Vice Chairman of the Zoning Board of Appeals.

Clerk:

Motion was made by Mr. Hanna and 2nd by Mr. Nault to nominate Mr. Michael Robbins as Clerk of the Zoning Board of Appeals. On a roll call vote: Mr. Adams-yes; Mr. Nault-yes; Mr. Hanna-yes; Mr. Yeomans-yes; Chairman-yes.
5-yes, 0-no, motion passed, Mr. Robbins will remain as Clerk of the Zoning Board of Appeals.

Case #801- 296 Upton Road, Grafton – Special Permit

Chairman reads rules of order. Clerk reads the legal notice.

Mr. Henry Lane of 100 Main Street, Whitinsville, MA, attorney for the applicant, Michael Peters of 185 Blackstone Street, Mendon, MA to speak for the applicant/owner.

The property was zoned for commercial in the 1970's. In 1980 it was rezoned from Commercial to Agricultural, which made the business legal but a non-conforming use under the new zoning district. The change of use they are requesting is to be able to sell alcohol during operating hours, by adding a beer garden. Business currently has a police detail during operating hours and they do already sell food and soft drinks and water.

Other flea markets in the area sell alcohol; they would just like to compete with them. This is not intended to draw in new customers, the beverages would not leave the fenced in area of the beer garden. All consumption would be confined to one area. There will be no change in the hours or days of operations if the Special Permit is granted. Will still remain open only on Sundays and Monday holidays. Beer sales would be during the hours of 10-4. The sale of the alcohol would only be accessory to the flea market business and not sold any other time.

Chairman states that the current use, the flea market, is not allowed in the Agricultural District. They are requesting altering the use by adding the sale of alcohol – changing from the selling of prepared food to other drinking establishments. If the business was in an allowed zone, there would be no issue, but not allowed in the current zone. The flea market has been in business for over 40 years.

Questions by the Board:

Mr. Adams – aren't drinks, drinks. Why do they need a beer and wine license? Can't they get a one day use license for each day they are open?

Mr. Berger – Zoning Enforcement Officer; the difference in use is the sale of alcohol versus the sale of soft drinks. The use is changing from prepared food, section 3.2.3.1 sub. Section 6 to sub. Section 7 – other eating and drinking establishments.

Mr. Laydon – Town Planner: If the beer and wine were sold from the same place as the food and soft drinks, this could be included. But since it will be sold in a separate location on the property, it is bringing in another use to the property because the sale of the alcohol is now in a separate location. Would also like to see a better site plan showing crosswalks, delineated walking areas, signage regarding pedestrians, handicap access for service at the beer garden and parking. Is there going to be an overflow section if the fenced in area is full? Would also like to see that on the site plan.

Mr. Robbins worried about changing the use to allow the sale of alcohol. Can the ZBA restrict the sale of alcohol to one day only? Per the Chairman, the decision would be to change the use to allow the sale of alcohol but not limit it to how many days he can sell.

Mr. Yeomans states that with 3 police details on duty, the flea market only being open 1 day a week, and with the location of the beer garden totally separate from the rest of the flea market, he sees no issue.

Mr. Hanna, with only 1 day of operation, 40 years in business, and the location of the beer garden being on the other side of the property, sees no issue with changing the use of the business.

Mr. Nault, has no problem with the location of the beer garden, they already have a police detail on site, it is all transient people, also has not issue with the change of use request.

The Zoning Board of Appeals has received correspondence from the Chief of Police stating that he will oppose the sale of alcoholic beverages.

No other correspondence received from any other department.

Chairman would like the decision to be drafted with Joe Laydon, Town Planner, Robert Berger, Zoning Enforcement office and ZBA Assistant Katrina Koshivos.

Attorney Lane will work on the decision with Mr. Laydon and forward to the ZBA for review and approval.

Motion made by Mr. Hanna and 2nd by Mr. Nault to continue Case #801 to 9:00 p.m. on September 10, 2015.

On a roll call vote: Mr. Adams-yes; Mr. Nault-yes; Mr. Hanna-yes; Mr. Robbins-yes; Chairman-yes. 5-yes, 0-no, motion passed, hearing continued.

8:37 p.m. – Case #800 – 18 Millbury Street – Variance for Shed

Chairman reads rules of order. Clerk reads legal notice.

Mr. Edward Beaman of 18 Millbury Street would like to put a 10' X 12' shed 3' off the lot line. Would like to add the shed for storage. Property is located in an R20 zone. No other place to put the shed other than at the end of the driveway within the setbacks.

Mr. Robbins and Mr. Nault both drove by and looked at the property. This is the only reasonable place to locate the shed. It is a very small, tight lot.

Mr. Yeomans also looked at the property. Very small lot, addition of the shed would improve the area and the property.

Due to the topography of the lot, small, downhill slope, trees, it is the only flat level spot for the shed. There is no garage, not enough area to add a garage and no outside access to the basement.

Chairman asks if we have received any correspondence for or against this petition.

We have received 3 letters from abutters supporting the application for the variance:

Linda Darling (owner of 16 Millbury), 17 Main Street, North Haven, ME

Richard Barnard (tenant of 16 Millbury Street)

David Fadden, 20 Millbury Street

No one to speak in favor or against petition.

Motion made by Mr. Hanna and 2nd by Mr. Nault to end public input. 5-yes, 0-no, motion passed.

Motion made by Mr. Nault and 2nd by Mr. Robbins to allow a shed to be placed 3' off the right and rear setbacks.

5-yes, 0-no, on a roll call vote: Mr. Adams-yes; Mr. Nault-yes; Mr. Hanna-yes; Mr. Robbins-yes; Chairman-yes.

5-yes, 0-no, motion passed.

Motion made by Mr. Hanna and 2nd by Mr. Robbins to close hearing on case #800. 5-yes, 0-no, motion passed, hearing closed at 8:57 p.m.

8:59 p.m. – Case # 802 – 10 Amherst Street – Variance for Shed

Chairman reads rules of order. Clerk reads legal notice.

Mr. Norman Hill of 52 Millbury Street, Grafton and owner of Land Planning 214 Worcester Street, North Grafton, to speak on behalf of Mr. Tarek Razkalla of 10 Amherst Street, North Grafton, MA. The property in question is a very small lot, located in an R20 zone where 20,000 sq. feet is required and the lot is only 8,000 square feet. There is currently no garage. There is a basement with a bulkhead entrance, but steep steps to store outdoor equipment. Abutting neighbors have sheds that are very close to the lot line. If we put the shed in the proper setbacks, shed would be in the middle of the

yard right next to the house.

Mr. Berger, Zoning Enforcement Officer, responds to the comment about other sheds. They were placed there without any permits and a letter has been sent to each of the homeowners and forwarded to town council. If we grant the variance, other neighbors and residence would be coming in for variances for their sheds.

Mr. Hanna and Mr. Robbins sees the hardship as a small lot, only place for the shed. There is no garage and no place to build a garage and a safety issue with regards to storing gas, etc.

Mr. Laydon, Town Planner, discussion over accessory structures. Maybe by-law needs to be changed to allow for sheds with relation to the size of the lot and the size of the shed.

Chairman asks if anyone to speak in favor or against petition:

Mr. Ted Bartkiewicz of 1 Harvard Street, North Grafton, MA, is a neighbor and abutter and has no issue with the shed being placed in that location on the property. The applicant is making improvements to his property for the better.

Motion made by Mr. Nault and 2nd by Mr. Hanna to allow a 10' x 12' shed to be placed 1' from the back and side lot lines per Exhibit A. On a roll call vote: Mr. Adams-yes; Mr. Nault-yes; Mr. Hanna-yes; Mr. Robbins-yes; Chairman-no. 4-yes, 1-no, motion passed, variance granted.

Motion made by Mr. Hanna and 2nd by Mr. Robbins to end public input and close public hearing on case #802. 5-yes, 0-no, motion passed hearing closed at 9:30 p.m.

9:30 p.m. – Case #803 -10 Overlook Street – Special Permit

Mr. Elias Hanna recuses himself from this hearing as he is a member of the church.

Chairman appoints Mr. Yeomans as voting member on this case.

Waive reading of rules of order. Clerk reads legal notice.

Mr. Sargon Hanna of 208 Brigham Hill Road, North Grafton, MA, to speak on behalf of 10 Overlook Street. Mr. Michael F. Loih of Bertin Engineering Associations, 39 Elm Street, Southbridge, MA also to speak on behalf of 10 Overlook Street. The addition was placed on the left side of the church because that was the best place for it. It will add off street handicap parking that will allow direct access to the church and the fellowship hall. Cannot go further back on the lot due to a very large, old oak tree and the root structure they would have to dig up. The tree provides shade to the park behind the church.

Mr. Berger, Zoning Enforcement Officer, states that the lot is in 2 zones. Industrial and R20. Due to the split zones we must use the more restrictive zone, per Section 3.1.4 – Divided Lots. Also, the property has 3 fronts, Overlook Street, High Street, and School Street. We will use Overlook as the “front” of the building.

The front part of the addition on Overlook Street is 22.2', which is less conforming than the current part of the building which is only 10' from the front setback, which is not more non-conforming, which would require a special permit. The High Street side of the addition is increasing the non-conformity, which would require a variance. The rear of the addition is also increasing the non-conformity, which would also need a variance.

Chairman asks if there is anyone to speak in favor or against petition.

parking spots will be added and then in the winter the snow and where it will be plowed.

Chairman asks if there is any other public input. No one else to speak in favor or against.

Motion was made by Mr. Nault and 2nd by Mr. Robbins to grant a special permit to the Assyrian American Association of MA, Inc. for 10 Overlook Street, Grafton, MA to allow construction of an addition to the existing church as depicted in Exhibit A. On a roll call vote: Mr. Yeomans-yes; Mr. Adams-yes; Mr. Nault-yes; Mr. Robbins-yes; Chairman-yes. 5-yes, 0-no – motion passed

Motion was made by Mr. Nault and 2nd by Mr. Robbins to grant a variance for a side setback relief of 22.5' and 19.6' of relief on the rear setback to allow construction of an addition to the existing church as depicted in Exhibit A. On a roll call vote: Mr. Yeomans-yes; Mr. Adams-yes; Mr. Nault-yes; Mr. Robbins-yes; Chairman-yes. 5-yes, 0-no, motion passed.

Motion made by Mr. Nault and 2nd by Mr. Robbins to close the public hearing and case #803. 5-yes, 0-no, motion passed public hearing and case closed at 10:10 p.m.

Motion made by Mr. Nault and 2nd by Mr. Hanna to adjourn meeting. On a vote of 5-yes, 0-no, motion passed, meeting adjourned at 10:11 p.m.

Respectfully submitted by:
Katrina Koshivos



Mr. Michael Robbins - Clerk