Meeting minutes – March 17, 2009

Town of Tilton (Revised 4/22/09)
Zoning Board of Adjustment
Meeting Minutes – March 17, 2009

Members Present: Foster Peverly – Vice Chair, Vicy Virgin, Mike Dolpies, Marina Sumner


Agenda:

7:00 p.m. Call to Order
Review Minutes from February 17, 2009
Correspondence, any other business

7:05 p.m. ZBA 09-05 Harry & Lesa Snyder seeks an area variance. A variance is requested from Article VII Section C-Table of Dimensional Values – Setbacks of the zoning ordinance to permit building of a garage next to the house. The property is located at 15 Mill St., Tilton, NH 03276 in the Downtown District.
Tax Map U06 Lot 12.

7:15 p.m. ZBA 09-06 Richard Maher seeks a use variance. A variance is requested from Article VI Section B – Chart of permitted uses of the zoning ordinance to allow auto repair, sales of snowplows, trailer hitches, welding and mechanical work. The property is located at 142 E. Main St., Tilton. Tax map U04 Lot 59.

7:30p.m. The Planning Board members are requesting a workshop for a brief discussion on clarification of variances.

Meeting:

7:00 p.m. Meeting was called to order by Foster Peverly, Vice Chairman

The Vice Chair Mr. Peverly asked if the members had reviewed the minutes from February 17, 2009 meeting. Motion made by Mr. Peverly to accept the minutes as written, seconded by Vicy Virgin. It has been moved and seconded vote taken motion passed to accept the minutes.

Correspondence:

1. Letter from Normand J. Boudreau
2. 16th Annual Spring Planning & Zoning Conference will be held on May 2, 2009 at the Center of NH. Radisson Hotel in Manchester.
3. Lakes Region Planning Commission Meeting March 23, 2009 at the Pines Community Center, Northfield, NH at 6:00 p.m.
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Foster Peverly read into the record Normand Boudreau letter of resignation to the Selectmen. Foster will act as Chair for this meeting. He informed the board that they need to elect a Chairman but will put that off until we find out if Joe Plessner is interested in joining the board.

7:05 p.m. ZBA 09-05 Harry & Lesa Synder seeks an area variance. A variance is requested from Article VII Section C-Table of Dimensional Values – Setbacks of the zoning ordinance to permit building of a garage next to the house. The property is located at 15 Mill St., Tilton, NH 03276 in the Downtown District. Tax Map U06 Lot 12.

Foster Peverly explained to the applicant that there is only 4 members present which you would need vote of 3 or you may continue to until there is a full board. Mr. Synder agrees to proceed with the 4 member board.

Mr. Synder explained he and his wife would like to build a garage on property on 15 Mill St. The house sits on lot which is not that big. The abutter Arthur Carignan supplied a letter which was read into the minutes stating he has no objection to their plans to build a garage. Also a letter was received from Jim Cropsey of M C & G, Inc stating they don’t feel what they plan to do will be a detriment to the community and encourage the board to grant the variance.

Mr. Synder explained that the plan has changed a little, I am considering coming directly of the house instead of a separate building as I had submitted. There will be a garage door and no access door to the house from inside the garage. The garage will have an additional door on the back so I can drive through.

Mr. Peverly asked how close he was to Mr. Carignan property line. Mr. Synder replied that he would be 2 or 3 feet. I am here to see if he could get the variance first then I would decide which way to build the garage either separate or attached but if I can get approval for the attached garage I will go with that option.

7:10 p.m. Discussion open to the public.

Mr. Boudreau asked if the space to the boundary is 2 ft. The way I see it is that Mr. Synder has 2 options if he attaches the garage to the house the open space to the boundary to be 5 ft and you put a condition in the approval that the corner of the garage be no closer than 5 ft. to the property line. If the garage was build separately it would only be 2 ft or 3 ft. to the property line.

Mrs. Virgin states this must be very specific in the minutes that the garage must be attached to the house.

Closed to public discussion and reopened to the board.
Mr. Dolpies asked for clarification that the garage will be attached to house and 5 ft. from the property line. Mr. Synder agreed to have the garage attached to the house and 5 ft from the property line.

Mrs. Virgin makes a motion to grant the variance with the deviation of building the garage attached to the house and having no less than 5 foot distance to the property line. Motion was seconded by Mr. Dolpies.

The Vice-Chair states the motion has been made and seconded to approve the variance with the garage being attached to the house and no less than 5 ft from the property line. The vote was taken and passed by the 4 members.

7:15 p.m. ZBA 09-06 Richard Maher seeks a use variance. A variance is requested from Article VI Section B – Chart of permitted uses of the zoning ordinance to allow auto repair, sales of snowplows, trailer hitches, welding and mechanical work. The property is located at 142 E. Main St., Tilton

Mr. Maher explains that he purchased the property at 142 E. Main Street in 1984 and received a building a permit to build a garage. I have been running my business there since 1984. I have been working fire trucks from the 3 towns, some town’s dump trucks and equipment, installing trailer hitches and snow plows since 1988. I moved to E. Main St from Park St. in Northfield and went from a 1000 sq ft to 3000 sq ft between the 2 floors. Times have gotten tough with tight budgeting for the last 5 years with all the construction road, sewage, water, and Lowe’s. I just couldn’t take one more year without any business so I closed my doors and took a job with DOT which I have since resigned. I was going to go back work at my shop but I was able to rent the upstairs but in doing that the code enforcement officer inspected the upstairs tenant also inspected my shop. Going back to the ordinance of 1983, the building permit shouldn’t have been issued but it was.

Vice-Chair asked Mr. Maher if he had been doing this type of work since he’s been there. Mr. Maher agreed.

Vice-Chair asked why he was here before the board. Mr. Maher explained the he received a “Cease and Desist”. I want a variance so I may comply with the ordinance and to continue doing what I was doing and working on automobiles. I won’t be very long down the road that I would like to rent the garage area or sell it. Not being able to use the garage as a garage puts a wrench in the whole process. I have a lift in the garage and all the tools to do mechanic work and I haven’t done anything there since December 31, 2008. I received a letter from the chairman of the planning board back in 1984 welcoming me to the town.

Vice-Chair asked what brought about the cease and desists. When the code enforcement officer looked into the whole picture and found in the archives the
1983 zoning regulation which didn’t permit it. I should have been told right then but it wasn’t.

Open to public discussion:

Sarah Paratore comments that the planning board’s hands are tied. The reason this came about is because the applicant leased space to another party and in following the procedure the building inspector and fire department went to check out the building notice this discrepancy. They weren’t able to just say this man should be allowed to continue doing what he has been for so many years. He needs to create a paper trail because a lot of businesses in town have developed this way which is a problem. There is no documentation or history so we have things that are not good for the town. The building inspector wants Mr. Maher to have a paper trail so the next person to purchase to the property has the proper variance in place so that person will be able to have a business similar to what Mr. Maher has been doing.

Mr. Montambeault, neighbor who lives on Morrison Ave. I have never had an issue with the business that he runs next door. However having this to carry over to a prospective tenant or buyer my concern is if someone wanted to continue to do what Mr. Maher does is fine. The prospect of having someone who may want to sell motorcycles/automobile sales and repair would be an issue.

The Vice-Chair states that the board could restrict it what Mr. Maher has asked for and the variance will go with the property.

Sarah Paratore comments, if someone purchases the property who does more then what Mr. Maher does then there may be chemical/oils involved that could go into the ground water and harm the wetlands and river that are so close by. If the variance has no specific conditions for oil/water separators, trap or containments for fluids then they could harm the environment. Going through this process we have on record what can be done there.

Mike Dolpies states that auto repair is being done there. What is happening with fluids now? Mr. Maher puts all the old hydraulic fluids into a 55 gallon drum which I take to the recycle center.

If we approve this the next person may not comply. If the next person wants to sell motorcycles they would have to come back for another variance.

Mr. Boudreau suggests that if the board was going to approve this variance the board should add the condition that all NH DES listed hazardous waste be properly removed from the property by trucking or calling hazardous waste removal service. If granting as applied with what he his listed auto repair, sales of snowplows, trailer hitches, welding and mechanical work doesn’t include someone coming in a doing motorcycle/auto sales this is strictly welding shop or
what he’s been doing there for the last 20 years. Your approval should be specific to include these conditions.

Closed to public discussion and reopen discussion to the board.

Mr. Maher asks that the variance include the option to a repair and sell a car at this location. I would like to suggest the board limit the number of vehicles or stipulate that the vehicle has to be registered. Not be able to do this is restrictive to me to find a renter or buyer of the property.

Discussion reopened to the public.

Mr. Boudreau comments that there is a situation in town where the person has many cars on the property that are registered, they are never driven but sitting there for parts. Should be specific to state registered and inspection vehicles and limit the number on the lot at any one time. This would stop anyone from opening a used car lot there.

Mrs. Virgin made a motion that we been GRANT the variance to allow auto repair and the sale of not more than 3 vehicles that are unregistered/uninspected at one time, plus the sales/installation of snow plows, trailer hitches, welding, and mechanical work with the following condition:

1. All NH DES listed hazardous material to be removed from the property in a legal lawful manner using best management practices.

Motion seconded by Ms. Sumner. Vote taken and motion passed by all members.

7:30p.m. The Planning Board members are requesting a workshop for a brief discussion on clarification of variances.

Sarah Paratore from the Planning Board wanted to ask some questions. The town just passed the Dark Skies Ordinance and we have had some applicants with questions about the sign ordinance. I am just trying to figure out what goes into deciding a variance particularly for a sign or lighting so can get an ordinance that fit with what people are asking for permission to do. When a variance is granted for things like the Holiday Inn Express sign it weakens the strength of the ordinance so the Planning Board understands as to what the Zoning board is looking for in the commercial aspects. The people have said they really don’t want certain types of signs and lighting. If a business comes in and they would like to disregard the dark skies ordinance that was just past how do we figure out if we say yes or no?
Normand Boudreau states when he was on the board the Holiday Inn sign issue because of a safety issue due to road speeds but I also told them they need to go to the state for the turn lane. The safety hazard issue is the biggest factor when granting some of the variances. In terms of lighting justifying why you would want to light up the skies when what is needed is light the ground for safety.

Motion made by Mrs. Virgin to adjourn the meeting. Motion seconded by Mr. Peverly. Vote was taken and passed to adjourn the meeting.

Meeting adjourned at 8:10 p.m.

Minutes prepared by Augusta Marsh, Land Use Assistant.

(These minutes are subject to the review and approval by the Zoning Board at the next scheduled meeting.)

**Minutes revised with correction noted at the ZBA meeting on 4-21-09**