

UNAPPROVED MINUTES
Town of Auburn
Zoning Board of Adjustment
April 26, 2016

Present: Jim Lagana, Vice Chairman. Mike DiPietro, Elizabeth Robidoux and Jeffrey Benson, Members; Robert Beaurivage and Kevin Stuart, Alternate Members. Minutes recorded by Denise Royce.

Also Present: Carrie Rouleau-Cote, Building Inspector and Jeffrey Porter, Conservation Commission.

Absent: Mark Wright, Chairman, Peggy Neveu, Alternate Member.

Mr. Lagana called the meeting to order at 7:02 p.m. and introduced the Board members and explained the rules of procedure for tonight's hearing to those present. Mr. Lagana pointed out that Mark Wright, the Chairman of the Board was absent tonight and that he would be chairing the meeting tonight. Mr. Lagana informed all the applicants that in the event that their application is granted tonight that there was a 30 day appeal period where abutters or interested parties could appeal the Zoning Board of Adjustment's decision tonight. Once the 30 day appeal period is up and no one has appealed the ZBA decision that the applicant would then have two (2) years to have the project complete.

At this time, Mr. Lagana elevated Mr. Stuart to full voting member for the first case and asked Ms. Royce to read the first case into the minutes for the record.

Case #16-04

Peter and Larae Dionne

31 North Reading Street – Map 24, Lot 19

Zoned Industrial

Applicant is requesting a variance to permit the construction of a 20 foot by 24 foot outbuilding and decks along with an 18 foot by 24 foot above ground pool in an Industrial zone. (Article 3, Section 3.05(d))

Mr. Dionne read his application into the minutes for the record. Mr. Dionne explained to the Board that 60% of the houses on North Reading Street have pools and that his backyard is located in Auburn in an Industrial zone and that his house is located in Hooksett. Mr. Dionne further explained to the Board what he is proposing to do with the addition of outbuildings and an above ground pool. Mr. Dionne informed the Board that he did have the property surveyed and drew the proposed outbuildings and above ground pool on the survey plan. Mr. Dionne pointed out where the outflow pipe was located on the plan. Mr. Lagana indicated that this was a unique case with the home located in Hooksett and the backyard is in Auburn. Mr. Dionne stated that one third of

the backyard was located in Auburn. Applicant indicated that he was well aware that his backyard was located within an Industrial zone. Mr. Stuart asked if the stockade fence was already there. Mr. Dionne said yes. Mr. Lagana stated that he had driven by the property and noticed that there was already an outbuilding on the property and asked Mr. Dionne if it was staying. Mr. Dionne said yes it was to remain and that building was located in Hooksett. Mr. Dionne said the building serves as an emergency shelter for the Town of Hooksett. A brief discussion ensued with regard to where the property ends in Hooksett and begins in Auburn.

Mr. Lagana informed the applicant that the Board has received input from the Town of Hooksett which requested that they be certain that the outbuilding not include any additional plumbing or toilets or anything like that and asked Mr. Dionne if he anticipated this to be the case because they were concerned about the septic load. Mr. Dionne explained that, in speaking with Mrs. Rouleau-Cote that he was going to hopefully put a toilet in there and put it to a holding tank and that Mrs. Rouleau-Cote explained that he would be getting involved with EPA and everything else and believed it would be easier to put a chemical toilet if he had to because the pool would be some distance from the house and didn't want people going in the woods. Mr. Dionne did not believe he would have the pool this year but would have it at the beginning of next year.

Mr. Lagana wanted it noted in the minutes that the agreement would be there would be no additional septic load within the outbuilding. Mr. Dionne agreed. Mr. Lagana explained that the Board received input from Town Counsel and that the Board had a little bit of latitude considering that this is in an Industrial zone and that the setbacks in an Industrial zone for such a use like this would be determined by the Board. Mr. Lagana did not believe there were any abutters present and was surprised and asked if there were any abutters present. None were noted. Mr. Lagana asked with there were any comments from the Board. Mrs. Robidoux asked the applicant if there was a reason why it had to be 12 feet from the property line and could it move over a bit. Mr. Dionne explained that he's already played with moving it around and if he moves it any closer that he would be too close to his outflow pipe for the septic system as well as the raised bed and wanted to stay away from it as much as possible. Mr. Lagana pointed out that a variance is based on the uniqueness of the land and believed this was a unique case now that Mr. Dionne brought up the raised bed and outflow pipe for the septic system. Mrs. Rouleau-Cote wanted to clarify to the Board that the raised bed is not on his property but is located on the abutter's property and that Mr. Dionne does not have a state approved leach field. Mr. Dionne believed he would be doing a septic tank down the road and has already pre-planned for it. Mr. Lagana asked Mr. Dionne if an approved septic system would affect the outbuilding. Mr. Dionne said no, that he still had enough room in the backyard to put in a raised bed. Mr. Lagana believed this would be a unique characteristic that we need to leave that space open. A brief discussion ensued between the Board members and Mr. Dionne with regard to leaving the space open for a future septic system.

Mr. Lagana asked what was behind the stockade fence. Mr. Dionne stated that it was a sheetrock building and the people who do the tents and it's an Industrial building and

their parking lot goes all the way back there. Mr. Beaurivage asked Mr. Dionne if he had an easement for the septic system. Mr. Dionne said no it's all on his property and the raised bed that he was talking about was on the abutter's property. Mrs. Rouleau-Cote informed the Board members that she did speak to the Building Inspector for the Town of Hooksett and since the house is in Hooksett and making sure that an adequate leach field could potentially be put in at a later date and both herself and the other Inspector believed that since it was on municipal water that the area currently where his leaching occurs could probably support a leach field for the current septic loading of his house has now. Mrs. Rouleau-Cote asked Mr. Dionne how many bedrooms. Mr. Dionne stated that there were three (3) bedrooms but that it was only him and his wife right now.

Mr. Beaurivage asked if it was an inground pool. Mr. Dionne said above ground. Mr. Lagana asked about the outbuilding being storage. Mr. Dionne said yes. Mrs. Robidoux asked Mrs. Rouleau-Cote that if Mr. Dionne had to do a replacement system was there any specific distance that he would need to be for an above ground pool. Mrs. Rouleau-Cote stated not for an above ground pool but that typically it's at least 10 feet but that he had plenty of room. Mr. Lagana noted that, as complicated this lot is with the challenges, it does seem pretty cut and dry and asked Mrs. Rouleau-Cote if she had any suggestions or guidance that the Board may consider regarding any kind of condition on this. Mrs. Rouleau-Cote pointed out the discussion about having no water or sewer in the outbuilding until his septic design is approved by the Town of Hooksett would be one condition. In speaking with legal counsel that a Notice of Decision should be sent to the Town of Hooksett Building Department to be placed in their files and certainly there would be a 30 day appeal period if they had an issue with how the Town of Auburn Zoning Board of Adjustment acted but that the Building Inspector for the Town of Hooksett did not have much of a concern after she spoke with him.

Mr. Lagana asked if there were any interested parties that would like to speak. None were noted. At this time, Mr. Lagana asked the Board members how they would like to proceed.

Mr. DiPietro made a motion to vote on the application as presented with the condition that there be no plumbing is allowed in the accessory building to be built by the pool unless and until such time that a septic design is approved by the Town of Hooksett and that the Town of Hooksett is notified as shown by the plan, Mr. Benson seconded the motion. Mr. Benson voted to grant, Mr. Stuart voted to grant as all the factors have been met, Mrs. Robidoux voted to grant as all factors have been met, Mr. DiPietro voted to grant, and Mr. Lagana also voted to grant as all factors have been met. All were in favor, and the motion passed in the affirmative.

Mr. Dionne thanked the Board and Mr. Lagana reiterated that there was a 30 day appeal period and if he wanted to start tomorrow that it was at his own risk as someone could appeal it. Mr. Dionne understood and exited the meeting.

Case #16-05
Kenneth Booth
547 Chester Road – Map 5, Lot 60
Zoned Residential Two

Applicant is requesting a variance to permit the construction of a 26 foot by 32 foot garage to be less than the required 125 feet from a Level One wetland; and, a variance to permit the garage to be within the side and front setback and to exceed lot coverage in a Residential Two zone. (Article 5, Section 5.08(1)) & (Article 4, Section 4.06(6))

Mr. Lagana elevated Mr. Beaurivage for this case.

Mr. Booth passed out copies of a survey plan to each of the Board members which showed the proposed location of the garage. At this time, Mr. Booth read his application into the minutes for the record. Mr. Booth presented Mr. Lagana with copies of letters he received from abutters who had no objections to what he was proposing and the request for a variance. Mr. Booth talked about staying away from the leach field if he had to ever replace it. Mr. Booth also informed the Board that the garage would be constructed with no impact on the lake and it also abuts a lot to the left hand side of him that is used as drainage for the State of New Hampshire which is a non-buildable lot. The only thing that lot is a 50 foot right of way used by the people across the street to be able to get to the lake. Mr. Booth explained that the garage would be used to store his heating pellets and to store his truck with the plow on it, canoes and lawn furniture and basically anything that would be kept outside. Mr. Booth stated that before he left that he notified the police that he was leaving and when he returned he found that someone had come into his yard and stole the cover off his plow and tried to steal the plow by smashing the lock and if they had gotten a hold of that it would have been a \$6,000 loss so by having the garage it would allow him to keep his equipment stored safely. Mr. Booth pointed out to the Board members that this was basically the only spot on the lot that he would be able to place the garage.

Mr. Lagana asked Mr. Booth to show the Board members where the lot that was used by the State of New Hampshire for drainage was located in respect to his property. Mr. Booth stated it was the other side of the stone wall. A brief discussion ensued with the lot being used by the State of New Hampshire for drainage but was not owned by the State of New Hampshire. Mr. Booth also wanted to point out that if this garage was granted by the Board tonight that he would still have to go before Shoreland Protection and get their blessing. Mr. Booth also stated that he has also met with the Conservation Commission and they also granted 5 in favor and 1 against. Mr. Booth further stated that he removed a 60 foot by 120 foot asphalt tennis court that was on the property and also replaced the roof on his house with a metal roof.

Mr. Lagana asked what the total acreage was for the property. Mr. Booth stated that it was one acre and that was where his hardship comes in to play and that there was no way he could ever meet any setback. Mr. Lagana stated that this was the uniqueness

of the lot and thanked Mr. Booth for his presentation and asked Mr. Porter to comment. Mr. Porter stated that the Conservation Commission voted in support of Mr. Booth. Mr. Beaurivage asked Mr. Booth if he would pave the driveway into the garage. Mr. Booth said yes.

At this time, Mr. Lagana believed there were three (3) variances that Mr. Booth would be requiring and the first being a variance to be less than 125 feet from a Level One wetland, the second being a variance for the garage to be within the side and front setbacks and thirdly being to exceed lot coverage. The Board agreed to take it up as three (3) separate variances. Mrs. Robidoux wanted to add that she believes that the Shoreland Protection will be a lot harder on him than the Zoning Board would be.

Mrs. Robidoux made a motion to grant a variance to allow a 26 foot by 32 foot garage to be less than the required 125 feet from a Level One wetland as shown on the plan for Tax Map 5, Lot 60, Mr. Beaurivage seconded the motion. Mrs. Robidoux voted to Grant, Mr. Beaurivage voted to Grant, Mr. DiPietro voted to Grant, Mr. Benson voted to Grant, and Mr. Lagana also voted to Grant as he believed the conditions have been met along with the testimony from the Conservation Commission. All were in favor, and the motion passed in the affirmative.

Mrs. Robidoux made a motion to grant a variance to allow a 26 foot by 32 foot garage as presented on the plan to be within the side and front setbacks of the property for Tax Map 5, Lot 60, Mr. DiPietro seconded the motion. Mrs. Robidoux voted to Grant, Mr. Beaurivage voted to Grant, Mr. DiPietro voted to Grant, Mr. Benson voted to Grant, and Mr. Lagana also voted to Grant as he believed all the factors have been met. All were in favor, and the motion passed in the affirmative.

Mrs. Robidoux made a motion to grant a variance to allow the applicant to exceed lot coverage in a Residential Two zone as presented for Tax Map 5, Lot 60, Mr. Beaurivage seconded the motion. Mrs. Robidoux voted to Grant, Mr. Beaurivage voted to Grant, Mr. DiPietro voted to Grant, Mr. Benson voted to Grant, and Mr. Lagana also voted to Grant as he believed all the factors have been met. All were in favor, and the motion passed in the affirmative.

Mr. Lagana informed Mr. Booth that he did a nice job presenting tonight and reminded Mr. Booth that there was a 30 day appeal period and pointed out that he would have to go to the state anyways. Mr. Booth thanked the Board members and exited the Public Hearing.

The Board moved on to the next case.

**Case #16-06
Auburn Tavern, LLC
Patty & Sheila, LLC
346 Hooksett Road – Map 31, Lot 11
Zoned Commercial One**

Applicant is requesting a variance to permit the construction of a 23 foot by 36 foot deck to be within the front setback in a Commercial One zone. (Article 4, Section 4.06(6))

Mr. Stuart recused himself from this case and Mr. Lagana elevated Mr. Beaurivage to full voting status for this case.

Mr. Scamman passed out copies of a letter of authorization allowing him to present on the applicants behalf along with copies of the proposed plan. Mr. Scamman began by saying that what they are proposing to do is to construct a deck on the front side of the building facing Route 101. Mr. Scamman pointed out that the existing structure is only 22 feet from the property line with the new fire escape that they put in last year and that the new deck would be 23 feet from the property line. Mr. Scamman indicated that they are before the Board tonight to seek a structural setback variance and pointed out that the existing building is within the setback. Mr. Scamman further pointed out that it has been a restaurant for several decades and began reading the application into the minutes for the record. Mr. Scamman believed this was the best place to put the deck as to not interfere with the abutters homes behind the building located on Auburndale. They would not be increasing impervious but in fact reducing impervious. They would also be moving the driveway entrance to align with Dollard Road and believe that this was a reasonable expansion of the restaurant and did not believe that it would impede on the State of New Hampshire Route 101.

Mr. Lagana asked if they would be increasing capacity or basically displacing capacity with people that would normally be inside. Mr. Scamman stated that it would be a little of both of which there would be more seats overall and they are working with DES and the Building Inspector on balancing the number of seats and the types of seats. Mr. Scamman believed that on a nice summer day that people would want to stop and enjoy their food on the outside deck.

At this time, Mr. Scamman opened up to questions from the Board. Mr. Beaurivage asked if it would be increasing the load on the septic system. Mr. Scamman answered by saying that they are working with the State and Mrs. Rouleau-Cote on that and explained that the restaurant when they originally did it was approved for 100 seats and the traditional seats are 40 gallons per day. Mr. Scamman stated that there were 52 seats in the main restaurant and the remainder are bar seats and that bar seats are at a lower rate at 20 gallons per day. Mr. Scamman further added that there was a two (2) bedroom apartment of which they will be eliminating and taking some of the seats that were at the bar and changing them into function room and the deck seats. Essentially

the existing leach field would be maintained at the same gallons per day as what is currently in place today.

Mr. Lagana talked about the new ramp that was installed. Mr. Scamman stated that it was put in place for safety and what they are proposing to do is incorporate it into the new deck.

Mr. Lagana asked the Board members if they had any other questions. Mrs. Robidoux believed her question was more of a site plan question and asked about the ramp and the safety buffer between the ramp and the building for pedestrians walking to and from their vehicles. Mr. Scamman stated that they will be going to the Planning Board next week and explained that there is a 4 to 5 foot walkway and that they would be placing something there for safety.

Mr. Lagana asked if there were any abutters present tonight that would like to speak. None were noted. Mr. Lagana asked if there were any interested parties present. None were noted. Mr. Lagana asked Mrs. Rouleau-Cote if she had anything she wanted to add. Mrs. Rouleau-Cote wanted to speak with regard to Mrs. Robidoux's question and added that there would be some sort of barrier or bollard put in place to protect the patrons on the deck and assumed that this was a Planning Board issue. Mr. Lagana asked Mr. Scamman if he would be meeting with the Planning Board next Wednesday. Mr. Scamman said yes. Mrs. Rouleau-Cote further added that the Planning Board would probably be asking about lighting and if they were going to have music on the deck. Mr. Scamman indicated that it was discussed at the preliminary hearing.

Mr. Lagana asked if there were any other comments from the Board and how they would like to proceed. Mr. Benson reiterated that they were before the Board tonight to seek a variance to be within the 50 foot buffer and had no questions on that. Mr. Lagana pointed out that the building was already there and they were not increasing coverage.

Mr. DiPietro made a motion to vote on the application as presented to allow the addition (unenclosed deck) to encroach in the front yard setback as shown on the plan as presented this evening for Tax Map 31, Lot 11, seconded by Mrs. Robidoux.

Mr. Beaurivage wanted to amend the motion to include conditioned upon reaching an agreement with DES with regard to the septic approval. Mrs. Robidoux wanted to add another condition which included "conditioned upon Site Plan Approval by the Planning Board."

Mr. Beaurivage made a motion to amend Mr. DiPietro's motion to vote on the application as presented to allow the addition (unenclosed deck) to encroach in the front yard setback as shown on the plan as presented this evening conditioned upon reaching an agreement with DES with regard to the septic approval and conditioned upon Site Plan Approval by the Planning Board for Tax Map 31, Lot 11, seconded by Mr. DiPietro. Mr. Benson voted to Grant as it has met the five (5) factors with the characteristics of the lot, Mr. DiPietro voted to Grant, Mr. Beaurivage voted to Grant, Mrs. Robidoux voted to Grant, and Mr. Lagana also voted to Grant as he believed all the factors have been met. All were in favor, and the motion passed in the affirmative.

At this time, Mr. Scamman thanked the Board and exited the Public Hearing.

Other Business

Mr. Lagana asked the Board if there was any new business. None were noted.

Minutes

Mr. DiPietro made a motion to accept the minutes of February 23, 2016 as written, seconded by Mrs. Robidoux. All were in favor with Mr. Lagana abstaining, and the motion passed.

Adjourn

Mrs. Robidoux made a motion to adjourn, seconded by Mr. DiPietro. All were in favor, the motion passed unanimously and the meeting stood adjourned at 7:59 p.m.

The next ZBA Hearing is scheduled for May 24, 2016 at 7:00 pm and will be held at the Town Hall, 47 Chester Road.