



ZONING BOARD OF ADJUSTMENT

Town of Greenland • Greenland, NH 03840

11 Town Square • PO Box 100

Phone: 603.431.3070 • Fax: 603.430.3761

Website: greenland-nh.com

MINUTES OF THE BOARD OF ADJUSTMENT PUBLIC HEARING

Wednesday, January 22, 2020 – 7:00 p.m. – Town Hall Conference Room

Members Present: Lindsey Franck, Steve Gerrato, Ron Gross, Leonard Schwab

Members Absent: Liz Cummings

Staff: Jim Marchese – Building Inspector

Chair Gross opened the Board of Adjustment meeting at 7:00 p.m. and a roll call was taken. The Chair explained the procedures of the Zoning Board of Adjustment, stating that a quorum was present, and the meeting was being recorded. Minutes will be available in accordance with RSA 91-A and will also be available on the Town's website. Chair Gross explained that four members were present rather than five; three of the four members must vote in the affirmative in order for the Variance to be granted.

1. 24 Bruce Court – Map R18, 39; Commercial A Zone
Request for a Variance
Owner: Dennis Hayward, Hayward Realty Investments
Applicant: Brian Graham, Black Jack Auto Sales
The applicant is seeking a Variance for an automotive washing and detailing facility in conjunction with an existing automobile dealership on site.

Chair Gross explained the permit was denied because the proposed use is not permitted in the Commercial A Zone. Chair Gross noted that the applicant is the renter and not the owner.

Bernard Pelech, Attorney with Bosen and Associates and representing the applicant, addressed the Board. The applicant's business, an automobile dealership, is located in Building C on the property; that use was allowed by Special Exception. Attorney Pelech explained that B. Graham would like to detail and wash vehicles before they are sold.

Attorney Pelech distributed a product sheet for an environmentally friendly car wash detergent, Enviromate. It is an eco-friendly product that is approved by the EPA. They estimate that one or two vehicles will be washed and/or detailed per day, five days per week. Detailing would be done within the building; washing would be done outside the building.

Attorney Pelech presented a certified wetland scientist stamped plan to the Board. The site plan was approved by the Town when the structures were originally constructed. Drainage from the site runs down to a catch basin and into a holding tank; Attorney Pelech thought it was dispersed into the septic system. They did not believe the proposed use would have any effect on the wetlands because of the products being used or flow into the adjacent wetland. Detailing vehicles will not create any environmental problems.

Attorney Pelech reviewed the five criteria required to be met for a Variance (copy on file). Values of surrounding properties would not be diminished because the buildings in the area are metal, commercial types. Other businesses in the same complex are service type uses. Spirit of the Ordinance and contrary to public interest: granting the Variance would not alter the characteristics of the neighborhood; there are no residences in close proximity. Washing one or two cars a day is not going to substantially alter the characteristics of the neighborhood. They can demonstrate this is not contrary to public interest or spirit in any way. Substantial justice: Board members must weigh the hardship on the applicant if the Variance were denied against perceived public benefit by denying the Variance. A hardship would be created by denying the Variance: vehicles would have to be taken off-site for detailing and cleaning; this is an accessory use for an automobile dealership. Attorney Pelech did not see any public benefit in denying the Variance; it will not affect the general public or Town of Greenland. The lot is small in size and irregularly shaped; the applicant's business is located on the rear of the lot and not easily seen from Rt. 33. They feel it is a reasonable use and there is no fair and substantial relationship between the purpose of the Ordinance when applied to the property.

There was a discussion about the catch basin indicated on the plan. Attorney Pelech stated the catch basin was located above the existing pump house shown on the plan. The existing underground storage tank will be removed. L. Schwab asked if the underground storage was removed as noted on the 2004 plan the Board received; Attorney Pelech thought it had been and the Planning Board was to be notified in writing when it was removed. Attorney Pelech, responding to a request from Chair Gross, explained how the water from the site currently flows into the catch basin and then into the septic system. It may go into the holding pond but is difficult to tell from the plan.

L. Franck noted it was her understanding that a DES permit was required if waste was flowing into a leach field. B. Graham responded he has not contacted DES; if the Variance is granted, they will start the process. He plans to keep the business small. L. Franck asked if a larger car washing facility could be put on the site; Attorney Pelech responded that limits could be set as part of the Variance.

S. Gerrato noted that the location is similar to Autumn Pond. There are wetlands on both sides of the lot as well as the back; it is a very touchy lot. There was a discussion about the location of the septic system and the pump house. J. Marchese clarified that the septic system was not designed to treat surface water flows; it was only for sewer systems. Any of the parking lot drainage was not going to the leach field; it would be going off site (into the pond and wetlands). Chair Gross visited the site at the beginning of January 2020 and took pictures of water flowing. It was clear to him that water flowing from anywhere near the building was going directly into pond. J. Marchese, stating he was not a licensed engineer, commented that looking at the proposed contouring on the plan, the Board would see that the water was not designed by the engineer to flow from point 'A' to point 'B'; it was designed to flow into the swale.

L. Franck was concerned about PFAS chemicals found in car wash products that can seep into the groundwater and then neighboring wells. There was a brief discussion on the chemicals that would be used. John and Sandra Finn, Tide Mill Road, were also concerned about chemicals. B. Graham will not be doing engine repairs. He added that he would only be washing cars outside (probably 10 minutes) and then moving inside to do detail work. It was also noted that a DES permit would be required if water was being discharged into the septic. A DES permit would not be required if water flowed into the wetlands because it is outside the 250 ft. shoreland zone. Attorney Pelech stated if the Board wanted to continue their case, they would be happy to supply more information about the car washing product. There was a discussion about water usage and wells.

There being no further public comments, Chair Gross closed the public hearing and returned to the Board for discussion. L. Franck reiterated her concern about chemicals in the car wash products and that the Town could be held responsible. S. Gerrato noted that there was a similar case at Autumn Pond Park and it was denied by the ZBA; the Board needed to be careful with this case. Chair Gross explained the foam car wash system that he uses; it uses 2 cups of water and is environmentally safe. Car washing is not a permitted use in the Commercial A Zone; Chair Gross was unsure if the foaming system was considered “car washing”. The dirt from the vehicle is on the towel.

MOTION: S. Gerrato moved to deny the Variance as requested by Brian Graham, Black Jack Auto Sales, 24 Bruce Court (Map R18, 39), based on the five criteria. (1) Granting the Variance would not be contrary to the public interest: The lot is wetlands; anything happening in the wetlands will go to the wells; (2) Spirit of the Ordinance: The spirit of the Ordinance is no washing cars in the Commercial A Zone; (3) Substantial justice: It would not be just because the lot is wetlands; the way it is performed it would possibly be letting water go to a pond and wash water should not be in that pond; (4) Values of surrounding properties would not be diminished: That is not pertinent to this application; (5) Unnecessary hardship: This is not a hardship; the Town already has this. The other person has the exact same business and cars are taken to an off-site detail and car wash. Second – L. Schwab; all in favor. MOTION CARRIED

Discussion: L. Franck added that it would be contrary to public interest due to possible health risks. S. Gerrato stated that at this time of year, cars have salt on them and brine is now used on the roads. Chair Gross somewhat agreed. He had a discussion with the Code Enforcement Officer; Chair Gross felt it would be a change in use. It is a non-permitted use and the ZBA is not allowed to change an Ordinance for a non-permitted use. He did not see where this was not considered car washing. It can be done elsewhere; Chair Gross did not feel it was an accessory use or that there was a hardship because other options were available.

2. Approval of Minutes

S. Gerrato had concerns about two items in the minutes from August 20, 2019: page 2, second to last paragraph—14 inches should be 14 ft.; 18,000 sq. ft. should be 8,800 sq. ft. Approval of minutes was continued to the next meeting.

3. Other Business

L. Franck requested that the night of the ZBA meeting be changed to a Wednesday evening rather than Tuesday. Discussion was continued to the next meeting.

S. Gerrato questioned why the Board would hear a case that was not an allowed use. Chair Gross responded that in discussing it with J. Marchese, it was possible the Board would not see it as car washing.

S. Gerrato updated the Board on the housing shortage in New Hampshire and a bill requiring training and testing for land use boards in New Hampshire. If members do not pass, they will not be allowed to vote. There will be no charge for books and training. Note: The bill has not passed. S. Gerrato also told members the Governor would like boards to “ease up”. Response from members: we have zoning ordinances and regulations. L. Schwab added there are eight towns in the State that do not have zoning regulations. J. Marchese noted the gray area was that the State of New Hampshire adopted the building codes (ICC codes); there may be eight municipalities in New Hampshire that do not have a building

inspector. Proper codes still have to be followed but there is no oversight. Approximately 94% of the State's population is covered by a building inspector.

S. Gerrato stated time limits will also be placed on subdivisions. Greenland has time limits established.

L. Cummings will not be running for re-election to the Board; however, a resident has filed with the Town Clerk.

J. Marchese apologized to the Board for not completing a denial form for the application heard at this meeting.

4. Adjournment

MOTION: S. Gerrato moved to adjourn at 7:54 p.m. Second – L. Schwab; all in favor. MOTION CARRIED

NEXT MEETING

Wednesday, February 19, 2020 – 7 p.m., Town Hall Conference Room

Submitted By: Charlotte Hussey, Administrative Assistant

Approved _____