



ZONING BOARD OF ADJUSTMENT

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MINUTES OF THE BOARD OF ADJUSTMENT PUBLIC HEARING

Tuesday, June 21, 2016 – 7:00 p.m. – Town Hall Conference Room

Members Present: Chair John Samonas, Liz Cummings, Steve Gerrato, Leonard Schwab

Members Absent: George Baryames

Staff: Jim Marchese – Building Inspector

Chair Samonas 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.

Chair Samonas clarified the vote that would be needed to grant a Variance due to the absence of one Board member. Three out of four members would need to vote in favor of the Variance in order for it to be granted.

1. Request for A Variance: 176 Tuttle Lane [Map R10, 1] – Residential
Owner/Applicant: Young Men's Christian Association (The Granite YMCA)
The owner/applicant is proposing to open a group child day care. Greenland Zoning Ordinance Article III, Section 3.7.14, Subsection 2 – Definitions (Child day care facility....., Item C), allows this type of child care in the commercial and industrial zones only.

Jason Lopez, Keach-Nordstrom Associates and representing The Granite YMCA, addressed the Board. Also present from The Granite YMCA were Hal Jordan (President and CEO), Michele Sheppard (COO) and Maury Goodman (Board Chair, Seacoast YMCA). J. Lopez stated that The Granite YMCA was seeking a Variance in order to resume child day care in a Residential Zone; the use is only allowed in the Commercial and Industrial Zones.

The site plan being reviewed by the Board was originally approved, with a Conditional Use Permit, by the Planning Board in 2001 for a 2,600 sq. ft. building. The approved use was for a licensed day care facility with a live-in caretakers unit. In 2009, the residents of Greenland voted to amend the Zoning Ordinance, permitting day care facilities in the Commercial and Industrial Zones. At the end of the 2011-2012 school year the Y suspended the day care program at Camp Gundalow due to financial constraints. In 2015, they contacted the Building Inspector about resuming the program. On October 02, 2015, the Building Inspector denied their request because the program had been inactive for over a year and had become a non-conforming use.

The program will be a licensed day care facility. H. Johnson explained that Camp Gundalow currently runs a summer program with 165 children a day for 10 weeks (until August 30, 2016). There has been a site visit by the State for licensing; in order to be licensed by the State, they need Town approval. An assessment of the site was done and maximum capacity was set at 50 children for the day care program, based on the square footage of the building.

H. Johnson explained that the children would be picked up by a bus at the end of the school day and dropped off at Camp Gundalow. Students will be picked up on a staggered schedule. From a traffic perspective, a bus would drop off students after school and parents would pick them up at varying times at the end of the day. Students would be registered for the program at the beginning of the school year and will continue throughout the school year. During the summer, there is a transition to camp.

The existing four season lodge will be used year round; other buildings are not heated. There is a full basement; the building is heated by oil. There was a question if the leach field was adequate; septic will be reviewed by the Building Inspector. The existing septic was designed and built for what was approved in 2001. They are not planning to replace the septic until it fails.

The day care program provides healthy snacks as well as tutoring and homework help for educational support. They have one of the top three character development programs in the country. YMCA's are very big on honesty, respect, care and responsibility. They also make sure the child's character is reinforced in a positive manner. All children will receive well-balanced programs. Financial assistance is available to children in Greenland for child care at the Y. There will be seven or eight staff on site during the day. Full day programs are available during vacations and teacher conferences. A Kindergarten wrap-around program is a possibility. Special events may also take place during the year.

Areas of concern for the Board were traffic, stacking of cars on Tuttle Lane, and staggering arrival times. H. Johnson assured members that there haven't been problems at other locations, and they didn't anticipate any in Greenland. Peak pick up hours are 4:45 p.m. to 5:15 p.m., and it's not more than 10 to 15 parents. There are 25 parking spaces available on the property. H. Johnson explained the pick-up procedure, which will be similar to the summer program.

Several parents spoke in favor of, and the need for, a child care program in Greenland. Chair Samonas was asked to define "hardship". He explained that it can't be economic. Greenland needing after school care is not a hardship; it has to be specific to the property. Parents also wanted to know why summer camp is allowed, but not day care. Chair Samonas explained that summer camp didn't close and there wasn't a lapse in use. L. Cummings added that the use of the property was time sensitive, and it had lapsed for a year. Further, the Town voted to allow that use only in the Commercial and Industrial Zones.

M. Goodman stated that the YMCA promoted youth development, healthy living and social responsibility. The YMCA helps children reach their full potential, and guides them away from the insidious use of drugs and alcohol that are prevalent today. There is no other program that works as well.

Barry Osborne, Stratham resident representing Piscataqua Fish and Game Club, stated their members are not opposed to the day care program and are sensitive to the need. They wanted parents to be aware that the Fish and Game Club is an active shooting range during the day, and it will be noisy. He also voiced the club's concern about parking and speed.

Returning to the hardship aspect of the application, Kevin Delaney, Fairview Drive, stated there are not many places in Greenland that are move-in ready; the existing building is. The hardship was that the YMCA is a non-profit business with a lack of resources. They are being prevented by the Town of Greenland from using a building that has already been approved for that type of use.

Chair Samonas closed the public hearing and returned to the Board for discussion. J. Lopez reviewed the five criteria for a Variance (copy on file). L. Schwab asked for a definition of "area youth": it is expected that the after school program will be for Greenland students only due to the high demand; the summer

camp is area wide. The minimum age will be students in Kindergarten or as approved by State licensing; the maximum age will be students in Grade 8. At the request of S. Gerrato, H. Jordan explained why they thought the day care program would be successful. The shooting range has a fence around it; the property was described by the engineer. The YMCA has comprehensive property liability coverage for the entire organization, and they are aware of the proximity of the gun club to the property. S. Gerrato explained that the Planning Board was trying to prevent "spot zoning" when the zoning districts were changed.

L. Cummings clarified that Camp Gundalow was still operating during the summer even though the day care program closed in 2011. The number of children at Camp Gundalow has increased since The Granite YMCA took over in 2012. They are planning on a long term commitment to the community with quality child care being offered. There are currently 24 operating facilities with 1,600 students a day; the enrollments are steady and increasing. H. Jordan added that that enrollment at the centers has more to do with the quality of the programs rather than demographics. Outdoor activities are encouraged.

Chair Samonas asked if a 2,600 sq. ft. building would allow 50 students. The Building Inspector responded there is no definition in the Ordinance, and the Town would have to rely on the State criteria. It's unknown if the building is sprinkled; it will be installed if required by State licensing. The original site plan received approval for a residential apartment; H. Jordan assured the Board there would not be a need for that, and was not part of the application. The Building Inspector noted that a recent inspection was done by the Fire Department; results of that inspection are unknown.

There was a brief discussion about the safety of children while on site. There are security measures in place and they know where students are at all times. Emergency Code Adam is in place, and the staff is continuously trained and drilled as required by State licensing. M. Sheppard explained the process. H. Jordan added they do coordinate with the Police Department. There is a fence around the pool.

The best routes for the bus and traffic were briefly discussed. Chair Samonas stated that staggering the pick-up traffic was a concern. He suggested that The Granite YMCA create a system for staggering at the end of the day. It was important to keep cars from stacking on Tuttle Lane.

MOTION: *L. Cummings moved to grant the Variance for The Granite YMCA, property located at 176 Tuttle Lane [Map R10, 1], subject to the following: (1) obtain Police and Fire Department inspections prior to operation and make any recommended corrections; and (2) obtain a license from the State of New Hampshire for a licensed child care facility. Second – L. Schwab*

DISCUSSION: L. Schwab requested that a septic system review by the Building Inspector be added to the conditions. L. Cummings stated that the narrative, while well done, was not presented the way she would have wanted it written. She added that it was a "table" problem; the Table of Uses (in the Greenland Zoning Ordinance) indicates that "Child Care Centers" are permitted in all zones except the Industrial Zone, where a Special Exception is needed and a different section is referred to in the notes. That is moderately misleading. The section referred to in the "Table of Uses" states that a "Family Day Care Home" is permitted in the Residential district. The ZBA needs to determine if the Ordinance prohibits the use as an arbitrary and capricious nature. She didn't believe that not allowing a licensed child care facility where a day camp is allowed is arbitrary. As a result, a hardship is created for the applicant by not letting them have it there. A day camp is allowed as well as other things that might have an impact. Traffic already exists on Tuttle Lane due to the gun club. Changes in Town since 2009 are significant. She was unsure if the Planning Board looked at it again if they would have the same zoning. By prohibiting the Board from allowing a child day care center in an area where a day camp

exists and has been, is arbitrary. L. Cummings concluded by stating it had met the conditions of the hardship.

Chair Samonas stated that enrollment should be limited to Greenland residents; L. Schwab requested that safety and security measures be provided to the Police Department. There was additional discussion about limiting the enrollment to Greenland residents.

AMENDED MOTION: *L. Cummings moved to grant the Variance for The Granite YMCA, property located at 176 Tuttle Lane [Map R10, 1], subject to the following: (1) obtain Police and Fire Department inspections prior to operation and make any recommended corrections; (2) obtain a license from the State of New Hampshire for a licensed child care facility; (3) the existing septic system must be reviewed by the Building Inspector; (4) safety and security measures and guidelines be provided to the Greenland Police Department; and (5) majority of the students enrolled in the day care program shall be from Greenland. Second – L. Schwab; all in favor. MOTION CARRIED*

2. Approval of Minutes: Tuesday, May 17, 2016

MOTION: *L. Cummings moved to approve the minutes of Tuesday, May 17, 2016. Second – S. Gerrato; all in favor. MOTION CARRIED*

3. Other Business

- The Building Inspector questioned Section 7 – Administration of the Building Regulations, which state that “he may, without judging the application on its merits, refer the application to the Board of Adjustment”. That would enable the Building Inspector to not deny or approve an application, but refer it to the ZBA. According to the Board’s By-Laws, they can only review a denial. L. Cummings stated that if an application was referred to the Board, the Building Inspector would have to tell them what was wrong and a building permit would not be granted. In addition, abutters would not have to be notified, and the application could be delayed by a month because the Board would have to review the application before a decision was made, which was not within the Board. In order for the ZBA to make a decision, a denial is needed. Options available to the Building Inspector were reviewed if there was an issue with an application.
- There was a discussion about zoning changes made by the Planning Board.
- L. Cummings stated that the ZBA should consider defining “reasonable time” between when a denial is given and an application is submitted.
- Sign Ordinance Revisions: S. Gerrato told members that the Planning Board was forming a committee to revise and amend the Sign Ordinance. L. Schwab has agreed to be on the committee. Chair Samonas stated that they could make Greenland look better with the proper Sign Ordinance; he asked to be kept informed of any suggested revisions. L. Cummings added they needed to give more than definitions (example: acceptable material, lighting).
- Chair Samonas questioned tonight’s applicant not having to go for review by the Planning Board; they were allowed a non-conforming use in a Residential Zone. Some of the issues addressed by the ZBA should have been reviewed by the Planning Board (police, fire, stacking of cars on Tuttle Lane). L. Cummings noted that if the applicant requests a building permit, the Building Inspector can require them to go to the Planning Board.

4. Adjournment

MOTION: *L. Cummings moved to adjourn at 8:30 p.m. Second – S. Gerrato; all in favor. MOTION CARRIED*

NEXT MEETING

Tuesday, July 19, 2016 – 7:00 p.m., Town Hall Conference Room

Respectfully Submitted: Charlotte Hussey, Secretary to the Boards

Approved: Tuesday, July 19, 2016