

**APPROVED**

Town of Grantham  
Zoning Board of Adjustment  
Minutes  
May 27, 2010

Chairman Conrad Frey called the ZBA meeting to order at 7:00 p.m. Thursday, May 27, 2010. The meeting was held in the Jerry Whitney Memorial Room located at Town Hall, 300 Route 10 South in Grantham.

PRESENT

Chairman Conrad Frey  
Richard Mansfield  
John Clayton  
Tanya McIntire

ABSENT

Martha M. Menard, Clerk  
Peter Gardiner  
Myron Cummings (Alt)  
Margery Bostrom (Alt)

Members of the public: Selectmen, Warren Kimball; Keith Phillip and Jeff Wigsien.

Frey asked the Board members if they had reviewed the minutes from March 25, 2010 and were there any corrections, there being none motion was made by Richard Mansfield and second by John Clayton.

*Approved by Unanimous Vote*

New Business

Keith Phillip / Sawyer Brook Plaza; Map 233 Lot 026 / Property Manager  
Jeff Wigsien, applicant

**Conceptual / Auction House / Indoor Flea Market**

Frey asked the applicants to introduce themselves and explain to the Board what their intentions were.

Keith Phillips stated that when he attended the last Planning Board meeting on May 6, 2010 he was told that before approval from Planning Board for the indoor auction/flea market could take place, he would need to go to the Zoning Board of Adjustment for clarification on usage and parking regulations to operate the business since there was nothing listed in the ordinance to do with auctions/flea markets.

Phillips stated what they are looking to do is run a “once-a-month” auction on a Sunday depending on inventory, then on alternating Sundays have an indoor flea market/auction. Phillips said that years ago there use to be several small business in the building and it was like a “White Elephant” sale inside and that they would like to have this type of business again on Sundays inside and, outside during nice weather.

## **APPROVED**

Phillips went on to say that he felt the Planning Board led him to believe that there was no problem with an indoor flea market / auction at the conceptual back in April 2010 so when he proceeded forth with the applications in May 2010 he was confused as to why he would need to go to the Zoning Board for a variance. Phillips said that he felt they had more than adequate parking for the auction customers and he had waited years for the park-n-ride to be put in place so it could be used for overflow parking if necessary.

Phillips told the Board members that really tonight he would like not to have to have a variance and was hoping that's what the Zoning Board members would say, then he could go right back to the next Planning Board meeting. Phillips stated that all of this has been a great inconvenience the way the dates are set up for both Planning/Zoning being on the same day for meeting/deadline requirements.

Frey told Phillips he should have gone to Zoning first then Planning Board. Frey went on to say that he felt the main issues were parking and the number of outdoor festivities that would take place. Frey did say even though the ordinance does not mention anything about auctions, outdoor yard sales or anything similar to that are limited to three times a year. Phillips stated that was correct. Frey said that anything more than three outdoor events require a variance, Frey proceeded to read from the zoning ordinance concerning parking. Phillips stated that he had a total of one hundred eight (108) parking spaces and on Sundays only Dunkin Donuts / Pizza Chef would be open.

Phillips stated to Board members that people have auctions all the time and he too would like to have the opportunity. McIntire asked Phillips his intentions for the flea market/auction. Phillips stated that inside he would hold "one" auction a month and indoor flea market on alternating Sundays. McIntire asked Phillips if he was going to be open during the week. Phillips stated he would have "no" weekday hours.

Mansfield said the ordinance states as far as yard sales are concerned they are allowed for three days at a time, three times a year (or nine days a year with a variance).

Frey asked Phillips if he had done any research as to how many people to expect at these events. Phillips stated hopefully as the business picks up to expect 100 – 150. Frey asked Phillips again information pertaining to this auction/flea market. Phillips said there would only be a "indoor auction" once a month and "indoor flea markets" on the alternating Sundays and when the weather was nice they would like to hold "out door flea markets "not" auctions.

McIntire asked Phillips if they were planning on doing this year round? Phillips stated they could do this year round depending on how things go, traditionally this would be a spring – fall business and again only on Sundays. Clayton asked Phillips if they would have the same vendors. Frey asked how many employees. Phillips stated eventually there would probably be six (6) but for now there would only be two (2) just starting the

## **APPROVED**

business to see how it will go. Wigsien stated yes, there would only be two of them to start and add more employees later if necessary. Frey asked Wigsien if everything should go well for the business how many employees then? Wigsien stated this could be unlimited if things go well. Wigsien stated that they are running out of time to get the business going. Frey asked about parking space for employees and Phillips and Wigsien stated they could park at the park and ride.

Frey explained usage of signs / temporary signs from the zoning ordinance and usage of lights. Phillips said there seemed to be some issues with signs and lighting around Grantham. Frey said yes there were and these issues would be addressed to the Selectmen and Planning Board. Frey also stated that the end of a business day lights should be turned off other than lights for security. Phillips said he would.

Frey asked if anyone had any more thoughts. Mansfield stated that he had a little problem with unlimited Sundays for the outdoor flea market. Frey said it would be limited to only three (3) annually unless Phillips comes back for a variance. Phillips asked if that meant they could start having the three (3) outdoor yard sales now? Frey stated yes and McIntire said at least they would see how the turnout would be.

Frey asked if Planning Board had put any restrictions on them. Phillips said that they had to go back to Planning Board for their final decision on the second business after they had been to the Zoning Board. Frey told Phillips and Wigsien that the indoor activity was allowed for the indoor flea market/auction and he was assuming that they had 108 parking places and he would like to see a map/ plot plan when they come back to zoning with the application for a variance for the "outdoor" flea market only (no outdoor auction).

Frey informed Phillips and Wigsien that he would contact the Planning Board with their decisions and specify that the indoor auction & flea market was allowed by the Zoning Board "only" on Sundays and the flea market "outdoors" was to be only three (3) per year and on Sundays "only" until they come to zoning for the variance and parking spaces information. Phillips and Wigsien thanked the Board for their time.

### **Discussion on May 8<sup>th</sup> OEP Conference**

Tanya McIntire, Martha Menard and Conrad Frey attended the annual OEP Conference held in Nashua, NH on May 8, 2010. Each person attended different sessions and briefed the members of the Board what they had learned.

The most germane subject covered Workforce Housing, which was helpful in understanding this new hot issue. Background material was presented and will be assimilated for input in drafting a new Article for the ZBA Ordinance on this subject.

It was also learned that new criteria for "hardship" had been passed by the Legislature and that Zoning Boards should adopt these new criteria in any upcoming applications for

## **APPROVED**

a variance. [Copies will be obtained and distributed to Board members and the Ordinance modified to include these criteria].

A change in penalties for zoning violations will require a minor change in the Town of Grantham's Ordinance.

### **First Drafts for Proposed New Articles**

Two drafts for proposed new Articles to the Ordinance were discussed. The first of these was for Small Wind Energy Systems that by definition may generate up to 100 kWh of energy for "personal use" although any surplus energy may be sold through the grid. Contrary to what many may think, municipalities are not obligated to install commercial wind farms. This is not the same situation as the telecommunications towers that were mandated by an Act of Congress (1996).

The proposed Article on Small Wind Energy Systems is based on sections from RSA 674:62-66; a model ordinance article obtained from the OEP; and certain sections that were related from the present (Telecommunications Overlay District Article III-J). These sources were combined to create a rather straightforward draft for an Article on Small Wind Energy Systems. The draft was discussed and only one change was suggested; the deletion of a section on wind systems on unvegetated land. It was felt that such conditions did not exist in Grantham and therefore was not necessary.

The Article as written with this change will be submitted later in the year to the Planning Board for their approval prior to be placed on the Warrant for the March 2011 Town Meeting.

The second Article concerns Affordable Housing (a better and more kind terminology than "Workforce Housing"). The mandate for New Hampshire Towns to adopt Workforce Housing in their Ordinance stemmed from the Supreme Court decision in 1991 (Britton vs. Chester) and the Legislature's enactment of RSA 674:58-61 in 2009. The purpose is for Towns to make it possible through modification of their zoning and site plan reviews to permit less costly housing to be built for people with more modest incomes. Underlying this purpose is the reasoning that there is not enough affordable housing for the labor market in New Hampshire and if affordable housing is not available, the State's economy will not be able to grow in the future.

The criteria for what constitutes affordable housing will be set forth by one or more of several agencies in the State that will outline the then current median income for a given area (city or county) and the maximum cost of a house that this income would support. Each of these given areas is to provide a "fair share" for housing, which will be based on a "region by region" basis. Neither fair share nor region by region is defined in quantified terms anywhere and probably never will be!

## **APPROVED**

A draft proposal for an Article on Affordable Housing was created based on the review of Articles from four other Towns, discussion with UVLSRPC, the material presented at the OEP Conference and various reference material. The draft listed the types of housing that are presently permitted to be constructed in each of Grantham's zoning districts (those that allow housing) and suggested modifications in a few of these districts. It was felt that there could provide an adequate opportunity for more modest housing. (Existing homes that meet the criteria would also be included in the "fair share" equation).

Following discussion of this draft, it was suggested that the information obtained from a June 1, 2010 lecture on the subject by a leading authority on the subject and another discussion with UVLSRPC be incorporated into a second draft before further review by the Board.

Again, this Article will be reviewed, probably requiring a number of ZBA meetings and a meeting with the Planning Chair before it is formally presented to the Planning board for their approval prior to inclusion on the 2011 Warrant.

### **Old Business**

None

### **Other**

None

### **Correspondence**

None

### **Comments**

None

### **Adjournment**

Frey asked Board members if there were any further questions/discussions, there being none a motion was made by John Clayton and second Tanya McIntire to adjourn the meeting. ***Approved by Unanimous Vote*** to adjourn at 8:45 p.m. The next Zoning Board meeting will take place on June 24, 2010 if there are any applications.

Respectfully Submitted,

*Martha M. Menard*

*ZBA Clerk*

*June 1, 2010*