

APPROVED

Town of Grantham
Zoning Board of Adjustment
Minutes
August 26, 2010

Chairman Conrad Frey called the ZBA meeting to order at 7:00 p.m. Thursday, August 26, 2010. The meeting was held in the Jerry Whitney Memorial Room located at Town Hall, 300 Route 10 South in Grantham, NH.

PRESENT

ABSENT

Chairman Conrad Frey
Richard (Dick) Mansfield
Tanya McIntyre
John Clayton
Margery Bostrom (Alt)
Myron Cummings (Alt)
Martha M. Menard, Clerk

Peter Gardiner

Chair Frey stated in the absence of Peter Gardiner this evening, he would have Alternate Myron Cummings sit in his place as a voting member.

Members of the public: Selectmen, Warren Kimball; Angela MacCreighton; Paul & Kathryn Osgood; Carlisse Clough; Edith Willis; Crystal & Warren Kunz; Carole Shepherd; Steve Nolan; Sarah Johnson; Tink & Bob Osgood; Joey Holmes.

Frey asked the Board members if they had reviewed the minutes from May 27, 2010 and were there any additions/corrections. There being none motion was made by John Clayton and second by Richard Mansfield.

Approved by Unanimous Vote.

Chair Conrad Frey stated before he goes to new business, he would like to view for the Board and the audience, the new criteria for hardship which was approved by the legislators and took effect the beginning of this year. Frey said since the Board would have to apply this with the variance application before them he would like to go over the criteria. Frey explained the meaning of the new criteria.

New Business

Paul & Kathryn Osgood / Owners /5 Willis Avenue; Map 233 Lot 007

Carlisse Clough /Applicant

Variance / Closet Treasurers

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Chair Conrad Frey asked Carlisse Clough to present her application. Clough stated that her shop *Closet Treasurers* has been open for two (2) years now and she had not received any complaints as to how she runs her business. Clough said recently the Selectmen had informed her that she could not display her merchandise outside anymore. She had many complaints from customers/shoppers because of the ban. Clough stated she had given a copy of a petition to clerk Menard this evening to pass on to the ZBA Chair with 98 Grantham property owners whom came in to shop within a week and since reached a total of 147 signatures.

Clough said the previous owners/tenants had used this building for over 20 years and had also displayed items outside so the public could see what was offered for sale. Clough said she started this business to service the community, since the business has grown so fast and part of this is displaying items outside which she felt is common business practice. Clough said the week she received the letter from the Selectmen and could not display outside items; she had a noticeable drop in sales. Clough stated that buyers need quality items that are reasonably priced and that recycling is good for everyone.

Clough went on to say that she currently employs eight (8) part timers and that she takes the outside items in at night and brings them back out in the morning. Clough said this property is unique and has an area for outside display without disrupting traffic.

Frey explained to Clough the reason for the hearing is that there is no Permitted Use listed in the Zoning Ordinance to do with Outside Sales, so for that reason she requires a variance in order to continue an outside sale/display. Frey told Clough she is located in a prominent part of Town and also whatever happens at the meeting this evening will set a precedent for others. Frey said having an undefined land area for outdoor sales and display would mean the next tenant would have to abide by the same rules. Frey stated that zoning is about land use and land use means any decision stays with the land; it has nothing to do with the person/persons. Frey continued with further information pertaining to the Hardship Variance.

Frey asked if there were any abutters present would they like to speak.

Edith Willis stated that she was an abutter and that she did not see anything wrong with the way Carlisse Clough is running her business and went on to say the way the economy is today, she is doing a big service to not only the people of Grantham, other area towns as well to clothe the backs of their children. Willis said that she is “all” for anything Clough wants to have outside.

Frey stated since there were no other abutters present would Selectmen Warren Kimball speak on behalf of the town. Kimball said the only thing he would like to express that if outside display is allowed somehow it should be done tastefully. Kimball said that it is a

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difficult thing to define.

Frey said last year he had attended a Selectmen meeting where a resident wished to have a farm/craft outdoor sale. Lacking anything specific in the Ordinance about outdoor sales/display, the wording on page 32 of the Ordinance was applied; stating that yard sales may last up to three (3) days are allowed three (3) times a year. Earlier this year a request for conceptual approval came before the Planning/Zoning Boards for an outdoor flea market/auction sale. They too were referred to the wording on page 32. Frey continued on to discuss information that is currently in the zoning ordinance with regards to these issues.

The Board then listened to comments from the public.

Paul Osgood wanted to know why this had been brought to light now when in fact he had a antiques/furniture business in the very same building for over 15 years and nothing had ever been said at that time regarding outside sales. Osgood said now that the new tenant of the building wants to do the same, there seems to be issues.

Frey said possibly that when he (Paul Osgood) had the business his display of items was not as noticeable. Osgood went on to say that whenever he got back from cleaning out house lots, the lawn area in question along with the yard was filled. Osgood went on to say that it was his understanding that the town had received a complaint, which is what all of this is revolving around and asked Frey if that was correct. Frey said yes it was time to be definitive about outdoor sales/displays.

Bob Osgood said that it was too bad to have come to this point in Grantham that one or two people complain and now we have got to do this/that. Osgood went on to say that this went on “all” the time when his brother Paul Osgood had the store before. Osgood said that his point is, how many people complained about this situation to do with Carlisse Clough? Osgood continued to voice his opinion on this issue.

Joey Holmes stated that she had lived here for 76 years and before Paul Osgood had his store there, Steve Jordan had a Hardware Store and he had all kinds of stuff outside and no one ever complained. Frey stated that was before the zoning ordinance came into effect, which was in March of 1990. Paul Osgood told Frey that what it boils down to is that it is necessary for the business to display its wares outside. Paul Osgood went on to say that you can go anywhere in the upper valley and named off a few locations, then asked why can't the Town of Grantham do this?

Myron Cummings said that it is the Zoning Boards job to make it a reasonable solution. Frey said that most of the members of the Board were in business themselves at one time and understood. Tanya McIntire said no one is saying anything about the display and

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asked that the Board move on. Frey said they would move on but wanted to know if anyone else would like to speak.

Crystall Kenz said that she not only makes purchases there but also brings things to Closet Treasurers. Kenz said the prices that are charged anyone, are prices that she appreciates.

Angela MacCreighton asked the Board that in terms of the ordinance with everything that's been said so far, was the property "grand fathered" as other properties have been in the past. Frey said that a good example of that would be the former "Reney's Store" which in the past was a general store and when zoning went in 1990 as long as it stayed as the "same use" it would be allowed as a business in a residential district.

Carole Shepherd stated that she would like to ask that maybe the Zoning Board could consider expanding their view of what is left outside. Shepherd went on to explain other area businesses as well (Lebanon, Hanover) that display their merchandise outside and that Grantham and Newport only have five businesses that display theirs. Shepherd went on to say that even for her to have a sandwich board sign outside her business in Hanover it took her three (3) months for permission through the town. Shepherd said that she felt that's how businesses succeed and the Zoning Board needed to be sensitive towards those needs. Frey said that something should be done and that is why they are here this evening.

Sarah Johnson stated that she really appreciated having Closet Treasurers for shopping and that the items that are outside are constantly changing.

Warren Kunz stated that the way the environment for business is today, the town should be doing everything it could to encourage individuals to have private businesses to grow and establish themselves. It helps all of us from the tax standpoint to the community. Kunz said that he knows there are rules and regulations that every board has to go by. Kunz continued discussing his opinion on these issues.

Further comments/questions ensued between Board members and the public. Kathryn Osgood spoke of articles from the Zoning Ordinance that Chair Frey had read off and would like to go over those points with Frey as to get somewhere with the issues at hand. Frey stated that the Boards members would discuss the issues next.

Myron Cummings asked Paul & Kathryn Osgood (owners of the property/building where Closet Treasurers is located) how much road frontage they had. Osgood stated they own to the front road (off of route 10) and to the Post Office property with right-of-way access between the two properties on Willis Avenue.

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Frey stated that the tent sales had not been discussed yet. Clough said she has them about once a month during the summer, weather permitting. Frey asked the members if they had any questions they would like to ask.

Tanya McIntire said that she was glad the Town was supportive; that does not change the ordinance and went on to explain that if she wanted to take all those signatures to the Planning Board and have them write a new ordinance that can be voted on, McIntire explained that the Zoning Board cannot do this and they have to go by what is written, and have to go by the laws that constrain them. McIntire said that she had noticed that Clough's displays at times are very large. McIntire went on to say that maybe the Board could come up with some sort of solution.

Richard Mansfield asked Clough if she was applying for a variance for all of the property and she stated potentially yes. Mansfield then asked Clough if there is any way she could have some limitation on this to satisfy herself and the board? Clough stated yes.

John Clayton said there should be some limitation on the size of displays just as there is for size of signs, which he felt both served the same purpose. Frey and Mansfield both agreed with him.

Frey told the Board members it was time to vote on this application but first decide whether or not there would be any conditions, which might be appropriate, should the variance be granted. Further discussion amongst members revolved about the size in the area for a display and the number of tent sales that might be acceptable.

Frey then went on to read the variance criteria for the members to vote on.

At this time Tanya McIntire stated that she would abstain from voting on this application. Frey continued on with reading the criteria. The remaining four (4) members of the Board voted to ***Unanimously Approve*** the application with the following conditions:

1. The lawn area for the display of merchandise, only during business hours, shall be limited to 16 (sixteen) by 16 (sixteen) feet and is to be located to the northeast of the building starting at the northeast corner of the building.
2. Tent sales are limited to six (6) one day each during a calendar year.
3. Adhere to the Zoning Ordinance / Article V – Signs with particular focus on temporary signs.

Kathryn Osgood & Carlisse Clough thanked the Board for their time.

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Chair Conrad Frey stated next on the agenda were discussion of proposed new articles for the Ordinance that would be later presented to the Planning Board and then the Town as Warrant Articles.

A completely new Article for “Affordable Housing” for inclusion in the Town Zoning Ordinance was discussed. Frey stated this article is based on the content and expressed intent of New Hampshire RSA 674:58 through RSA 674:61. These statues state that the opportunity for a “fair share” of a low to moderate-income housing must be provided within a municipality shall not be such that they are exclusionary to Affordable Housing. The review was of the third draft of the proposed Article including an addition made by the Chairman of the Planning board in a prior discussion with Frey. The board members approved the amended Article and this will be presented to the Planning Board in November.

Corollary to this, small changes reflecting the Affordable Housing Article were made throughout the Ordinance, mainly to reflect the increase from four to five tenants in multiple dwelling buildings.

Two (2) Legislature mandated amendments were discussed briefly; namely the new hardship criteria for “Article IX – Zoning Board of Adjustment” to reflect wording in RSA 674:33 I (b) and an additional defining sentence for “Article X – Administration and Enforcement” to reflect wording in RSA 676:17.

A definition for Outdoor sales and displays to aid the Planning Board in their Site Plan Review process was proposed and accepted:

OUTDOORS DISPLAY (Business/ Light Industrial Districts):

Outdoor display shall mean a limited area of designated size located outside of a building principally for the placement for immediate sale or use as advertisement of merchandise or tangible property that is normally sold by the contiguous business or organization. Any sales from the designated display area shall be subordinate and incidental to that of the contiguous business or organization.

It was indicated that the renumbering in the Zoning Ordinance of the present Articles and the proposed new Article on “Affordable Housing” would be necessary.

Old Business

None

Other

None

Correspondence

None

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Comments

None

Adjournment

Chair Conrad Frey asked Board members if there were any further questions/discussions, there being none a motion was made by John Clayton and second Richard (Dick) Mansfield to adjourn the meeting. ***Approved by Unanimous Vote*** to adjourn at 8:55 p.m. The next Zoning Board meeting will take place on September 23, 2010 if applications are submitted.

Respectfully Submitted,

Martha M. Menard
ZBA Clerk
September 2, 2010