

**APPROVED**

Town of Grantham  
Zoning Board of Adjustment  
Minutes  
March 26, 2015

Chair Conrad Frey called the Zoning Board meeting to order at 7:00 p.m. Thursday, March 26, 2015. The meeting was held in the Jerry Whitney Memorial Conference Room located at the Town Hall, 300 Route 10 South in Grantham, NH.

Present: Chair Conrad Frey; Members Richard (Dick) Mansfield; Margery Bostrom; Tanya McIntire; Alternate Peter Guillette and Selectmen Representative Constance (Connie) Jones.

Absent: Member Myron Cummings and alternate Sheridan Brown.

Public: James & Margaret LaHaye; Scott Krueger; Francis Hastings; Selectman Chair Warren Kimball.

Chair Frey asked at this time to have alternate Peter Guillette be a voting member. ***Unanimously Approved***

**Approval of Minutes**

Chair Conrad Frey asked the Board members if they had reviewed the minutes from January 29, 2015 were there any corrections. There being none motion was made by Margery Bostrom and seconded by Dick Mansfield to approve the minutes as written. ***Unanimously Approved***

**Correspondence**

None

**New Business**

Variance/Special Exception; Article VIII of the Zoning Ordinance: Home Business. J. Scott Krueger, Applicant.

## **APPROVED**

Chair Frey explained that the board would consider the business issue first of this application and then on to the second dwelling issue. Frey stated that he had advised Krueger to go to Planning Board which he had done because there were two (2) dwellings on one lot and felt that this issue could be resolved if the lot were subdivided into two (2) lots thereby eliminating this violation to the ordinance.

Krueger stated that he was interested in purchasing the LaHaye property as he and currently owns an auto repair/restoration business at his home/property in Plainfield, NH for the last 10 years and is looking into relocating. Krueger explained that he keeps his business and property in excellent condition and has no employees. Krueger said he does not plan on making changes to the property in Grantham, and the LaHaye property would still look the same from the road. Krueger said the property was advertised as a commercial property.

Krueger stated he went with a conceptual to the planning board meeting that took place on March 5, 2015 and explained that he was informed there had been a machine shop/trucking yard there before the LaHayes had owned it and that he was looking for a Special Exception to make it close to what the property was before. Krueger said that his intentions were to live there with his children and to run his business as well.

Frey asked Krueger his reasoning for wanting to relocate from Plainfield to Grantham. Krueger stated to be more centrally located for customers that travel from Lebanon and as far south as Massachusetts, also having a building on the property that he would own and not having to pay rent would be a great opportunity if able to get the special exception. Krueger explained what he does is specialty automotive restoration/repairs and general maintenance on imports only and does not work on trucks/large trucks or farm equipment and the noise level will be kept to a minimal. Krueger said that the property had been advertised as a commercial opportunity and Frey stated that was incorrect and it looked like commercial property, but it really is zoned rural residential.

Guillette stated that it looked like one (1) of the buildings had an apartment on the side of it and asked Krueger if it was rented. Krueger said that the real estate

## APPROVED

agent had told him that it was a rental and that someone was living there. Krueger stated that if he were to own the property that would also be his intension. Guillette asked if this were the whole building or partial and Krueger said partial and that the one side had a two (2) bedroom residential dwelling and the other side had a long narrow garage. Frey reiterated that was illegal and only one residential building (not two) was allowed in the zoning ordinance per lot and that's why he mentioned subdividing. Krueger asked if there were a covenant that states that a rental is not allowed on the property and Frey said no.

Krueger said the property is being taxed for commercial/residential and felt that neither the LaHayes nor himself should have their hand slapped for what had been done in the past and just wanted to move forward.

Mansfield stated that if you look at the Home Business conditions in the Zoning Ordinance there are four (4) that directly violate what Krueger is asking for and that it would be difficult to give variances to those four (4) conditions that are required for a home business and essentially define what a home business is and as far as he (Mansfield) was concerned what they are asking for is to have a commercial enterprise in a rural residential area and that's what the Zoning Board has to decide.

Frey asked the board members if they would like to look at this as a commercial enterprise being put in the rural residential district or home business. McIntire said she did not think that it qualified for a home business. Guillette said he also did not feel that it qualified as a home business because it did not meet the general criteria and should be considered commercial enterprise. Bostrom also felt that it did not meet the conditions of a home business.

Frey next asked if there were any abutters present, but first read aloud a letter that had been received from abutters Mr. & Mrs. Ordway who live in Grantham next to the proposed auto repair/restoration business and proceeded to read aloud their letter of opposition.

Abutter Frances (Frankie) Hastings stated that the property was grandfathered before zoning was established. At that time she said there was a machine shop

## APPROVED

and the apartment was there and building permits had to have existed with the town. Frey explained if the business is grandfathered that particular use stays with the land and once it stops being used for what it originally was (after one (1) year and one (1) month) it then reverts to what district it was zoned for; not what it was at that time prior to zoning taking effect ( March 13, 1990). Hastings continued to name off previous ownerships of the property and the different business that were there over the years and how the property was always well maintained.

Frey stated according to the property records, this property had witnessed a number of violations in the past, one environmental and several of zoning (changes of use and second dwelling on one lot). The past owners had been told by two (2) different Town Administrators, the Select Board and the Planning Board to address these issues with the Zoning Board, but they never did.

Margaret LaHaye stated that she and her husband have been the owners for the last 10 years and had an attorney look over everything and would not have paid what they paid for the property if they were not allowed to continue. M. LaHaye said that they have made no changes and have been paying taxes for the past 10 years. She went on to say that if for some reason the town did not pick up on anything with all the buildings on the property, and previous owners had done something they should not have done it was not their fault and everything was legal. Frey said that somewhere along the line with previous ownership someone did not go through the proper channels. M. LaHaye stated “it is what it is” and that they just want to start moving forward.

Krueger said that when he spoke with Frey that he (Frey) had the “Grandfathering” concept that he (Krueger) could bring back the business to what it once had been after going through Planning and Zoning and only after receiving approval. Further discussion ensued amongst members and the public regarding past businesses, property owners and issues with regards to building permits and there actually being three (3) separate buildings on the lot in question. Guillette asked Krueger if he plans on buying both lots that the LaHayes are selling and he said yes. McIntire clarified the lot that had all the buildings on it including the house is on map/lot 207 – 022.

## APPROVED

Mansfield asked Krueger if he would be working on more than one vehicle at a time. Krueger said sometimes, and the most would be three (3).

Guillette asked abutter Hastings if she lived nearby and she stated next door. He then asked her if she had any issues with this. Hastings said she never has had any issues with anyone on that property.

After viewing the photo that was of Krueger's current business in Plainfield, Mansfield asked why there were so many cars parked there. Krueger explained those were of customers cars that come and go. Krueger explained to Mansfield that if there were to be more than three (3) vehicles he would be working on; there is plenty of parking out back and an additional privacy fence plus the other large garage. Krueger stated that at the planning board conceptual he was asked if he was going to impact the neighborhood more than it already is and he told them no. LaHaye stated that as far as seeing cars in the yard, the big garage has enough space to park 10 cars and the smaller garage enough for 4 to 5 vehicles. Frey asked if the tenants of the rental apartment have use of the attached garage and LaHaye said no.

Bostrom directed her question at Frey saying the Zoning Board of Adjustment (ZBA) doesn't have responsibility of enforcement to change things has been handled in the past, but other agencies (referring to planning board and the selectmen) do. Frey said that the ZBA cannot undo what has been done nor can the selectmen or building inspector, but what they can do now if approved, is to put conditions on this application for future use.

Frey stated that it was time for a vote. McIntire wanted to know what they were voting on. Frey said this would be granting permission to have a commercial business on this particular lot. Mansfield said that this has nothing to do with a home business and Frey agreed. McIntire wanted to know if the board could give a variance to someone that does not own the land.

Frey said what the board is doing is giving the variance to the LaHayes (presence landowners) not Krueger, with the intent that it can be used as an auto repair shop only whether or not Krueger purchases the property.

## **APPROVED**

Approval was *GRANTED* subject to the conditions listed below by the affirmative vote of five (5) members for the use of Map/Lot207 – 022 in the Rural Residential District 1 for a low volume auto repair and related machine shop. This is not a grant of a variance, but a confirmation for the continued use of this lot at the time of zoning was initiated in March 13, 1990. This approval is given to mitigate the improper actions concerning land use of this property since that date. Any future changes from the above use will require a variance from the Zoning Board of Adjustment.

1. A sub-division of Map/Lot 207 – 022 into tow (2) lots must be obtained from the Planning Board so that one lot will contain the two (2) existing buildings roughly 30 by 70 square feet (housing a garage/shop plus dwelling) and 40 by 60 sixty feet (garage/shop) and a second, separate lot will contain the existing single family dwelling. The purpose of this subdivision is removing the current violations of having two (2) separate dwellings on a single lot in rural residential district.
2. All vehicles on the lot with the two (2) shops must be out of sight and placed indoors or in the fenced area behind the 40 by 60 square foot structure. The only vehicles to be allowed “in sight” are those for patrons making inquiries, picking up or dropping off vehicles. The number of such vehicles shall be limited to three (3).

Chair Frey asked if there were any further questions. There being none motions was made by Richard Mansfield and seconded by Tanya McIntire to adjourn the meeting at 8:15 p.m. ***Unanimously Approved***

The next Zoning Board of Adjustment meeting is scheduled on April 23, 2015 at 7:00 p.m. in the Jerry Whitney Memorial Conference Room.

Deadline to receive applications for this meeting will be April 2, 2015.

Respectively Submitted,  
Martha M. Norris  
Zoning Board Clerk