



ZONING BOARD OF ADJUSTMENT
MINUTES MEETING OF JULY 12, 2011
APPROVED MEETING OF OCTOBER 17, 2011

Present: S. Perley, **Vice-Chairman;** D. Greski; O. Gibbs; M. Foote

Absent: S. Bogert, **Chairman**

Staff: S. Saunders, **Planning Director;** K. Snow, **Zoning Technician**

S. Perley called the meeting to order at 7 pm. She let the public know that this hearing is to rehear application # 2011-0013, approved at the meeting of June 20th, which included a condition that the Special Exception is good only as long as the property is owned by Russell J. Beane, a condition which our legal counsel advised was not allowed.

She said that the board will hear any additional testimony from the public and from abutters. She stated that the board found out after the approval that the condition put upon the approval regarding the special exception being valid only if owned and operated by R. Beane was not a valid one so we are here tonight to make appropriate changes to that approval.

S. Saunders let the public know that we have a short board, only 4 members, and that means that the vote needs to be at least 3 in order to pass. The attorney for the applicant stated that they were prepared to move forward this evening with the short board.

HEARINGS:

Application # 2011-0013
Russell Beane

MSL # 394-336-15
35 Blueberry Lane

RS Zone
Special Exception

The applicant is requesting a Special Exception from Section 235-70 (C) (2) (a – h) in order to change the use of the property from a place of worship to that of a conference center.

Laura Spector, Legal Counsel, asked if we should hear a brief summary from the applicant.

Suzanne McKenna introduced herself. She said this application is to change the use from church to conference center. She said this is a conference center, not a convention center, as stated on the original notice. She went through the requirements of the special exception again.

The use is specifically authorized in the chapter. The property can be used for meetings, conferences, seminars, and exhibitions per city definition as well as sleeping accommodations and food

preparation. The applicant is not proposing sleeping accommodations or food preparation as part of this proposal.

The property is located in the RS district which allows for single family residences as well as schools and churches. They feel the proposed use is similar to a church, with a non-denominational use, as well as allowing for meeting space which is not weather dependant.

This proposal will not create undue traffic or impede pedestrian safety as there is parking available on site, which is sufficient to meet the maximum capacity. Fire code has permitted the building for occupancy of up to 270.. Per the Table of Off Street Parking 4 seats are required for each meeting room, which means they need 67.5 spaces and they have 75 spaces on site. There is adequate parking on site so there would be no issues with pedestrian safety.

The requested use will not overload any public systems nor increase storm water runoff. The Beane's indicated they have no plans for alternation or construction to the building. There will be no additional impervious systems. The intensity of other uses impacting water or sewage should be similar to what it is now.

On Sunday morning and Tuesday evening the parking was observed on site. These times have the most intense use. They currently hold services on Tuesday evenings with approximately 50 cars on site. There were 75 on Sunday morning. There are daily meetings, with around 6-12 cars. They believe that this proposal would infrequently be used at the maximum capacity, and daily use would be minimal similar to what is currently there.

The demand on police, fire, schools and solid waste should be similar to current usage.

There are no special provisions set forth in the chapter for this use.

The requested use will not create hazards to health, safety or welfare of the public nor will it be out of character with the neighborhood. This proposal will benefit the neighborhood as it will provide another social outlet, where people can walk from apartments like Wingate. This is in keeping with the Master Plan objective of providing uses which utilizes existing resources.

They are making the area attractive to the non-seasonal population, with a venue that is not weather related. This will be integrated into the neighborhood as the property is currently well landscaped and surrounded by trees, and it should remain the same.

The location is suitable for the requested use. The applicant feels the structure invites a certain decorum being a place of worship now so they feel that people should act the same.

The use is consistent with the spirit of the chapter and the Master Plan's goal of using existing resources. They plan to use the existing building for related uses so this meets that objective. This preserves the architecture of the structure and the character of the neighborhood.

S. McKenna said we have an aging population in the country and this area, so this use provides an additional resource for garden clubs, or other meetings. This provides a maximum use of existing resources. The Beane's will use the property in walk in condition, with no changes. Other potential uses which are allowed aren't as well suited such as an artist studio, a dormitory, or a greenhouse. The building is geared towards conference use.

The Beane's are long standing members of the business community; and they will operate this business in the same vein as they have operated their other business in the past.

S. McKenna asked about the conditions imposed. The first one regards the stipulation that the special exception is valid as long as the site is owned and operated by R. Beane and upon the sale or change of business, the property must return to the ZBA for additional approvals. They understand the purpose of being here tonight is the fact that the condition runs with the property, not the owner.

The second condition is regarding the buffer to shield Perley Pond. In looking at the property after the meeting, the applicant said he will do what he can in good faith. This is a small distance with a steep embankment that abuts city owned property, so they will do what they can on the buffer.

S. Perley opened the meeting to the public.

Public: Theresa Smith stated she is in favor of the application. She said this is a trend that is going on. Almost every town has a place where people can go and celebrate the life of their loved ones. She said that people in Laconia need a place like this. She feels that this is a win/win situation and that the town needs this. They will receive taxes now and Mr. Beane can provide services that are needed.

She said that she goes to hotels a lot now for church meetings and would like to see the conference room use here. She requests that the board consider the issue and allow this use. She said that at some time all of us will use a facility like this to celebrate the life of a loved one.

No one else from the public spoke for or against the application.

Applicant: S. McKenna let the board know that while the application was submitted by R. Beane personally, the business will probably be overseen by another entity, maybe an LLC. S. Perley asked if that concerns us and S. Saunders said no.

Board: S Perley asked what other types of conditions we could impose that would give us the same intent as what we had originally placed. The board's main fear was of expansion outside of the uses proposed by this applicant.

O. Gibbs asked regarding whether a future owner could add sleeping and food preparation; would they have to come back or can it just be converted and S. Saunders said at least a building permit would be required. It would not be a change of use, just an expansion of use. She said that we do review building permits. Any exterior changes would require a new plan.

M. Foote asked if they could just add 25 rooms, and was told no, that would be a Planning Board application.

D. Greski said he had a concern with the definition of conference center as written by the city. If a new owner wanted to add on to the building - and he said he is not concerned with Beane doing this - he is concerned with the next owner. Kitchen and sleeping facilities changes his vote, which is why he added the condition regarding the next owner. He said he is concerned with this neighborhood and the people there. A new owner could do that and O. Gibbs said if adding anything outside, a building permit is required.

S. Saunders clarified, saying that if adding within the existing footprint, it is just a building permit, not a change of use. If adding 25 rooms in a new structure, that is an expansion of use so the applicant would have to return to the board for approvals.

D. Greski again stated that he isn't concerned with the Beane's; he is concerned with future owners. He said it is not fair to home owners if this is changed to a place with overnight guests. He mentioned sections f and g of the ordinance, and asked if the requested use is detrimental or out of character with the neighborhood and if the location is appropriate. He said he feels there will be no problems with the Beane's, as he feels they have to keep up their reputation and will. He said he is just fearful with future owners.

Laura Spector said that the applicant has stated he has no intention to add sleeping accommodations or a kitchen. If the board is concerned with that being added they could place a condition saying that there can be no kitchen or sleeping quarters with this use and doing that would trigger a new application.

D. Greski said that changes the definition of conference center but L. Spector said this application was applied for without sleeping accommodations and kitchen use so the board can definitely approve this without those and state that an applicant would have to come back in the future to add those uses.

S. Perley said this use is allowed by the Special Exception and that the board can add whatever reasonable conditions we want. She said it wasn't done properly at the June meeting so we must apply the conditions specifically. D. Greski said this is confusing to him. O. Gibbs said we are approving an application with no sleeping accommodations or kitchen, limited to a conference center with no food preparation and no sleeping accommodations; in the future if they want to expand and add those uses, they must come back for that specific approval.

L. Spector said that would require an additional Special Exception.

S. Perley said the job here this evening is to redo the conditions and make any changes. M. Foote clarified that if Mr. Beane wanted to make those type of changes in 2 years, then he would have to return for approval and was told yes.

S. Perley said she realizes that the buffer area is a tough spot, and just wants to ensure that they don't remove the existing vegetation, so feels that no more encroachment should be fine.

S. Perley asked for any final comments from the **applicant** and S. McKenna said there is a difference between food preparation and cooking, and that they would anticipate bringing in food but it would not be prepared on site, just served at the facility. L. Spector said the board can incorporate that into their conditions, stating there is to be no on site preparation of food, only food brought in by caterers. They can also state there can be no on site sleeping quarters. R. Beane said there is no kitchen there now. There are no kitchen counter, no sinks, no stove, but there is a small refrigerator.

O. Gibbs asked if we could add a condition regarding the addition of a kitchen, and no on site preparation of food except by a caterer or third party. D. Greski said his main concern was more like the Laconia prom being held there and lots of food being cooked.

S. Saunders said a caterer could serve a full dinner. They don't want preparing or cooking that dinner on site as it would create exhaust. She also said, that as so far discussed, a high school prom would not be prohibited here as it is an event, so they could rent the facility.

D. Greski said he is just concerned with the neighbors. He asked about entertainment here and S. Saunders said that noise was mentioned last month. D. Greski asked if someone wants to hire a band here is a permit needed; he was told no, unless they were to be outdoors. D. Greski asked what type of wording is needed for this and S. Saunders said they can speak to the noise factor stating that the

property can't be used in any way that the noise produced is out of character with the neighborhood. They could put a time frame of some sort.

M. Foote stated that he has fewer issues with a prom being held here than with this changing into a facility that doesn't fit the neighborhood, like a hotel with 25 rooms.

S. McKenna asked if the board wants to see the noise ordinance and O. Gibbs said yes, if she had a copy. S. McKenna gave a copy to the board. D. Greski said this change should not negatively affect the neighbors in this area. He wants no loud noises, and no sleeping overnight. S. Perley said the noise ordinance covers this. O. Gibbs asked if we can cite the ordinance and was told yes.

S. Saunders asked L. Spector if when making the new motion do we have to go through all of the Special Exception criteria again or can we keep a - h and just change the conditions. L. Spector said we can summarize and just make the new conditions if a - h are remaining the same.

S. Perley closed the hearing to the public.

The wording of the new conditions were discussed by the board members. M. Foote asked about teen groups holding non alcoholic overnight parties. L. Spector said that would be different than providing rooms. S. Saunders said to make M. Foote's question clearer, this is a dusk to dawn party, making sure your children are not out sleeping somewhere or partying. L. Spector said that goes back to the hours of operation. M. Foote said also on a similar vein, what about people attending a retreat, and camping on the property if it is an outdoor retreat type of thing. D. Greski said we need to make these conditions very clear. S. Saunders read the conditions she had noted:

There is to be no on site prep of food other than by third party. No sleeping overnight.

No noise produced out of character with the adjacent neighborhood.

D. Greski asked if the police would enforce this and S. Spector said the police don't impose the condition, we do so we enforce that; if this happens then the city could take action against the property owner, and we could limit events in the future.

Hours of operation: none were suggested yet.

L. Spector asked if the applicant might have any input on the hours of operation and S. McKenna said that Gilford has an 11 pm to 7 am noise ordinance. L. Spector asked if the board wanted quiet hours or no use of the property during those hours. It was agreed no noise from 11 pm to 7 am, and no overnight guests allowed.

M. Foote said we have defined quiet hours but how do we define extensive noise? L. Spector said no noise produced outside of the character of a residential neighborhood, ever, with quiet hours from 11 pm - 7 am.

The board agreed that they won't go through the entire approval as it is just the conditions that are changing.

Motion: D. Greski moved to amend the conditions of approval of the Special Exception that the ZBA approved on June 20. The new conditions of approval would be as follows:

- 1) **There shall be no on site food preparation other than by a caterer or third party.**
- 2) **There shall be no overnight use of the property absent a special exception for this board.**

- 3) No noise shall be produced such that it is out of character with the adjacent residential neighborhood ever. Quiet hours shall be observed from 11 pm to 7 am.
- 4) Any changes to the proposal, by this applicant or a future owner, shall require another special exception to be applied for.
- 5) The applicant agrees to preserve and maintain the Perley Pond area. They will maintain and enhance a vegetated buffer to the extent practicable so the parking lot isn't visible from the road, especially during the winter months.

He stated that the final condition regarding the buffer area remains as stated previously.

O. Gibbs seconded the motion.

Board Discussion: O. Gibbs asked if these conditions are sufficient to cover the boards' intent and D. Greski said he is comfortable as he feels this preserves the neighborhood.

S. McKenna asked about the wording of the condition regarding the buffer. S. Perley said she is comfortable if the applicant agrees to maintain the vegetated buffer and cooperate in good faith to ensure the buffer remains.

S. Saunders said she wants to make sure that the board knows this means maintain, not add to, the buffer. L. Spector said they could add "maintain and enhance the vegetated buffer to the extent as practicable." The board agreed on that wording.

Condition 5:

5 –The applicant agrees to preserve and maintain the Perley Pond area. They will maintain and enhance the vegetated buffer to the extent practicable so the parking lot isn't visible from the road, especially during the winter months.

D. Greski moved to amend the wording on condition 5 regarding the vegetated buffer with O. Gibbs seconding.

All voted in favor of the above conditions and the motion passed, 4-0.

Other Business:

S. Perley asked about the 4 extensions coming up at the Monday, July 18th meeting and was told we would listen to the applicant and decide whether to grant the extensions or not. S. Saunders said the time frame is usually one year for an extension.

S. Perley mentioned that she learned at the recent conference that you can grant a Special Exception and add as many conditions as you want to it.

Adjournment: D. Greski made the motion to adjourn the meeting of July 12, with M. Foote seconding. All voted in favor, 4-0, and the meeting adjourned at 8 pm.

Submitted for Approval:

Kristine Y. Snow
Zoning Technician

