

ZONING BOARD OF ADJUSTMENT  
MINUTES OF MEETING  
MAY 5, 1992

MEMBERS PRESENT: Chris Jacobs, Bob Callan, Brenda Whitmore,  
Dave Paolini, Dean Trefethen, Randy Turner

ALSO PRESENT: Steve Stancel, Tom Clark

Meeting Brought to order at 7:11 PM.

- ITEM #1 a. Harold Fulton, 8 Deerfield Drive, requests a Motion for Rehearing concerning ZBA Case #H92-4 (Appeal from an Administrative Decision, in connection with an interpretation regarding the definition of Accessory Use).
- b. Harold Fulton, John Torr and Robert Torr, request a Motion for Rehearing concerning ZBA Case #H92-4 (Appeal from an Administrative Decision, in connection with an interpretation regarding the definition of Accessory Use).

Chris Jacobs stated he would bypass the acceptance of the minutes of the April 16, 1992 meeting, which were included in the packets, until the regular meeting of May 21, 1992.

Public meeting opened to allow those who petitioned the Board to present their case.

J.P. Nadeau thanked the Board for the courtesy they had given the public. He said it was unfortunate that Dana Turner was not present as it may put a burden on Dean Trefethen who was not present at the last ZBA meeting. He also stated that he had not been given any of the information that the Board received in their packets. He felt it was unfortunate that the Planning Board sought action even after receiving his letter stating he would be petitioning the ZBA for a rehearing. He stated he felt that the Building Inspector made his decision that a gravel pit is an accessory use based on the belief that all materials would come from on-site. He stated that accessory uses have to be designed and operated to serve only the principal use and not be designed and operated so as to serve the general public.

Randy Turner arrived and took his seat at 7:20 PM.

Atty. Nadeau stated that the Board has seriously erred in its decision. He feels this decision is contrary to the City's own ordinance. He said if Mr. Martel needed the cement, that would be fine.

Chris Jacobs read a memo to the ZBA from the Building Inspector's Office dated May 1, 1992, stating that in the opinion of the administration, no new evidence was presented. Furthermore, some of the arguments presented in the request either have no relevance to the case or are misguided.

Chris Jacobs stated that every case should be heard on its own merit. He read from The Board of Adjustment in New Hampshire Handbook (page 40) and asked if any members felt that a mistake has been made as this would be the Board's chance to correct it.

J.P. Nadeau stated he will stop being polite. He feels that this has been pre-determined by the opinions of Mr. Clark and Mr. Collins. He stated that Mr. Clark refers to a typographical error in the Zoning Ordinance. He stated that anyone could challenge this before Superior Court. He stated that no one said anything when he used the argument that an accessory use cannot serve the general public at the Planning Board meeting, and now, it's a typographical error.

Chris Jacobs stated that the Building Inspector has the same right to put his written comments in the Board's packets as everyone else.

Dick Proulx stated that he was led to believe this would not be an open meeting. He said that one of the conditions to his approval from the Planning Board is that the majority of the aggregate comes from on site and records are kept to substantiate that information. He said there seems to be some question as to whether the gravel pit can supply the type of aggregate that he needs. He stated that he started working in gravel pits at 16 years of age and he is now 50. He knows there are plenty of materials that are suitable in this pit and when the time comes that there is not enough, his operation will cease. He said that he is dependent on the gravel pit for his aggregate and gravel pits and accessory uses are allowed in the R-40 zone. He stated the batch plant is an accessory use and anything else is rehashing the same old thing.

Steve Stancel stated that the Planning Department and the Building Inspection Division are not playing favoritism, everything is done by the book and he takes exception to J. P. Nadeau's insinuations. He stated that the footnote that Mr. Nadeau quoted is just that, a footnote. A reference to footnote #3 was created by an ordinance and it should be assigned to the ETP zone in Table II of Accessory Uses. He stated he does not see any value in rehashing the case again.

J.P. Nadeau stated that he feels there has been an error in the decision and a rehearing is the only mechanism that can be used if the Board feels it has made an error.

Close Public Meeting.

Chris Jacobs stated that he feels he has not heard any new information, nor seen any technical glitch that would merit rehearing the case. He asked the members how they felt.

Dave Paolini felt he did not make an error.

Randy Turner stated he tried to extract all the information that was available and based his decision on what he could see. He said he sees the same information and there is nothing new to make him change his mind. He stands by his decision.

Bob Callan stated he sees no area where an error was made and does not see any new evidence. He stated that nowhere in the State does Accessory Use demand that the materials have to come from on-site.

Bob Callan made the motion that Item #1, a. and b. be denied for rehearing.

Brenda Whitmore said she felt no new information was presented.

Dean Trefethen stated that after reading the minutes of the last meeting, he did not feel any new information was presented.

Dave Paolini seconded.

VOTE U/A - 1 Abstention - Dean Trefethen

DENIED

Dave Paolini made the motion to adjourn.

Randy Turner seconded.

VOTE U/A

Meeting adjourned at 8:00 PM.