

HILLSBOROUGH ZONING BOARD
Meeting Minutes
December 14, 2015

Date Approved: January 11, 2016

Present:

Members: Chairman Roger Racette, Russell Galpin, John Segedy, David Rogers and Nancy Torres

Alternates: None Present

Planning Director: Robyn Payson

Absent: Larry Baker

Members from the Public: Richard McNamara and Cheryl Houston

Chairman Racette called the meeting to order at 7:00 pm.

Mr. Galpin made a motion to postpone acting on the minutes of the last meeting until later in the meeting and to move on to the case before the Board. Mrs. Torres seconded the motion. The Board voted all in favor.

PUBLIC HEARING:

Application for a Special Exception: Submitted by Cheryl J. Houston, 28 County Road, Map 5, Lot 121

Chairman Racette said this was an application for a special exception as specified in Zoning Ordinance Article 2: General Provisions, Section 229-6: Definitions and Word Usage – Home Business and Table 4: Chart of Uses – Institutional Use: Clinic – Allowed by Special Exception in the Rural District. The applicant is requesting to use one room on the lower level of the existing residence for chiropractic treatment and consultation for an ambulatory population on a part-time basis.

Mr. Galpin voiced his concerns that the building is within the two hundred foot (200') Loon Pond setback. He said the Loon Pond ordinance doesn't address special exceptions but does address the fact that a change of use has to adhere to the ordinance.

Mrs. Torres questioned relevance of the discussion because the application is for the use of the inside of the building not the outside. She said she had read the Loon Pond ordinance and found nothing which referred to restrictions which affect the inside use of a building.

Chairman Racette asked Mrs. Payson to consult with Town Counsel regarding special exception and how they are affected by the Loon Pond Ordinances.

Ms. Houston described her intent to convert an unused bedroom into a treatment room on very part-time bases with no additional staff.

The Board reviewed the criteria for obtaining a special exception:

- A. The special exception is specifically authorized in the Zoning Ordinance by (site the particular section(s)): Permitted use in Table 4, Rural Home Business – Clinic by Special Exception.
- B. All special conditions for the special exception have been met as demonstrated by: Home business is allowed in Article 4 there are no external changes to the house and no hazards or nuisances created.
- C. No hazardous or nuisance will be created because: The treatments provided are within my house and are undetected to the outside. Chiropractic treatment is non-invasive, personal and individual. There will be one client at a time.
- D. The general welfare of the Town of Hillsborough will be protected because: The use is allowed in the zone by special exception; clinic/office. As a licensed chiropractor in the State of New Hampshire, she will treat her clients within the scope of the practice.
- E. The proposed special exception is in substantial agreement with the spirit and intent of the Zoning Ordinance or that a hardship exists because: According to the 1999 Master Plan: “Home based occupations should be encouraged” to diversity the local economy. The chiropractic technique used in my practice is of value to the population of Hillsboro because the technique is specific and low force – the technique is not otherwise available in Hillsboro or surrounding areas.

Mr. Rogers asked if the clients would be by appointment only with no walk-ins.

Ms. Houston said he is correct the clients would be by appointment.

Mr. Rogers asked what a “low force” technique is.

Ms. Houston said she doesn’t do the harsh bending or pushing usually associated with chiropractic techniques.

Mr. Segedy noted that she would not be expanding the parking area at all.

Ms. Houston said that was correct.

Mr. Galpin asked if the special exception would go with the property if it were sold.

Chairman Racette answered yes.

Mr. Galpin said this concerned him because a business which was approved for one secretary, one assistant and one professional has expanded to two secretaries, two assistants and three professionals. He added they have now expanded outside the original scope of the approved special exception.

Chairman Racette said the special exception could be approved with the condition that it be a one room single operator clinic.

Chairman Racette closed the public portion of the hearing.

Mrs. Torres made a motion to approve a one room single operator clinic as outlined in the application. Mr. Galpin seconded the motion. The Board voted all in favor.

MINUTES:

November 9, 2015:

Chairman Racette and Mr. Galpin corrected several grammatical and spelling errors.

Mr. Segedy made a motion to approve the minutes of November 9, 2015 as amended. Mr. Galpin seconded the motion. The Board voted all in favor except for Mr. Rogers who abstained.

OTHER BUSINESS:

Chairman Racette asked about the answer Mrs. Payson received back from the New Hampshire Municipal Association (NHMA) regarding the criteria for approval of a special exception the Board was considering. He noted the criteria being considered had been written by Peter Laughlin.

Mrs. Payson said the NHMA attorney felt the Board should not have the ability to modify lot size, yard dimensions, lot coverage, building height, etc. She said the Board could add conditions such as the one they did to the special exception approved earlier tonight.

Chairman Racette said the special exception criteria dealing with proving hardship should at least be removed, as it is very hard to prove.

Mrs. Payson will look into it.

Mr. Galpin asked about Mr. Segedy's request at the last meeting to table the discussion regarding public comments made by Board members.

Mr. Segedy said his request for the tabling of the issue had more to do with the timing, it being within the time frame in which someone could appeal a decision of the Board rather than the subject itself.

Mrs. Payson said she was just concerned with Board members possibly making comments regarding their dislike of zoning ordinances during a public hearing. She said everyone has a right to their opinion but members of this Board need to be careful not to voice those opinions during a public hearing.

Mr. Segedy said his point was to clarify the fact that in spite of disagreeing with the ordinance he was ruling on whether or not it applied and not on his own feelings.

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Chairman Racette said the issue applies to all the members of the Board.

Mrs. Payson said she has created and distributed the schedule for next year. She changed the October 10 meeting to the October 17 as to not conflict with Columbus Day.

Chairman Racette said that Paul Ruggiero did have his work hours changed and he will not be available for night meetings. He said the Board will need to look for another alternate.

ADJOURNMENT:

Chairman Racette made a motion to adjourn. Mr. Rogers seconded the motion. The Board voted all in favor.

Chairman Racette announced the meeting adjourned at 8:00 p.m.

Respectfully Submitted:

Iris Campbell
Land Use Administrator