

TOWN OF ALLENSTOWN  
Zoning Board of Adjustments  
16 School Street  
Allenstown, New Hampshire 03275  
June 26, 2019

**CALL TO ORDER**

The Allenstown Zoning Board of Adjustments meeting of June 26, 2019 was called to order by Chair Keith Klawes at 6:30 pm.

Chair Klawes called for the Pledge of Allegiance and a moment of silence for Ronnie Pelissier, Allenstown's Road Agent who passed away a month ago, and for the seven members of a Marine group who lost their lives in a tragic car accident.

**ROLL CALL**

Present on the Board: Dawna Baxter, Jeff Gryval, and Keith Klawes. Chad Pelissier arrived at 7:40 pm.

Others present: Sandy McKenney (BOS Ex-Officio), Chris Bennett, Michael Bennett, Michael Abbott, John A. Anderson, Chris Gilbert, Derik Goodine, Town Administrator; Mike Juranty, Marilyn Batchelder, Cynthia Emery, Duncan Campbell, Darlene Lyons, Michelle Lacasse, Bob Lee, Debbie Lee

**Case#2019-04 Chris Bennett – 66 School St (109-011) Zoned: Business; Special Exception: Article VIII Section 802.d – Motor Vehicle Sales**

Chair Klawes advised the applicants that they have the right to be heard by a full Board of five members tonight; Only three members are present, he said.

Mr. Bennett said they would like to proceed with three Board members present. He said that he and co-owner/business partner Michael Abbott would like to conduct an auto sales business at 66 School Street. There will be no service station. They want to showcase a few cars which they would purchase at the Grappone Auto Auction. They have a service station just up the road in Pembroke.

Ms. Baxter asked how many cars they would have at this location.

Mr. Bennett responded that they would have five to seven cars for sale at a time. They are working on allocating parking spaces among the various users at that location. He said the area is zoned commercial/industrial, while the land use is business, where auto sales are not permitted except by Special Exception.

Chair Klawes said that the Town Administrator has been doing some research, and this is in the overlay district which allows more exceptions than other areas.

Mr. Bennett noted that a couple of spots up and down the road have auto sale and even mechanics who repair cars. He also said that people stopping to look at their cars might grab a sandwich or do other shopping in the nearby stores.

Mr. Gryval asked if they would be going through the nine criteria for a special exception.

Chair Klawes said that they would.

Mr. Gryval asked if they had done a traffic study, given that they are at one of the most dangerous intersection in town.

Mr. Bennett said that they had not, but what is published states that about 9,000 vehicles per day travel that road. He said that they would add no more traffic than visitors to the two-family home or employees coming and going from Martel's. He said there would be no structural changes.

Mr. Gryval asked about the plan for differentiating parking spaces.

Mr. Bennett said that the southern side is Martel's and Subways. Tenants of the two-family home would park at the side or in the back.

Mr. Gryval asked if traffic for their auto sales business would enter from Route 3 or School Street.

Mr. Bennett said they would probably enter from the Route 3 side.

Chair Klawes asked about an office and hours of operation.

Mr. Bennett said they would probably use a rental unit inside Martel's as an office and would be open as needed. He said they operate a similar business in West Stewartstown so they have been through this process with the State already. He said that Martel's doesn't need all of the space inside and have asked us about renting back some space.

Ms. Baxter asked about a sign for the business, noting that Allentown has a sign ordinance.

Mr. Bennett said it would probably be a five-letter sign with ten-inch letters. It will not be out by the road and will not be flashy.

Chair Klawes said that hours 'as needed' is vague.

Mr. Bennett said they would probably be open from 9:00 am till 5:00 pm. Otherwise, they would be contacted by phone, and he and Mr. Abbott live and work nearby.

Mr. Anderson, who owns the restaurant adjacent to the proposed auto sales business, expressed concern about parking. He said his restaurant, a hairdresser, and a store all need parking there, and that is a very congested area with lots of accidents. He said car sales is not a good idea.

Ms. McKenney asked if they would be parking in front of Martel's.

Mr. Bennett said they would not be.

Ms. McKenney asked about employees.

Mr. Bennett said they would have one employee working 9:00 am till 5:00 pm.

Ms. McKenney asked about the tenants going in and out.

Mr. Bennett said they will have their own dedicated parking places.

Ms. McKenney asked if there would be signs indicating where their customers should park.

Mr. Bennett said there would be signs.

Chair Klawes asked if their office would have an entrance of their own.

Mr. Bennett said that they would. They would not be entering or leaving from the front of Martel's.

Ms. McKenney asked about banners and balloons.

Mr. Bennett said they would not have either; most of their advertising and interaction with customers would be done online.

Mr. Abbott said only the year of the vehicle and the price would be displayed.

Ms. Baxter made a motion to go into deliberation. Mr. Gryval seconded the motion.

A roll call vote was taken on the motion:

Dawna Baxter, aye; Keith Klawes, aye; Jeff Gryval, aye.

The motion carried.

Chair Klawes announced that the members would be going into deliberation, and he asked those present to remain quiet unless questioned by the Board. He read the first criteria.

- ✓ **No hazard to the public or adjacent property on account of potential fire, explosion, toxic materials or hazardous activity**

All members agreed that this standard is met.

- ✓ **No detriment to property values in the vicinity or change in the essential characteristics of a residential neighborhood due to the location or scale of buildings and other structures, parking areas, access ways, odor, smoke, dust or other pollutants, noise glare, heat, vibration or unsightly outdoor storage or equipment, vehicles or other materials**

Chair Klawes said that the only changes would be on the inside of the building for office space.

All members agreed that this standard is met.

- ✓ **No creation of a traffic safety hazard or unmitigated substantial increase in the level of traffic congestion in the vicinity**

Mr. Gryval said he wished a traffic study had been done. He said this is already a dangerous area, with accidents and fatalities. People focusing on the cars for sale are going to be distracted.

Chair Klawes asked the applicants how many sales they would be anticipating, per week or per month.

Mr. Bennett said they expected about one sale per week. He said a lot is done via text, and that an average of five inquiries would yield one sale.

Mr. Abbott added that customers stopping in would be more premeditated than impulsive, with communication mostly online or by text.

Chair Klawes asked about the percentage of virtual sales.

Mr. Bennett said it would be about 80%, because they use Facebook, email, texts, and phone calls mostly.

Mr. Gryval stated that there is still a potential traffic hazard.

Ms. Baxter said she would be more comfortable with fewer than five to seven cars showcased at a time. She said that people don't car shop the way they used to.

- ✓ **No excess demand on municipal services including but not limited to water, sewer, waste disposal, police and fire protection and schools**

All members agreed that this standard is met.

- ✓ **No significant increase of storm water runoff onto adjacent properties or public ways**

All members agreed that this standard is met.

- ✓ **In an appropriate location for the proposed use**

Mr. Gryval said this is a great location for cars but not for safety. He said this standard relates back to the third standard regarding traffic.

- ✓ **No adverse effect on the health and safety of residents and others in the area and the proposed use shall not be detrimental to the use or development of adjacent or neighboring properties**

Mr. Gryval confirmed that the applicants own Martel's, Subway, the garage and the two-family home. He said this business could be positive in that people looking at vehicles might stop to eat and shop.

All members agreed that this standard is met.

- ✓ **In the public interest and in the spirit of the ordinance**

Ms. Baxter noted that the business would be in a commercial area. Mr. Gryval said this is part of the overlay district and therefore is in the spirit of the ordinance.

All members agreed that this standard is met.

- ✓ **Requirements set forth in the ordinance for the particular use permitted by special exception**

Chair Klawes said he thinks they have satisfied this.

All members agreed that this standard is met.

Chair Klawes said they would probably not see a substantial increase in traffic because so much of the business is conducted online. There might be an increase of 15 vehicles per week turning at that corner.

Mr. Gryval said he wishes a traffic study had been done. He said he is concerned about adding traffic to that corner.

Ms. Baxter said that any business brings additional traffic. There are traffic lights there.

Chair Klawes said they will have five vehicles there for sale or storage.

Mr. Gryval said this is a whole different type of traffic. He asked the applicants if they would be willing to do a traffic study.

Mr. Bennett said they would be willing but did not know how to accomplish that.

Mr. Gryval said that the Town Administrator would help the applicants with a traffic study.

Mr. Gryval made a motion for a continuance so that a traffic study can be conducted. Ms. Baxter seconded the motion.

A roll call vote was taken on the motion:

Dawna Baxter, aye; Keith Klawes, aye; Jeff Gryval, aye.

The motion carried.

**Case#2019-05 Hillside Design, LLC-166 Pinewood Rd (102-008) Zoned: Residential2 1) Special Exception: Article VII Section 702.e – Multi-family dwelling; 2) Variance: Article XI Section 113.5 – Driveway on “sideage” roads must be no closer than 500’ from the nearest intersection.**

Mr. Matt Peterson, Hillside Design Group, for 4-NH Homes, said that he was before the ZBA two months ago. He listened to the ZBA and to the abutters, and he is back with a different plan. He said he is requesting a variance from Article XI Section 113.5-Driveway on “sideage” roads must be no closer than 500’ from the nearest intersection. The plan is for four residential lots on Route 28. The variance request is for the fourth driveway, which would be on Pine Acres Road and 75 feet from the nearest intersection. He noted that the driveway across the street is within 35 feet of the intersection, and a total of four driveways are within 500 feet of the intersection on the east side of the road. He said that he had photographs with him. Going through the five criteria, he said that this driveway would not diminish the values of existing properties since four lots already have driveways within 500 feet of the nearest intersection. He said the driveway is not contrary to the public interest because the restriction has already been ignored with four driveways on the east side of the road. For the same reason, substantial justice would be done in allowing this variance because the same regulation has not been applied across the street. And, there is more than adequate frontage.

Mr. Gryval said this looks like a flag lot.

Ms. Baxter said the frontage on Route 28 can be used.

Mr. Peterson said they are 200 feet from the intersection.

Mr. Mike Juranty said that the front of the fourth house will be determined by the assignment of a street address. If it has a Pine Acres Road address, the driveway would not be on a “sideage” road, and therefore the wrong article is being addressed. He said it should be Article 703-e.

Chair Klawes agreed that how the house is sited matters.

Mr. Peterson said he was told that the correct article is 1113.5.

Ms. Baxter said that Route 28 can be the frontage; this was cleared by Matt, and the Highway Department has given its approval.

Mr. Goodine said that speed is slower on the side road – 25 mph versus 55 mph.

Ms. Michelle Lacasse said that allowing this driveway will cause accidents. Why have rules and not follow them?

Ms. Darlene Lyons said that the road is not maintained well. She said a resident turned into the road, slipped on ice and almost ran into a picture window.

Mr. Gryval made a motion to enter into deliberation. Ms. Baxter seconded the motion.

A roll call vote was taken on the motion:

Dawna Baxter, aye; Keith Klawes, aye; Jeff Gryval, aye; Chad Pelissier, aye.

The motion carried.

Chair Klawes advised the applicant that they have the right to be heard by a full Board of five members, and only four are present. He asked audience members to be quiet during deliberations, unless asked a question by the Board.

Mr. Peterson agreed to proceed with four members.

1. There will not be a diminution of the value of the surrounding properties.

The Board members agreed that property values would not be diminished, since there are already four driveways within 500 feet of the intersection with Route 28.

2. The granting of the variance will not be contrary to the public interest.

The Board members agreed that this standard is met because driveways have already been allowed to be sited within 500 feet of Route 28 on the east side of the road.

3. The literal enforcement of the zoning ordinance will create an unnecessary hardship

Mr. Gryval asked what is unique about this property which causes a hardship.

Mr. Peterson said that there is 1,200 feet of frontage on Route 28.

4. Through the granting of relief by a variance, substantial justice will be done.

All members agreed that granting relief via a variance constitutes substantial justice because others have been granted the same relief on the east side of the road.

5. The spirit of the ordinance will be observed in the use for which the variance is requested.

All members agreed that literal enforcement of the ordinance would create an unnecessary hardship.

Mr. Pelissier observed that there was a potential for three driveways here, not just one.

Ms. Baxter made a motion to approve the variance, allowing a driveway at 200 feet from the edge of the pavement. Mr. Pelissier seconded the motion.

A roll call vote was taken on the motion:

Dawna Baxter, aye; Chad Pelissier, aye; Keith Klawes, aye; Jeff Gryval, aye.

The motion carried.

Chair Klawes advised the applicants that there is a 30-day appeal period, so beginning construction prior to that would be at their own risk.

Mr. Peterson next addressed the second aspect of their application, a request for a Special Exception, Article VII Section 702.e for multi-family dwelling. He said that three of the proposed dwellings would be single-family homes. The fourth would be a duplex. He said that what he took from the last hearing was that the 'character of the neighborhood' is the biggest concern. He said there are all different types of homes there: ranches, mobile homes, log cabins and two-story homes. He said the duplex would be sited 800 to 900 feet off the road.

Chair Klawes said it would be okay to have some general discussion before going through the criteria.

Mr. Gryval said that he was expecting a proposal for seven to nine homes, based on the discussion at that last meeting.

Mr. Peterson said that was just one example of what could be done without a variance or Special Exception. It is a standard subdivision. The cost of building town roads makes this an expensive option.

Ms. Lacasse asked why she didn't get a notice about this meeting. She said that trees are gone from her back yard, and she is concerned about wildlife because that is why they moved here.

Ms. Baxter explained that they follow the legal guidelines for notification. She told Ms. Lacasse that she is not an abutter.

Chair Klawes suggested that she call the Town Administrator.

Ms. Baxter suggested that she reach out to Mr. Kimball, the person who is cutting trees.

Ms. Lyons said that this was a paper street which the town abandoned, so it is now private.

Ms. McKenney asked if a driveway can be 900 feet long.

Mr. Juranty said it is on record that it will be a minimum of 800 feet long.

Mr. Peterson said they will stipulate that the driveway will be 800 feet long or greater.

Mr. Peterson addressed the criteria for a Special Exception so that a duplex could be built on a 26-acre parcel. He said the exception would create no hazard because the proposal is for a two-family residential home. Regarding diminution of property values, this is not a commercial property; it is a two-family home 800 feet off the road. He said there would be no substantial safety hazard due to traffic. The use of municipal services would not be out of the ordinary. Stormwater drains away to the wetlands and then to the Suncook River, not toward Route 28 or Pine Acres Road. This is an appropriate location,

with a special exception. There would be no adverse effect on health and safety. He said the applicant believes that a small amount of diversity is in the public interest.

Mr. Gryval made a motion to enter into deliberations. Ms. Baxter seconded the motion.

A roll call vote was taken on the motion:

Dawna Baxter, aye; Keith Klawes, aye; Jeff Gryval, aye; Chad Pelissier, aye.

The motion carried.

Chair Klawes reminded the audience to have no discussion while the Board is in deliberation. They should speak only if asked a question.

Mr. Gryval suggested that they could agree that all nine criteria have been met and the Board would not need to go through all nine.

Chair Klawes said he was open to that change in practice.

Mr. Gryval made a motion to grant a Special Exception for Article VII Section 702.e – Multi-family dwelling to 4 NH-Homes to allow one duplex at least 800 feet in off of Pine Acres Road. Ms. Baxter seconded the motion.

A roll call vote was taken on the motion:

Dawna Baxter, aye; Chad Pelissier, aye; Keith Klawes, aye; Jeff Gryval, aye.

The motion carried.

Chair Klawes advised the applicant that there is a 30-day appeal period, so beginning construction prior to that would be at their own risk.

#### **OTHER BUSINESS**

Ms. Baxter announced that the ZBA needs one more member. She said they meet six or seven times a year, and no special expertise is needed.

Chair Klawes added that they should have five regular members and two alternates; they have only four members. Knowledge of the zoning ordinances is not required.

#### **UNAPPROVED AND UNSIGNED MINUTES**

Mr. Pelissier made a motion to approve the minutes of the May 8, 2019 meeting. Mr. Gryval seconded the motion.

A roll call vote was taken on the motion:

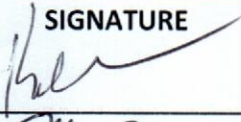
Dawna Baxter, aye; Chad Pelissier, aye; Keith Klawes, aye; Jeff Gryval, aye.

The motion carried.

#### **ADJOURNMENT**

Mr. Pelissier made a motion to adjourn the meeting at 8:48 pm. Mr. Gryval seconded the motion. A roll call vote was taken: Dawna Baxter, aye; Jeff Gryval, aye; Keith Klawes, aye; Chad Pelissier, aye.

**ZBA**  
**SIGNATURE PAGE**  
**June 26, 2019**

SIGNATURE	MEMBER	DATE
	Keith Klawes, Chairman	7/31/19
	Chad Pelissier, Vice Chairman	7/31/19
	Dawna Baxter, Secretary	7/31/19
	Jeff Gryval, Member	7-31-19
	Roger Laflamme, Member	