

TOWN OF ALLENSTOWN  
Zoning Board of Adjustments  
16 School Street  
Allenstown, New Hampshire 03275  
September 26, 2018

**Call to Order**

The Allenstown Zoning Board of Adjustments meeting of September 26, 2018 was called to order by Acting Chairman Keith Klawes at 6:33 p.m.

Chair Klawes called for the Pledge of Allegiance.

**Roll Call**

Present on the Board: Dawna Baxter, Jeff Gravel, Keith Klawes, Chad Pelissier (arrived late)

Allenstown staff: Derik Goodine, Town Administrator

Others present: Peter Holden, Holden Engineering; James Bianco, Attorney for the Hynes Group; Jason Dennis, Attorney for the Hynes Group; Michael O'Meara, Planning Board; Sandy McKenney, BOS; Diane Adinolfo, Planning Board

Chair Klawes addressed the applicant saying that they were entitled to be heard by a full Board and only three members are present.

Mr. Bianco said they wished to proceed without a full Board.

Chair Klawes stated that they will hear the appeal of the applicant but will take no action until after the BOS meeting regarding the extension of the P & S agreement between the applicant and the Town.

**NEW BUSINESS/ RECEIPT OF APPLICATIONS & PUBLIC HEARINGS**

**ZBA Case # 2018-03 – Holiday Acres – Appeal from Administrative Decision**

Chair Klawes stated for the record that a 100-lot layout on paper was distributed.

Mr. Holden began by explaining the project. He said this is an addition to Holiday Acres at the intersection of Chester Turnpike and Granite Street Extension. He indicated the red area of a map, saying this is the existing mobile home park, containing about 360 homes on 180 acres of land. This is 0.6 acres per home. He referred to the area in blue, saying that this is comprised of land recently purchased and two parcels previously acquired but not part of the existing park. This totals 200 acres, and the proposed plan would have 100 homes, which is two acres per home. Current Allenstown zoning requires two acres per home. He said that the land in the back rises up a bit. He said that a conditional

use permit was requested but denied by Building Inspector Steve Paquin, who said that density had to be calculated using the acreage and number of homes in both parks. This would mean that 920 acres would be required for the 460 homes. Therefore, the applicant wishes to establish a second, separate park made up of the land to be purchased from the Town, parts of the two parcels already owned, and a small portion of the existing park, which would require a lot line adjustment.

Mr. Bianco stated that this is an appeal of the Building Inspector's interpretation of the Allenstown zoning ordinance. For background, he said that Stephen Hynes entered into a contract with Allenstown in 2017 for the purchase of 166 acres of Town-owned land. The Town understood that this would be a 55+ mobile home community. This is in writing and permanent. He continued, saying that Mr. Holden met with Matt Monahan of the Central NH Regional Planning Commission and from their conversation believed 100 homes could be placed on the parcel. Mr. Monahan then recused himself. An application and its related fees were filed on February 28, 2017. In July, the applicant was informed that no application fee had been paid. They checked with the bank and the check had cleared in March. In July, the applicant met with the Technical Review Committee.

Mr. Bianco continued, saying that they have prepared three legal arguments. The first is that the density calculation of the Building Inspector is inconsistent with the zoning ordinance. He cited the Density Requirements expressed in Article XVII Section 1703 (c).

"The maximum number of units allowed in a manufactured housing park shall be determined by dividing the total acreage of the parent tract in acres by two (2) acres. The resulting 'full yield' number shall represent the maximum number of manufactured homes permitted on a given parent tract (i.e. total number of homes allowed in a park). Fractions shall be rounded to the nearest whole number."

Mr. Bianco said that this is a new, separate park. There are no children. It is an upscale development with a separate entrance, its own clubhouse, double-wide units (some with garages), and walking spaces. It is comparable to a park called Tara Estates in Rochester, which is beautiful.

Mr. Dennis said that this development must comply with federal law regarding 55+ communities, which means that in 80% of the households, one member must be 55 years of age or older. The balance of the residents must be 40 years of age or older. If the two parks are combined, federal law would be violated.

Mr. Bianco stated that their second legal argument relates to a 1988 NH Supreme Court decision which stated that if a pre-existing park is non-conforming, it can legally be expanded. A 55 and over community is a natural activity closely related to the existing use of the land. The third legal argument cites RSA 674:32 which says that municipalities must provide reasonable opportunities for siting manufactured homes. There must be realistic opportunities for development and expansion of manufactured housing parks. Thus, lot size and overall density shall be reasonable. Allenstown's Building Inspector's interpretation violates this RSA and should be overturned by the ZBA. This new park should be treated as its own parent tract.

Mr. Dennis added that the entire area is already in a mobile home district.



Chair Klawes stated for the record that the reference is to the official zoning map of the Town of Allenstown, NH on the wall at Town Hall.

Mr. Bianco said that this is good for the community. The homes in Rochester's Tara Estates sell for about \$200,000. The process in Allenstown has taken a long time; there have been issues dragging it out, and the P & S contract is about to expire. The applicant has asked the BOS for an extension and is trying to act in good faith. They will be taking the case to court if necessary; Mr. Bianco believes that the court will say this is a reasonable opportunity. It is in the manufactured homes zone, has a completely new entrance, and will feature beautiful homes. He concluded by requesting that the contract be extended so they can show what they can do.

Ms. Baxter asked how the federal law is enforced. That is, how do they determine what makes a separate park?

Mr. Dennis responded that everything with the federal government is complicated. He could speculate, but has no concrete answer.

Mr. Bianco said that when people see what they are getting, their fears are gone. There are no kids, and these are nice homes for older people. The 'not in my backyard' mentality is gone. The applicant is merely asking the BOS to extend the P & S for a few months.

Mr. Holden referenced the Jenson park on Dartmouth Street in Manchester, which has about 100 mobile homes on a site which was previously a gravel pit belonging to Manchester Sand and Gravel.

Chair Klawes asked how the age restrictions are enforced.

Mr. Bianco responded that the park owners enforce the rules. Others in the park report violations.

Chair Klawes noted that it is not easy to evict people in the winter.

Mr. Dennis related an incident whereby a resident had two or three dogs, extra cars and extra people. He was given a 60-day notice. They allowed him time to put his home up for sale and find another home versus evicting him.

Mr. Bianco noted that New Hampshire has an older population.

Ms. Adinolfo asked about the challenge of enforcing park rules.

Mr. Bianco said they have had few, if any, evictions in Rochester. He said it is in the contract that no children are allowed. If this is violated, the eviction process would be used if no other remedy works.

Ms. Baxter asked if this park would be sharing an office with the existing park.

Mr. Bianco responded that this development will have its own office.

Mr. Dennis says he can't keep neighbors out of his yard, and he has a stick-built home. No matter what, nothing is perfect.

Mr. Holden said the park could have an agreement with the Town, the elements of which could be enforced.

Mr. Klawes said that often grandparents are taking over the raising of their grandchildren. He teaches at a high school and has two students whose guardians are 96 years old.

Mr. Bianco said that the control is in the agreement, the contract. The park management will try to help people move to another park, if necessary, but can't let them stay if they are violating the contract. If nothing else works, they will use the court system to effect eviction.

Mr. Bianco said they want to be good neighbors. They have had zero problems with existing parks. They will widen Chester Turnpike and add sidewalks and lighting.

At 7:23 p.m. Chair Klawes called a recess.

Chair Klawes reconvened the meeting at 7:38 p.m. and noted that Mr. Pelissier has joined the meeting.

#### **UNAPPROVED MINUTES**

On motion of Mr. Pelissier, duly seconded by Ms. Baxter, it was voted to approve the minutes of the May 23, 2018 meeting. Ms. Baxter voted aye; Mr. Pelissier voted aye; Mr. Klawes voted aye; Mr. Gravel abstained from voting.

#### **STAFF UPDATE**

Chair Klawes stated that Eric Feustel resigned as chairman because he moved from Allenstown. He asked if the Board wished to elect a chairman. The members agreed to elect officers.

Mr. Gravel nominated Mr. Pelissier as chairman.

Mr. Pelissier said that he is already on seven boards.

Mr. Gravel asked Ms. Baxter if she would be willing to serve as chairman.

Ms. Baxter responded that she has only been on the Board for a short time and doesn't feel qualified.

Mr. Klawes said he is willing to take the position.

Mr. Pelissier nominated Mr. Klawes for the position of Chairman. Mr. Gravel seconded the motion. There being none opposed, the motion carried.

Mr. Pelissier agreed to continue as Vice Chairman.

On motion of Mr. Pelissier, duly seconded by Mr. Gravel, Ms. Baxter was elected by a unanimous vote to serve as the ZBA Secretary.

Chair Klawes noted that the Board is short one member and two alternates.

Mr. Pelissier said that Roger Laflamme is still a member and doing much better.

Chair Klawes asked if there have been any developments with 4NH Homes.

Ms. Baxter responded no. Mr. Gallo applied for a driveway permit and paid the fee, but it has been pending for a long time.

On motion of Mr. Pelissier, duly seconded by Mr. Gravel, it was unanimously voted to adjourn at 7:45 p.m.


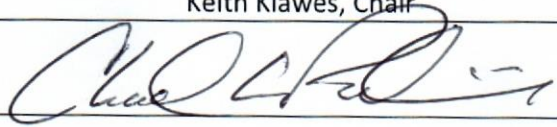
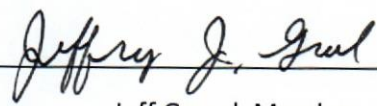

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KEITH KLAWES, CHAIRMAN



TOWN OF ALLENSTOWN  
ZONING BOARD OF ADJUSTMENTS  
PUBLIC MEETING MINUTES  
September 26, 2018

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	3/24/19
Keith Klawes, Chair	DATE
	3-13-19
Chad Pelissier, Vice-Chairman	DATE
	3-13-19
Jeff Gryval, Member	DATE
	3.13.19
Dawna Baxter, Member	DATE