

TOWN OF BENNINGTON  
ZONING BOARD OF ADJUSTMENT  
Minutes of the Meeting- April 15, 2010

Present        Peter Martel, Chairperson  
                  Chris Clough, Vice Chairperson  
                  Sam Cohen  
                  John Paradise, Alternate  
                  Mike Osienski, Alternate

Guests        Jinnette Jenks  
                  Andy Jenks  
                  Hannah Nowicki  
                  Kristen Smullen, abutter  
                  Patti Heath

Before opening the meeting, Sam Cohen, John Paradise, and Mike Osienski were sworn in by the Town Clerk.

Chairperson Martel called the meeting to order at 6:35 p.m.

An overview of ZBA procedures was given for the benefit of the new members along with a definition of conflict of interest.

The Board reviewed the January 11, 2010 Planning Board minutes that applied to the Jenks case. The Planning Board had to deny the Jenks' application and referred them to the ZBA for a variance.

The Jenks Hearing was opened at 7:15 p.m. with introductions of the Board members and guests. John Paradise and Mike Osienski were made voting members of the Board for the case. Mr. Jenks was asked to give a brief summary of his application. The Jenks care for a handicapped woman who requires twenty-four hour care. They are asking to use the upstairs portion of the house as a living area for a caregiver. The property was given a variance in 1991 for a guest cottage. In 2007 the main house had the downstairs converted to living space for Hannah and the upstairs that is set up as an apartment was made vacant. The Jenks would now like to use this as living space for the caregiver.

The Board reviewed the Jenks' application. It was asked if the Jenks would ever use this extra unit as a rental property. The apartment will be used as compensation for the caregiver's work. It was noted that the Jenks could present two hardships; one being the need for twenty-four hour supervision of Hannah, and the vacancy of the upstairs area. Neighbor Kristen Smullen stated that she was in favor of allowing the apartment. Mr. Jenks stated that another neighbor also told him that they did not have a problem with the apartment but they were not in attendance at the meeting.

Deliberation was closed at 7:38 p.m.

A modification could be made to the variance to allow the upstairs living space. A second kitchen makes the space a new unit. The Board would like to tie the variance to the caregiver of Hannah such as the variance that allowed the living space that Hannah resides in is tied to her. The Board discussed the five conditions that need to be met in order to grant a variance. The use of the variance would not diminish property values. It is not contrary to public interest. Denying the variance would cause unnecessary hardship due to the need of a caregiver for the handicapped woman. There has been no violation of the intent of the ordinance and this would not injure the rights of others. Granting the variance would cause substantial justice because of the needs of the handicapped individual.

At 8:02 p.m. Chairperson Martel reopened to the public noting that the second floor kitchen needs to be part of the variance. It was noted that a check was received for the application for a variance. The Board closed the deliberation.

Sam Cohen moved that the Board approve the variance with the condition that the third living unit is only for the use of the caregiver of the handicapped individual. A vote was taken and all were in favor. The variance was approved. Vice Chairperson Clough made a motion to continue on Monday April 19, 2010 at 6:30 p.m. when the Board can accept the written approval. All were in favor and the continuance was set for April 19, 2010 at 6:30 p.m.

The upcoming schedule for the ZBA for the next month will be, April 19, 2010 at 6:30 p.m., May 3, 2010 at 7:00 p.m., and May 17, 2010 at 7:00 p.m. If there are no scheduled cases the Board can meet monthly. The ZBA will be changing the scheduled meeting date to a Monday night. It was noted that it takes three meetings to make a change in the Rules of Procedure. The next case that will be heard is the Joshi Hospitality Group conversion to condo units. Mr. Joshi would like to have thirty-two condo units in the area where his motel has been. The Board will be looking at multi units and a density issue, a set-back issue possibly an equitable waiver and an issue with parking spaces. It was noted the Sam Cohen is currently an alternate on the Planning Board as well.

A reminder was given about the upcoming conference in Nashua. It may be possible to share a bus with Antrim for anyone interested in going.

Vice Chairperson Clough made a motion to adjourn the meeting. The meeting was adjourned at 8:31 p.m.

Respectfully Submitted by

Debra Belcher  
Zoning Board of adjustment Recording Secretary