

TOWN OF BENNINGTON  
ZONING BOARD OF ADJUSTMENT  
Minutes of the Meeting- May 17, 2010

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

Guests        James Bolduc  
                  Leigh Bosse  
                  Barbara Willis  
                  Peter Hopkins, Code Enforcement Officer  
                  Philip Germain

Chairperson Martel called the meeting to order at 7:00 p.m.

Packets of information from Town Counsel were distributed for review.

Mike Osienski was made a voting member for the meeting.

A check in the amount of \$75.00 was received from Mrs. Willis. Mrs. Willis is requesting a variance to put a kitchenette in her house. Mrs. Willis stated that the proposed studio apartment would not be intended for children as the highway is close as well as Powder Mill Pond. Mrs. Willis' house on a 16.2 acre lot in the Village District. There is currently a one-bedroom apartment, the Willis' living space, and a separate one bedroom rental unit on the property. The proposed studio apartment is being requested for Mr. Willis as he is ill. The Willis house had been used as a restaurant and the septic system has been approved for that purpose.

The Board when to non-public session to review the requirements for a variance. It was noted that there would be no change in the outside of the house by granting the variance. The possibility of setting aside twelve acres (three acres per unit) that could not be sold from the lot. All requirements for the variance have been met.

Sam Cohen made a motion to approve the variance. All were in favor and the variance was granted. Chairperson Martel will write the decision and the Board will meet again to approve the written decision on May 24, 2010 at 7:00 p.m. Mrs. Willis asked if she could proceed or should wait to have work done. The Board has given a verbal approval. Code Enforcement Officer Hopkins needs to have the decision in writing.

The Board reviewed the information received from Town Counsel. Chairperson Martel made a motion to talk about the information in general but not release in publicly unless there proves to be a need for it to be released. All were in favor.

The Joshi Hospitality Group Continuation opened at 7:59 p.m. in non-public session. It was noted that if there is no change of use, no variance is needed. It was noted that all four lots have been used as one lot. Mr. Joshi does not want to merge the lots into one lot.

The hearing was opened to the public. Mr. Bolduc stated that in his opinion, the lot does not meet the requirement to be forced in to merger. The lot history was looked at. There has been nothing found on file to show that a lot merger had been completed. Plans were approved to build on three lots. It was questioned how the fourth lot happened to become shared to create a motel complex. It did not appear to have been merged formally but it has been merged by use. The application presented does not include the lot with the lodge as part of the condo project. It was noted that Mr. Joshi purchased one business on two properties. It was suggested that the lodge building be used as another condo unit in the project.

Phil Germain noted that the Town Ordinance lists the allowed uses. It was noted that both motel and condo are stated as allowed uses. The State definition of condo is a form of ownership.

If the lots were to be considered one lot as suggested by use, the applicant could go to the Planning Board to sub-divide the lot. The applicant noted that the property is already two lots.

The applicant stated that the Planning Board did not accept their application and suggested that they obtain a variance from the ZBA. It was suggested that a joint meeting between the ZBA and the Planning Board be scheduled.

The Board noted that based on the past usage, they could assume that the property is one lot. As no request has been made for a change in use, there is no need for a variance. An equitable waiver has been granted for a setback issue. Mr. Bosse stated that he would like to be able to talk to Town Counsel. Sam Cohen made a motion to give Mr. Bosse permission to talk to Town Counsel about the merger. All were in favor and permission was granted. Chairperson Martel will inform Town Counsel that the ZBA has authorized a conversation between Town Counsel and Mr. Bosse pertaining to the lot information on the Joshi case.

Steve Osienski made a motion to look at the proposed project as one lot and that it does not require the variances that have been applied for based on the current uses being continued. All were in favor. Discussion was held, noting that the use of the lodge building is unknown. A consolidation of the tax lots will need to be done by the Planning Board. A motion was made to continue the Hearing on May 24, 2010 at 6:30 p.m. All were in favor and the continuation was scheduled.

There being no other business at hand, the meeting was adjourned at 9:48 p.m.

Respectfully Submitted by

Debra Belcher  
Zoning Board of Adjustment Recording Secretary