

**Town of Goshen
Zoning Board of Adjustment
Minutes of April 10, 2013**

Members Present: Doug O'Clair, Chair; Keith Hall; Ray Porter; Mark Rissala; Clark Wamsley

Chair O'Clair called the meeting to order at 7:00 p.m.

First order of business was election of officers for the ensuing year.

Mr. Rissala nominated Doug O'Clair for office of Chair. Mr. Porter seconded the nomination. All in favor.

Mr. Porter nominated Mark Wamsley for office of Vice-Chair. Mr. O'Clair seconded the nomination. Discussion followed.

Mr. Wamsley thanked Mr. Porter for the nomination but stated he does not feel ready to take on the role of vice-chair at this time.

Mr. O'Clair nominated Mr. Porter for the office of Vice-Chair. Mr. Wamsley seconded the nomination. All in favor.

Chair O'Clair appointed Mr. Wamsley as a voting member in the absence of Mr. Chilson.

MINUTES

The Board reviewed the minutes of November 14, 2012.

Mr. Wamsley made a motion to accept the minutes of November 14, 2012 as written. Mr. Porter seconded the motion. All in favor.

UNFINISHED BUSINESS

None

PUBLIC HEARINGS

Barbara Paronto – 275 Lear Hill Road - Tax Map 403, Lot 003 – Special Exception

After Ms. Paronto paid the public notice fees, Chair O'Clair read the public notice.

You are hereby notified of a Zoning Board of Adjustment hearing to be held at 7:15 p.m. on Wednesday April 10, 2013 at the Goshen Town Hall concerning a request by Barbara Paronto for a Special Exception as specified in Section III, Article B3 of the Zoning Ordinance.

The applicant proposes to add a second dwelling unit as a temporary placement on property located at 275 Lear Hill Road, tax map 403 lot 003 in the Residential/Agricultural district until subdivision approval.

Chair O'Clair read section B3 and Special Exception requirements of the zoning ordinance for public information.

B.3. Buildings per Lot

There shall only be one building allowed for residential purposes on a lot except when a special exception has been granted by the Zoning Board of Adjustment; provided, however, that in order to grant such a special exception, the board must find, in addition to the other standards contained in this ordinance, that the lot involved is of sufficient size that the overall density on the lot does not exceed one dwelling unit per three (3) acres.

Chair O'Clair stated that since the total lot size is 22 acres and has only one existing dwelling, density is not an issue.

IX.B. Special Exceptions

Certain uses of land and buildings are allowed by this Ordinance only as a special exception by approval of the Board of Adjustment. Before allowing such a special exception, the Board of Adjustment shall first determine that the proposed special exception use will conform to all applicable specific standards contained in this Ordinance, and in addition, must find that the proposed special exception shall have no adverse effect upon:

- 1. The character of the area in which the proposed use will be located.*
- 2. The highways and sidewalks or use thereof located in the area.*
- 3. Town services and facilities.*

If the Board of Adjustment approves an application for a special exception, it shall have the authority to impose appropriate relevant conditions upon the exercise of the special exception as are reasonable related to the above criteria or any other applicable standards contained in this Ordinance. In addition, every special exception granted shall be subject to the condition that the use shall be implemented in substantial conformity with the plans and specifications as presented to the Zoning Board of Adjustment, and that no material change or expansion of the use is permitted in the absence of further action by the Zoning Board of Adjustment.

Chair O'Clair outlined the process for the hearing.

Ms. Paronto presented her application. She explained that the proposed temporary dwelling is a mobile home that her daughter and son-in-law purchased last fall. It was in need of repair, so they brought it up and parked it on Ms. Paronto's property for easy access during restoration over the winter. The family has been living in Ms. Paronto's home during this period and would now like permission to move into the mobile home short-term until they are able to make permanent living arrangements. There are existing sewer and water lines on site. The original plan was to subdivide three acres as a separate dwelling lot and place the mobile home there. The time and paperwork involved to take land out of current use and finish the subdivision process takes time.

The mobile home is not visible to the road or neighbors, so it will not have any adverse effect upon the character of the area. There will be no change in traffic since the proposed temporary dwelling would be used by her daughter and son-in-law, who are currently living in her home on

the same lot. The temporary dwelling will have no adverse effect on town services and facilities since it is located on her property and the potential residents are already living on site in her home. The mobile home will bring revenue to the town through taxation.

Chair O'Clair reminded the Board that special exception approval goes with the property if it is not approved with conditions. Regulations are not black and white and could be interpreted different ways. It is important for the Board to be clear on its decision. He commented that in his opinion, a time frame for removal of the second dwelling should be stated as a condition of approval, along with a notarized agreement between the land owner and the town acknowledging that this would be a temporary approval and does not go with the land.

Mr. Wamsley asked Ms. Paronto if this would be a temporary arrangement.

Ms. Paronto stated that it would be temporary because her daughter and son-in-law need a bigger home long terms since they have a young family. Two years sounds like a reasonable amount of time to get the paperwork in order or for the family to find different living arrangements, whichever they decide to do. However, a one-year approval is with the option of returning to the Board for an extension would be appreciated.

Shaun Carroll, Jr. asked for clarification of the regulation. He commented that according to the regulations, you cannot have two dwellings on one lot of record.

Chair O'Clair clarified that there currently is only one dwelling on the property. Ms. Paronto's home, in which the whole family resides; and one recently renovated mobile home which is not occupied. Two dwellings on one lot could exist, but only with special exception approval by the Board of Adjustment.

Mr. Carroll commented that subdivision is supposed to happen before a second dwelling is on the property. He asked why the subdivision didn't happen before the mobile home was moved on site.

Ms. Paronto commented that there is a provision for a second dwelling on site through special exception approval. e.g., in-law provision.

Chair O'Clair commented that there is nothing in the regulations that prevents a mobile home or any other structure from being placed on a lot if it meets the setbacks.

Mr. Hall clarified that the Ms. Paronto is within her rights to park the mobile home on her property, it just cannot be occupied until a special exception is approved.

Mr. Carroll thanked the Board for the clarification.

Mr. Porter asked if there was anyone living in the mobile home now.

Ms. Paronto stated no, they have been working on cleaning it up and preparing it for use.

Jack Warburton, Building Inspector, stated that the building permit for the mobile home to be installed was temporarily denied until Zoning Board approval.

Dave Stephan asked if this is going to be a mobile home as a residence for a limited period of time that will not be extended into the building of a permanent home.

Chair O'Clair explained that if the mobile home is approved as a dwelling, the approval will have conditions of a time limit for use and a signed agreement acknowledging that the approval does not marry to the property.

Mr. Stephan stated that if the lot is subdivided, it would become two properties and that he would certainly agree with a one-year temporary approval period in the best interest of the community, but he would go against any extension beyond that period. If more time is needed, then the property should be subdivided.

Ms. Paronto emphasized that the mobile home is for temporary family use only. There will be the same number of people using the existing water and septic as there are now. The mobile home is not intended to be used as a rental property. One year is a crunch to get all of the paperwork and site improvements done. This property is not where they want to be long term. If the paperwork and/or site improvements cannot get done in one year, then an extension will have to be requested.

Mr. Wamsley commented that in his opinion Ms. Paronto has satisfied the requirements for approval. The only thing that needs to be established is an end-date.

Mr. Rissala commented that it doesn't sound as though there is a definite plan for the future. At the end of the one-year approval there would have to be either 1. Subdivision; 2. Removal of the mobile home; 3. Application for an extension.

No further questions or comments from the public. The Board began deliberations.

Chair O'Clair commented that he supports Attorney Waugh's suggestion that a one-year time limit be placed on the approval and there should be a signed agreement acknowledging that the special exception expires in one year between the applicant and the Town. He asked the Board if they thought a binder should be required in case there are costs to the Town for removal of the mobile home.

Mr. Wamsley commented that the State regulations may recommend one year time limit on such situations, but that does not mean the Town of Goshen has to follow the state recommendation. He commented that he would have no problem approving the special exception with a three-year time limit.

Mr. Rissala commented that the applicant has satisfied the regulations, but he would prefer to see a definite time limit placed in lieu of "temporary".

Mr. Porter commented that he is inclined to agree with a one-year time limit.

Mr. Hall commented that he would be comfortable with a one-year time limit. At that point, if more time is required, then a more concrete plan should be presented upon application for an extension. He stated that he does not see the need for a removal bond.

Mr. Hall made a motion to approve the request for a special exception with the following conditions:

1. **Applicant will sign an agreement with the Town of Goshen to disconnect the unit from water and sewer 12 months after signing of said agreement. Applicant will be responsible for all costs incurred to create said agreement.**
2. **If applicant returns to ask for an extension, it must be within 11 months of signing the original agreement with the town. In order for the Zoning Board to consider said extension, the applicant must have a solid plan for timing of disconnecting the unit permanently.**

Mr. Rissala second the motion. All in favor.

Chair O'Clair advised Ms. Paronto that an agreement will be drawn up for signatures. If the Board of Selectmen chooses to seek legal counsel for the wording of the agreement, those legal costs will be borne by Ms. Paronto.

Ms. Paronto agreed and thanked the Board.

NEW BUSINESS

None

COMMUNICATIONS

None

OTHER BUSINESS

None

Mr. Hall made a motion to adjourn. Mr. Wamsley seconded the motion. All in favor.
Meeting adjourned at 8:00 p.m.

Next meeting: May 8, 2013

Respectfully submitted,

Linda Plunkett
Recording Secretary