

Zoning Board of Adjustment meeting minutes for October 20, 2014

Present: Lewis Major, Bruce Bellville, Vice-Chair Todd Page and CDC Kathryn Lynch. Excused were John Smith, Jay Ebbighausen and Alt. Dorianne Almann. Applicants and one member of the public were present.

7:00 pm Vice-Chair Todd Page called the meeting to order. Vice-Chair Todd Page explained to the applicant that there was not a full Board and asked if the applicant would like to proceed? (Yes). Vice-Chair Todd Page read the Public Notice for case #1014 and 1014-A and the Agenda explaining the postponed hearings.

Case #1014: Application for a Variance submitted by Scott and Stephanie Dalton for tax map 29 lot 10, 342 Monument Rd., in the Rural Agricultural District. The applicant seeks a Variance from Article IV Section 1, to build a community solar garden array on property.

Andrew Keller representing NH Solar Garden explained after the newly passed Group Net Metering Law or SB-98 they have been looking for the best available land to build a solar array. The project would create grid stability. A Variance is needed because the Dalton's land is in Rural Agricultural. The Dalton's land abuts the Commercial/Industrial District which allows utility and they are close to transmission lines for PSNH. The project will not pose any health or safety concerns for the community. There will be no noise or smell. The solar array cannot be any larger than five acres at one site. The solar array will meet all setbacks for Monument Rd. This project allows the property owner to support New Hampshire's goals of reducing its dependence on fossil fuels while educating other farmers and community members about renewable energy and sharing the solar powers with Hinsdale residents &/or other businesses. The Dalton Family are looking for the town officials to grant us the approvals to move the project forward and request a building permit to construct the array in the early spring of 2015. Asking for the Town's guidance, this site is very suitable to their needs and there is no other site close by that is suitable. There is minimal impact to the environment and the solar array is five feet at its highest point.

Vice-Chair Todd Page asked if any members of the public had questions or comments in favor. James MacDonell said he would love to see solar in town.

Vice-Chair Todd Page asked if any members of the public had questions or comments opposed.

Hearing no questions or comments Vice-Chair Todd Page closed the public hearing and asked for questions or comments from the Board. Lewis Major asked if it will be visible from Monument Road? (No it will be behind the Dalton's home). Bruce Bellville explained that he feels it is a wonderful idea and that solar would be great for the town but the application is more educational instead of explaining the hardship of the client. The closest example of solar is utility. Solar needs to be defined in the Zoning Ordinance and the districts that it is allowed should be specified. The Dalton's property, although it abuts the Commercial/Industrial District is in the Rural Agricultural District where utilities are not allowed. There is no hardship listed in the application. He felt that the Board needs a legal opinion before they can go forward as a Board. Also he felt that this application should have been seen by the Planning Board first and denied for the need of a Variance. The Board gave Andrew Keller permission to reply even though the public portion of the meeting was closed. Andrew Keller apologized for not being more specific on the application, he just felt that education was the biggest challenge and was hoping the Board would want more education instead of detail based information. He explained that this will not open the door for all residents to apply for a variance for a solar array. Applicants would need to prove their hardship if it was not allowed in their district. He explained that they still need to go through an extensive site plan when they apply for a building permit to construct. There are no setback concerns. Mr. Dalton explained that he will have a financial hardship if this solar array does not get approved. Lewis Major made a motion to continue this hearing to November 11, 2014 so the Board can consult with the Town's Attorney, seconded by Vice-Chair Todd Page. Motion passed with Bruce Bellville abstaining.

7:55 Case #1014-A: Application for a Variance submitted Paula Fitzpatrick for tax map 24 lot 81, 258 Monument Rd., in the Rural Agricultural District. The applicant seeks a Variance from Article VII section 6, to build a 3’x 5’ sign in the RA District.

CDC Kathryn Lynch read the application for hearing #1014-A. Paula Fitzpatrick explained that until she went to the sign manufacturer she didn’t know she needed a Variance for the sign due to size. Their existing sign at their approved business is 2’x3’ and the proposed sign will be just a little smaller than 3’x5’. They were thinking of raising their existing sign but feel that it is still would not visible with the smaller print. She explained that clients coming up the hill on Monument Road miss the business all the time. Their clients see Continental Cable’s sign but not theirs, so they usually tell people they are across from Continental Cable. The sign’s location is the closest to Monument Road that is allowed. She fears if it is moved closer it will not only be within the setback but it wouldn’t make it through one winter.

Vice-Chair Todd Page asked if any members of the public had questions or comments in favor. James MacDonell said that the sign is too small and in the afternoon sun it cannot be seen. The spirit of the ordinance is to keep conformity. There is a sign across the street that is the same size as the requested sign. Even though the signs are in different districts they are in the same neighborhood.

Vice-Chair Todd Page asked if any members of the public had questions or comments opposed.

Bruce Bellville asked if they had thought of lighting the sign. (No we do not want to light the sign). Lewis Major explained that he has heard a lot of good about the Vet Clinic and Paula and he feels that word of mouth is how you publicize a business. The Planning and Zoning Board worked very hard on revising the sign ordinance two years ago.

The Board worked on the Finding of Facts, stating two:

- 1. The applicant would like a bigger sign to be more visible to clients.
- 2. Business needs a bigger sign on the busy road.

Lewis Major made a motion to adopt the Finding of Facts, seconded by Bruce Bellville. The Motion passed.

Statement of Reasons as presented by the applicant:

- 1. Granting the variance (~~would~~ – **would not**) be contrary to the public **interest** because: There are signs in the neighborhood that are the same size as the one requested.
- 2. The **spirit** of the ordinance (**would** - ~~would not~~) be observed because: The applicant lives across the road from the Commercial/Industrial District which is the neighborhood.
- 3. Granting the variance (**would** - ~~would not~~) do substantial **justice** because: The legal placement would be more conforming and more visible to the public.
- 4. For the following reasons, the **values** of the surrounding properties (~~would~~ - **would not**) be diminished: They are across the road from the Commercial/Industrial District which has the same size sign that is requested.

5. **Unnecessary Hardship**

- A. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:
 - 1. There (**is** - ~~is not~~) a fair and substantial relationship between the general public purpose of the ordinance

provision and the specific application of that provision to the property because: The larger sign would be easier to view with the heavy traffic on Monument Road.

2. The proposed use (~~is - is not~~) a reasonable one because: The larger sign would be more visible and promote public safety on the busy road.

B. The criteria in subparagraph (A) having not been established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it. The property (~~can~~ - **cannot**) be used in strict conformance with the ordinance because: The public cannot see the existing sign very well because they live at the top of a hill on a busy road. The applicant is across the road from the Commercial/Industrial District where a larger sign exists.

Lewis Major made a motion to approve the Statement of Reasons as presented by the applicant, seconded by Bruce Bellville. The motion passed.

Lewis Major made a motion to grant the variance, seconded by Bruce Bellville, the motion passed.

It was explained to the applicant that the variance was granted, they would receive paperwork in the mail and the Building Inspector will be informed of the variance.

Lewis Major made a motion to approve the minutes 9/9/14, seconded by Bruce Bellville. The motion passed.

With no other business to discuss, Vice-Chair Todd Page asked for a motion to be made to adjourn. The motion was made by Lewis Major and seconded by Bruce Bellville. The motion passed unanimously and the meeting ended at 8:45pm.

Respectfully submitted by,

CDC Kathryn Lynch