

**TOWN OF EPPING, NEW HAMPSHIRE
ZONING BOARD OF ADJUSTMENT MEETING**

Wednesday January 6, 2016

PRESENT: Joe Bodge, Kim Sullivan, Don MacLaren Planner Brittany Howard; Secretary Phyllis McDonough; Building Inspector Dennis Pelletier.

CALL TO ORDER: Joe Bodge called the meeting to order at 7:00 P.M.

PLEDGE OF ALLEGIANCE TO THE FLAG

TOM SUTLIFFE – Joe Bodge read a request for a Rehearing Pursuant to N.H. RSA 677:2 - Appeal of Administrative Decision, pertaining to building permit # 117 granted to Granite Coast Landcare, LLC owner of 6 Plumer Road (Map 22 – Lot 064).

Bodge explained the Board received a motion for a rehearing from Tom Sutcliffe through his attorneys, Welts, White & Fontaine. The request is for an Appeal of an Administrative Decision that pertains to building permit # 117, heard on November 4, 2015, continued to and denied on November 24, 2015.

Bodge stated the reality of what has been received was rehashing the discussion made by the board prior. Bodge referred to points made by Sutcliffe’s attorney, and noted he wanted to clarify some of those points:

Item #2 “the property, 6 Plumer Road, is presently being used unlawfully for two primary uses: commercial and two or three residential units.” Bodge referred to Item # 9 Ben Brown, the owner of Granite Coast Landcare, LLC admitted to the Board that in addition to himself and his wife, his father, cousin are all living at the residence. Bodge stated the records have shown the building permit was a single domicile, it is one house no separation of living areas, one common area of bedrooms. Bodge noted the Town of Epping cannot dictate who lives within a house.

Sullivan moved, MacLaren seconded the motion to appoint Bodge to sit as chairman. The motion carried.

Item #7, wording of letter dictated by the lawyers for Sutcliffe “In its decision, the Zoning Board of Adjustment acknowledged, but completely ignored, the fact that the property was currently in violation of the zoning ordinance due to simultaneous usage for more than one residential unit, as well as a substantial commercial business without a special exception or any other authorization from the Town.”

Bodge explained in October 2009 the previous building inspector, Dan Kramer had given permission for a landscape business to be at the address; therefore, this negates Item #7.

Item #11 Bodge noted Item 11 talks about the ordinance defines multi-family “any building containing more than two (2) dwelling units.” Bodge reiterated the house there is a common area, and no separation that was found within the building. Bodge stated the records have shown the building permit was a single domicile, it is one house no separation of living areas, one common area and bedrooms.

Item #19 “therefore, the building permit was not valid because other permits were first required. While the Zoning Board is not an enforcement officer, it must work in concert with the town’s other land use apparatuses in order to achieve a consistent local land use scheme.”

Bodge referred to Zoning Article 11.4 requires the building inspector, when a building permit is received, to ask the question: does the work to be done by the building permit first require site or subdivision

review, or require a special exception or variance. Bodge explained in this instance the building inspector answered the question with a “no” and understood the building permit sought to change space that was formerly used for commercial into residential space. Therefore, there was no true building being created and no site plan, subdivision, special exception or variance is required.

MacLaren moved to deny the request based on the information before the board; Sullivan seconded the motion for discussion.

Sullivan stated the most pertinent thing brought to the Board’s attention specifically by Town Counsel is Zoning Section 11.4 which is pretty specific as far as an expansion of an approved use. He noted when Ben Brown came to the building inspector and asked if he could expand the single family use; the building inspector said no additional requirements, Special Exception or permits were needed. The building inspector granted the permit, and that is the basis of the original complaint for the rehearing. He stated the other items listed are irrelevant, and therefore does not see a reason to grant the rehearing.

Maclaren moved, Sullivan seconded the motion to deny the request for rehearing. Maclaren, Sullivan & Bodge to deny the request for rehearing based on the information before the Board. The motion carried unanimously.

MINUTES OF NOVEMBER 24, 2015 FOR APPROVAL – Sullivan moved, Bodge seconded the motion to approve the minutes, MacLaren abstained. The motion carried.

MINUTES OF NOVEMBER 4, 2015 FOR SIGNATURE – The minutes of November 4, 2015 were duly signed.

ADJOURNMENT – MacLaren moved, Sullivan seconded the motion to adjourn at 7:15 PM. The motion carried unanimously.

APPROVAL NOTIFICATION: January 6, 2016 - Minutes of November 24, 2015 were approved. Minutes of November 4, 2015 were duly signed.

Respectfully submitted,

Phyllis McDonough,
Zoning Board of Adjustment Secretary