

Town of Newington, NH
ZONING BOARD OF ADJUSTMENT
Meeting Minutes, October 29, 2020

Call to Order: Chair Matt Morton called the October 29, 2020 meeting at 6:31pm in the Kent Auditorium at the Town Hall

Present: Chair Matt Morton, Vice-Chair Ralph Estes, Board Members; John Frink, Meredith Hoyt and Edna Mosher, Alternate Board Member Kathy Latchaw, Town Planner John Krebs and Recorder Eleanor Boy.

Public Guests: Mark Phillips, Jerry Worcester, Wil Gilbert, Denis Hebert, Russell Cooke and Jane Kendall.

Minutes: **The board commended Jane Kendall on an excellent job preparing the minutes of October 15, 2020.** *John Frink moved to approve the minutes for October 15, 2020 meeting with corrections as noted. Ralph Estes seconded the motion with all in favor.*

Application: Rollins Farm Holdings, LLC/Mark G. Phillips requests a Variance of Article III, Section 2; to allow the retail sales of lobster and shrimp cooked on the premises. The property is located at 66 River Road, Tax Map 13, Lot 5A.

At the September 17th, 2020 Zoning Board of Adjustment meeting the board had approved a request from Rollins Farm Holdings, LLC for a variance from Article III, Section 2 and Article VII to allow retail sales in the Office Zone and to allow a building 30 feet from the property line where 50 feet is required on the property located at 66 River Road, Tax Map 13, Lot 5A as presented with the condition that only the shrimp and lobster produced by Jerry Worcester would be sold and that no cooking of seafood on site would occur.

M. Phillips thanked the board for giving him the opportunity to come back and answer questions that he couldn't answer at the September 17th meeting.

The reason that Jerry Worcester would like to cook lobster on the property is because if he threw the lobster shells in the dumpster it would smell really bad and he can grind up the shells which can then be used for cat food, lobster paste etc.

J. Worcester explained that he has a lobster boat out of Seabrook. The lobsters would be caught and then brought here by truck and stored in tanks on the property. He is part of the Yankee Fisherman's Coop.

E. Mosher explained that she doesn't have a problem with selling the lobster and shrimp wholesale but has a problem with retail sales. E. Mosher doesn't want to see a restaurant in the future and she doesn't see a hardship.

M. Hoyt inquired if there would be a grease trap. J. Worcester said that there would be no need for a grease trap because they would just be boiling the lobster.

M. Morton suggested that the board could approve the sale of cooked lobster but have a stipulation that no food can be consumed on the property.

E. Mosher said that she still doesn't see a hardship. M. Morton thought that the hardship would be that if he could sell cooked lobster he could make more money.

E. Mosher reminded the board that financial hardship does not qualify as a hardship.

R. Estes thought that there are other places in town where this business could be located that allow retail sales.

M. Morton reminded the board that they are not asking for a restaurant just retail sales of cooked lobster. This property is in the Office Zone.

M. Hoyt would like to see a grease trap that is cleaned out every month. This property is very close to protected wetlands.

M. Phillips reminded the board that the Master Plan encourages the redevelopment of current property.

J. Frink is concerned about the odor that would come from the building if they are cooking lobster. The applicant said there would be fans.

There would be 5 or 6 employees.

M. Morton would be happy to see that building being used.

UNH is going to be helping with the shrimp farm at the location. M. Hoyt feels very confident if UNH is involved.

D. Hebert liked the idea for the business but reminded the board that there was a lawsuit in 2000 when Simplex wanted to put in a store and restaurant in the Office Zone. This decision could open a Pandora's box.

M. Morton reminded the board that the question is about cooked lobster and shrimp or uncooked lobster and shrimp.

M. Morton closed the public hearing at 7:15pm.

E. Mosher pointed out that this doesn't meet the hardship criteria.

M. Morton does not think that cooking should be an issue. They have a right to use the property if they cannot then it is a hardship.

R. Estes moved to grant the request to sell lobster and shrimp at the location. M. Hoyt seconded the motion.

M. Morton pointed out that that is the same motion that was approved on September 17th, 2020.

R. Estes moved to revise the previous motion to include cooked lobster and shrimp. M. Hoyt seconded the motion.

M. Hoyt would like to amend the motion to include the requirement for a grease trap and any other waster water treatment plant regulations and all state and local permits and codes that are part of the building permit process.

R. Estes moved to amend the variance granted on September 17th, 2020 to now included cooked lobster and shrimp. M. Hoyt seconded the motion.

D. Hebert thought that one of the conditions could be that there would be no eating on the premises and there would be signs on the property stating this.

J. Frink reviewed the criteria for approval.

Would this request be contrary to the public interest? The board voted 3-2 in favor.

Is the spirit of the ordinance being observed? The board voted 2-3 not in favor.

Would substantial justice be done? The board voted 4-1 in favor.

Would surrounding properties be diminished? The board voted 5-0 in favor.

Would there be hardship? The board voted 2-3 not in favor.

The variance failed because two of the criteria weren't met.

Request for Rehearing: Sara & Keith Frizzell request a rehearing of the Zoning Board of Adjustment's decision to grant Wendy Lou Sweeney Revocable Trust/Christian & Meghan Wayss a Variance of Article VII on September 17th, 2020, to allow a garage 5.84' from the side property line where 15' is required. The property is located at 28 Fox Point Road, Tax Map 18, Lot 11.

J. Krebs informed the board that the property owners have sent a letter stating that they have WITHDRAWN their request for a Variance, therefore there is no need to act on the request for rehearing.

Adjournment: *E. Mosher moved to adjourn. M. Hoyt seconded the motion, and the meeting was adjourned at 7:43pm.*

Next Meeting: TBA

**Respectfully
Submitted by:** Eleanor Boy, Recorder