

**Town of Newington, NH**  
**ZONING BOARD OF ADJUSTMENT**

Meeting Minutes, Monday, February 29, 2016

**Call to Order:** Chair Matt Morton called the February 29, 2016 meeting at 6:30 p.m.

**Present:** Chair Matt Morton, Vice-Chair Ted Connors, Ralph Estes, John Frink, Jim Weiner; Town Planner, Tom Morgan and Jane Kendall, Recorder

**Public Guests:** En Yu and Jack Kim, Michael Berounsky, Rick Stern and Len Thompson

**Public Hearings:**

- 1) A request by En Yu and Mo Wong to erect a third free-standing sign, 72 s.f. in area, and 12 feet from Shattuck Way, where Article XI of the Zoning Ordinance limits free-standing signs to one 50 s.f. sign per lot, and situated no closer than 30 feet of the lot line. The Shogun restaurant is located at 347 Shattuck Way, Tax Map 13, Lot 1A.

Jack Kim appeared before the Board to discuss Shogun owner, En Yu's proposal to erect another sign to improve their visibility for traffic going past their entrance. Mr. Kim said they were also erecting a sign over the entrance to improve their visibility over the berm by the highway. He said he recently spoke with the foreman of the highway project who said he didn't expect the berm to go away any time soon. He said they were concerned with long term viability and wanted to do whatever they could for recognition.

Chair Morton said he didn't think they needed a variance for the sign mounted over the entrance. Town Planner, Tom Morgan said they would need a permit from building inspector for the front sign. Mr. Kim said the building inspector looked at both sign requests and said they only needed a variance for the free-standing on Shattuck way, but they wanted to be transparent with their intentions. He said the current sign at the entrance off Shattuck Way was difficult to see when driving by so they wanted to replace it with a larger sign.

Board member, Ralph Estes asked if the sign would be lighted. Mr. Kim said it would be improve visibility, but would not interfere traffic.

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Mr. Estes asked if they planned on taking any trees down and Mr. Kim replied that they would clear brush according to compliance to improved visibility.

Board member, John Frink asked if they would do anything that would impact the drain and Mr. Kim said they would not.

Chair Morton asked if they would downsize their proposal to 50 square feet and Mr. Connors agreed that 72 square feet was a bit large. Mr. Kim said they wanted to be in compliance so they would be willing to reduce the sign to 50 square feet. Chair Morton said the visibility would still be good.

Board member, Jim Weiner asked about the red posts at the entrance. Proprietor En Yu said the red posts there as safety bollards to prevent drivers from going into the wetlands. Mr. Kim added that some drivers were swinging too far when they went in and out of the entrance.

Mr. Weiner asked Mr. Morgan if there were any other issues and Mr. Morgan said there were not many places with three free-standing signs, but the applicant was saying they had a unique hardship. Chair Morton agreed that all the highway construction had created a problem with the visibility of their business.

Mr. Frink asked sign on roof would say shogun, exit 4. Mr. Kim said yes with logo.

*Jim Weiner moved to grant the request by En Yu and Mo Wong to erect a third free-standing sign of 50 square feet in area, and 12 feet from Shattuck Way for the Shogun restaurant, at 347 Shattuck Way, Tax Map 13, Lot. Ted Connors seconded the motion.*

Chair Morton said he believed the applicant had a hardship and there was a safety issue on back road visibility.

*The motion passed with all in favor.*

- 2)** A request by Michael Berounsky for a variance from Article IV Section 10 in order to allow a second free-standing dwelling at 30 Swan Island Lane, Tax Map 53 Lot 9; or alternately, a variance from Article VI to allow a 2-lot subdivision of the property with less than the requisite road frontage of 200 feet per lot.

*Ted Connors recused himself as an abutter.*

The applicant, Mike Berounsky said he wanted to build a house for his daughter and although there was plenty of land, there was a frontage problem.

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Mr. Berounsky drew out a map to show where the new driveway would come in from the existing cul-de-sac rather than expanding the cul-de-sac, which would disturb the existing services.

Mr. Weiner asked how the services would be disturbed and Mr. Berounsky replied that the electric and water service would have to be dug up in front of the neighbor's house.

Mr. Frink said the house lot had just 200 continuous feet of road frontage, but the zoning didn't provide for two detached houses on the same lot without an additional 200 feet of road frontage. He said an extended cul-de-sac would allow 200 feet for new home and then he wouldn't have to come before the ZBA. Mr. Berounsky replied that they could also solve the issue by doing a shared driveway.

Mr. Frink asked Mr. Berounsky if he had the required 30,000 square feet of contiguous land for the proposal and Mr. Berounsky said the entire lot was 6.2 acres and the proposed building lot would be on 3 acres and would meet the requirement.

Mr. Morgan passed out a petition from Mr. Berounsky. Mr. Weiner asked when the petition was received and Mr. Morgan said Mr. Berounsky had submitted it after the packet went out. Chair Morton asked if a notice went out to abutters and Mr. Morgan said it had. Chair Morton asked if any abutters had responded and Mr. Morgan said they had not.

Mr. Frink commented that the Board had heard a proposal to build another house on this lot before. Chair Morton recalled that Mr. Berounsky's son had wanted to put a barn up with an apartment above, but they would be required to attach it to the house, but they didn't want to go that far with an attachment. Mr. Frink said he thought there was a provision that said an applicant could not come back for another variance on the same proposal once denied. Chair Morton agreed unless there was a major change in the proposal. Mr. Frink added that the RSA required a substantial change in the material circumstances and pointed out that there hadn't been.

Mr. Estes asked how the applicant could get the necessary frontage. Mr. Frink replied that the applicant would have to make the cul-de-sac an oval, but objected to doing so because it would disturb the service installations for other new homes. Chair Morton asked Mr. Berounsky if he was hesitant to change the cul-de-sac because of the associated costs. Mr. Berounsky said that was one reason, but also because it would unattractive and impact the neighbor.

Mr. Morgan reminded the Board of the Fisher vs. Dover case where 25 years ago an applicant kept returning to their Board of Adjustment until a decision was made in Supreme Court that they could not do for the same application. He informed the Board that it was not the Planning Department's position to make a ruling, but it was instead the Board's call to formalize in a motion.

Chair Morton said the Board had never deviated from the Town's requirement for 200 feet of frontage, even if it was only five feet short. Mr. Berounsky commented that there was a house built to the north that didn't have 200' of frontage. Mr. Frink replied

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that the ZBA had never seen that application, and that the Board had seen no material change of circumstance for this application.

*John Frink made a motion to deny the request by Michael Berounsky for a variance from Article VI to allow a 2-lot subdivision of the property with less than the requisite road frontage of 200 feet per lot based on Fisher vs. Dover. Ralph Estes seconded the motion and all were in favor, 4-0.*

Mr. Berounsky asked if a variance would be required for a freestanding barn. Chair Morton said he would only need a building permit so long as it met all the variances. Mr. Berounsky asked if he could put power and running water in and Chair Morton said he could, but he would need to attach it to his home if he wanted to convert it to a dwelling.

*Ted Connors returned to his seat.*

**Minutes:** *Ted Connors moved to approve the Minutes for the November 30, 2016 meeting. Jim Weiner seconded, and all were in favor.*

**Correspondence and Discussions:**

Mr. Morgan said Stoneface Brewery had come in with an application after notices had gone out for this meeting, and wanted to schedule in two weeks. He said Building Inspector, John Stowell had advised them to request a variance for a restaurant and retail sales operation in addition to their brewery. He said they would be requesting an administrative appeal and the Board needed to hear the request within 30 days of receipt.

**Adjournment:** John Frink made a motion to adjourn. Jim Weiner seconded the motion and the meeting *adjourned at 7:05 p.m.*

**Next Meeting:** March 21, 2016

**Respectfully  
Submitted by:** Jane K. Kendall, Recording Secretary

*These Minutes were approved and adopted at the March 21, 2016 meeting.*