

Town of Newington, NH
ZONING BOARD OF ADJUSTMENT

Meeting Minutes, Monday, July 18, 2016

- Call to Order:** Chair Matt Morton called the July 18, 2016 meeting at 6:30 p.m.
- Present:** Chair Matt Morton, Vice-Chair Ted Connors, Ralph Estes, John Frink, Jim Weiner; and Jane Kendall, Recorder
- Absent:** Interim Planner, Gerald Coogan
- Public Guests:** Scott DeCost, Fox Run Mall Manager; Joseph and Pam Correale

Public Hearing: A request by the Fox Run Mall, Tax Map 27, Lot 11, for a rehearing of a variance request from Article III, Section 3 of the Zoning Ordinance, in order to allow tattoo services in the Commercial District

Chair Morton asked the applicants if they had opened their shop for business. Pam Correale, proprietor of Koko's replied that they had set their business up and had hired a registered nurse to do the tattooing, but had not opened yet.

Scott DeCost, Manager of the Fox Run Mall said the proprietors of Koko's tattoo service would only be able to run their retail business, not their tattoo service without the variance.

Board member, John Frink said he had listened to the applicants and asked questions during their request for a variance and upon further consideration, thought they had had made a mistake in voting against the request.

Mr. Frink asked if the request was for a variance and Chair Morton replied that it was and was not an appeal from the building inspector. Chair Morton reminded the Board that they would only be determining if they should hear the request again, but would not be voting on the variance.

Chair Morton said Board member, Ralph Estes had asked a good question when he asked Interim Planner, Gerald Coogan if the Town's counsel had provided anything in writing to show what RSA would not allow tattoo services in a commercial district, with nothing in writing being provided to the Board.

Mr. Estes replied that he thought the Board had erred in their decision to deny the variance and Vice-Chair Connors agreed. Board member, Jim Weiner replied that

Town of Newington, NH
ZONING BOARD OF ADJUSTMENT

Meeting Minutes, Monday, July 18, 2016

he didn't think the Board could grant the variance because it was not an allowed use according to the Zoning Ordinance.

Ms. Correale asked why they would be allowed to apply for a variance if it couldn't be considered. Mr. Weiner stated that another recent application had been approved because the Town didn't stop a liquor license that had been sent in error to the City of Portsmouth. Chair Morton replied that the liquor license had nothing to do with the approval, it was that the Board of Selectmen were against approving the full capacity of 300 seats, so they limited the number of seats.

Mr. Estes read Article 3, Section 3 in the Zoning Ordinance that described the intent of the Commercial District C as mixed use principally for retail, research development and light manufacturing Mr. Estes read through the permitted uses that did not include tattoo services.

Mr. Weiner if there was anything else the Board should consider that they hadn't heard last time. Ms. Correale said they hadn't discussed their financial investment.

Ms. Correale added that tattooing was going in other directions in the last decade that included tattoos for those whose insurance didn't cover breast reconstruction, the appearance of hair or medical alerts. Joseph Correale, co-owner of Koko's said tattoos were not just done by criminals anymore.

Chair Morton reminded the Board that they were there to determine if they should rehear the request, but they were not there to actually rehear the request yet.

Mr. DeCost referred to his second letter and that 90% occupancy of the mall had nothing to do with their financial stability or meeting the five criteria for approval. Ms. Correale added that they had made a large investment in setting up their business and feared they would become bankrupt if they didn't go through with the business.

Mr. Frink noted that the letter from the mall indicated that the space was in a unique space and hard to see when walking by, which amplified the special use of space. Mr. DeCost said the space had been difficult to fill as a result.

Chair Morton commented that he had been approached by several people that wondered why the Board didn't approve of their original request and agreed that times were changing and referred to the tattoo parlor situated on Congress Street in Portsmouth between Jumping Jays Fish Café and Raddici's Italian restaurant.

Ted Connors moved to rehear the request by the Fox Run Mall, Tax Map 27, Lot 11 for a variance from Article III, Section 3 of the Zoning Ordinance, in order to allow tattoo services in the Commercial District. Ralph Estes seconded the motion and all were in favor.

Chair Morton reminded the applicant that they would need to present the five criteria for granting and also suggested that they could invite others to speak on behalf of their business as they had before.

Town of Newington, NH
ZONING BOARD OF ADJUSTMENT

Meeting Minutes, Monday, July 18, 2016

Discussion ensued regarding setting another date in two to three weeks for the rehearing in order to allow time to publish the legal notice and notify abutters. The applicant was informed that the next meeting would be scheduled on Monday, August 1, 2016.

Minutes: Chair Morton asked Recording Secretary, Jane Kendall if she had been given the Minutes of June 20, 2016 for approval as they were not included in the Board packet. Ms. Kendall said she had not received the Minutes either and said she would request that they be included in the packet for the next meeting.

Adjournment: *Ted Connors moved to adjourn. Ralph Estes seconded the motion and the meeting adjourned at 6:48 p.m.*

Next Meeting: Monday, August 1, 2016

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

