

Town of Milton
424 White Mtn Highway
Milton NH, 03851



Zoning Board of Adjustment
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**Zoning Board of Adjustment
Meeting**
Milton Town Hall
July 25, 2019
6:00 PM

Members in Attendance:

Stan Nadeau – Chair, Larry Brown, Sean Skillings, Steve Baker, Michael Beaulieu, Ashley Morrill Land Use Clerk, Steven Whitley Town Counsel

Public Attendance: Bob Carrier, George Petrillo, Fran Petrillo, Mike Derocher, Roland Meehan, Humphrey Williams, Rhonda Burke, Dick Burke, Norman Turgeon, Roy Tilsley, Kathleen Baribault, John Baribault, Brian Boyer, Chris Boldt, Skip Bridges, Wayne Sylvester, Robert Blair, Deborah Blair, Jen King, Steve Baker, Andrew Rawson

Chairman Nadeau called meeting to order at 6:25PM

S. Nadeau welcomed all in attendance reciting the pledge.

The Board agreed to wait until the next meeting to review and approve the June 25th meeting minutes, as Shari Gaesser, Alternate was not in attendance and was part of the June 25th meeting.

The Board introduces two Alternate candidates- H. Williams and P. Bean. Both candidates provided background on themselves and their involvement with the town.

S. Baker motions to appoint P. Bean as a Zoning Board Alt. M. Beaulieu seconded. Voted U/A. Motion carries.

S. Baker motions to appoint H. Williams as a Zoning Board Alt. M. Beaulieu seconded. Voted U/A. Motion carries.

S. Baker and L. Brown recused themselves from the meeting.

A. Rawson swore in H. Williams and P. Bean as Zoning Board of Adjustment Alternates.

The Board took a recess to allow H. Williams, P. Bean, and Steve Whitley to review case materials.

Meeting called back into session at 6:44pm.

Public Comment: No public comments were made.

Public Hearing for Case 2019-3 for an Appeal of a Planning Board decision that zoning was met as evidenced by the act of acceptance of an application for revision to an existing 2012 Site Plan that proposes to add accessory uses (campground amenities) and to relocate existing trailer storage at the Mi Te Jo Campground on property located at 111 Mi Te Jo Rd, Milton in the Low Density Residential Zone (Map 28 Lot 4) by Owner, Three Ponds Resort, LLC; Applicant, SFC Engineering Partnership, Inc.;

Steve Whitley briefed the Board on Regional Impact.

S. Skillings motions that revision to an existing 2012 Site Plan that proposes to add accessory uses (campground amenities) and to relocate existing trailer storage at the Mi Te Jo Campground on property located at 111 Mi Te Jo Rd, Milton in the Low Density Residential Zone (Map 28 Lot 4) by Owner, Three Ponds Resort, LLC would not create regional impact due to the fact this decision is not on the Board's agenda. P. Bean seconded.

The Board took a recess to further discuss with S. Whitley, Town Counsel.

Meeting called back into session at 6:55pm.

P. Bean withdraws his second.

Chairman S. Nadeau motions that the revision to an existing 2012 Site Plan that proposes to add accessory uses (campground amenities) and to relocate existing trailer storage at the Mi Te Jo Campground on property located at 111 Mi Te Jo Rd, Milton in the Low Density Residential Zone (Map 28 Lot 4) by Owner, Three Ponds Resort, LLC would not create a regional impact and if adding the amenities to the campground constitutes a regional impact. P. Bean seconded.

C. Boldt, Attorney for the appellants described how the amenities would create a regional impact.

R. Tisley, Attorney for Owner Three Ponds Resort, LLC, stated Regional Impact only needs to be determined on the amenities, not on the additional sites, as that decision was already made by a subcommittee. R. Tisley stated that he does not believe the Zoning Board of Adjustment needs to make the regional impact decision. The application submitted is not for development. The application presented is an appeal of the Planning Board's decision.

C. Boldt, Attorney for the appellants stated he feels that all of those issues are on the table. He stated it's an application in front of the Zoning Board of Adjustment as an appeal because the Planning Board did not make a determination of regional impact.

S. Whitley, Town Counsel asked C. Boldt is the issue of the Planning Board not making a determination of regional impact part of the appeal and is that before the Board now.

C. Boldt stated yes.

S. Whitley pointed out a footnote of the appeal which stated the Planning Board's failure to consider and determine regional impact is technically not a subject of this appeal.

C. Boldt stated after the discussion it is now.

Chairman S. Nadeau stated the purpose of the meeting is to determine if the Planning Board misread the ordinance.

Chairman S. Nadeau re-motions that revision to an existing 2012 Site Plan that proposes to add accessory uses (campground amenities) and to relocate existing trailer storage at the Mi Te Jo Campground on property located at 111 Mi Te Jo Rd, Milton in the Low Density Residential Zone (Map 28 Lot 4) by Owner, Three Ponds Resort, LLC would not create a regional impact and adding the amenities to the campground constitutes a regional impact. P. Bean seconded. Voted U/A.

Chairman S. Nadeau stated again the only decision for the Board to make is to determine if the Planning Board misread the Milton zoning ordinances, allowing amenities.

C. Boldt mentioned the number of hearings over the course of one year in regards to the campground and the town ordinance. Stated those hearings were for a special exception for the number of sites and the same amenities. Stated the plan on the amenities is the same. C. Boldt reminded the Board of their previous decision stating those amenities are not in keeping to the town's ordinance. C. Boldt stated that is the law of this case and that the Board should follow that decision. And that decision was upheld in Superior Court. The developer has appealed the Superior Court's decision with the Supreme Court. Decision is still pending. C. Boldt requested the Board to rule that the Planning Board made the wrong decision when accepting the application for amenities. C. Boldt stated that the town voters considered this issue at the last town meeting. There was a proposal to amend the ordinance to allow amenities without a requiring a special exception, which was voted that down by 60 percent. C. Boldt also requested the Board to put everything on hold and let the Supreme Court make the decision on the appeal.

R. Tisley stated the only decision in front of the Board tonight is whether or not the Planning Board made the right decision when accepting the application for amenities based on the town's ordinances. In R. Tisley's opinion the special exception that Zoning Board of Adjustment denied was solely on the expansion and not the amenities. The abutter's opinion is that the denial was for both the expansion and amenities. R. Tisley stated what is now being presented to the Planning Board is a revision, a scaled down version of the amenities. And that they have the right to present that revision to the Planning Board. R. Tisley stated they are not proposing an amusement park. They are proposing amenities to the campground. Stated the only decision for

the Zoning Board of Adjustment to make is whether or not the Planning Board correctly determined if the proposed amenities are allowed use under the town's zoning ordinance as accessory uses. Stated accessory uses are allowed in the LDR district. R. Tisley stated the proposed structures do not create a new use, they are accessories to the campground. The principle use will remain as campground as it always has. Structures are only for campers and guests. The structures will not be open to the public.

The Board and R. Tisley had a discussion on preexisting allowed use and their grandfathered number of sites, which is why a special exception was needed for an expansion. R. Tisley stated they are not expanding the number of sites or footprint, only adding nicer amenities and modernizing the campground.

C. Boldt brought up the pervious Zoning Board of Adjustment decision of -those amenities are not in keeping with Milton's ordinances. And that Three Ponds LLC appealed that decision to the Supreme Court and it was denied. They then appealed the Supreme Court's decision to the Superior Court.

R. Tisley stated that in the underling application they never asked the Board to approve specific amenities. Asked for an expansion and amenities area was left blank. As part of the special exception approval they had to show how they planned on keeping campers onsite by slotting a spot for amenities.

C. Boldt brought up a specific finding of 3 cabins. C. Boldt stated adding additional park models should be considered cabins, not RVs. Adding additional cabins creates change.

R. Tisley stated park models are considered recreation vehicles not cabins. That is how they are recognized by the state.

N. Turgeon spoke on behalf of TPPA. Stated the scope of the appeal is if the zoning ordinance allows the amenities without a special exception or not. The Panning Board determined they do not require a special exception. N. Turgeon went on to talk about LDR and the ordinance.

C. Boldt stated the park models is part of the appeal as a violation of ordinance as it's an expansion of the campground, it's a change of the campgrounds.

R. Tisley spoke about accessory uses and that accessory uses are permitted in LDR.

Chairman S. Nadeau read the definition of accessory use provided by B. Woodruff, Town Planner

Zoning ordinances define accessory uses within the context of a principle use; namely, the accessory use must be reasonably necessary to the conduct of the principle use and related to functions of the primary use. Of course, the relationship between a principle use and an accessory use depends on the types of activities associated with the principle use. The kinds of accessory activities in residential areas vary from those in nonresidential areas, for instance. Then there is the question of which aspects of a certain use can qualify as an accessory use because not all activities associated with the principle use automatically

become accessory. Some may be part of the principle use (e.g., garages in homes or home occupations). Yet some ordinances may not allow other uses, even if part of the principle drive-through window for a restaurant), if specifically prohibited or restricted.

The Board took a recess with S. Whitley, Town Counsel.

Meeting was called back into secession at 8:18pm

M. Beaulieu read the accessory use-structure definition from the Milton zoning ordinance

A use or structure on the same lot with, and of a nature incidental and subordinate to, the principle use or structure.

H. Williams motions to deny the Appeal of a Planning Board decision that zoning was met as evidenced by the act of acceptance of an application for revision to an existing 2012 Site Plan that proposes to add accessory uses (campground amenities) and to relocate existing trailer storage at the Mi Te Jo Campground on property located at 111 Mi Te Jo Rd, Milton in the Low Density Residential Zone (Map 28 Lot 4) by Owner, Three Ponds Resort, LLC; Applicant, SFC Engineering Partnership, Inc. M. Beaulieu seconded. Motion carries. Vote five (5) to none (0)

M Beaulieu stated there is not enough language in the ordinance and that based on what is in the ordinance the Planning Board made the right decision. S. Skillings agreed with M. Beaulieu. P. Bean stated his decision was based on reviewing all documents presented to him in detail and with talking to S. Whitley. H. Williams stated he agrees with M. Beaulieu and based on the language of ordinance he feels that the Planning Board made the right decision. Chairman S. Nadeau stated he agrees with everyone and pointed out the definition that M. Beaulieu read from the Milton zoning ordinance is pretty vague.

Adjournment: P. Bean motions to adjourn. M. Beaulieu seconded at 8:30pm.

Respectfully submitted,

Ashley Morrill
Land Use Clerk