

TOWN OF BENNINGTON  
ZONING BOARD OF ADJUSTMENT  
Minutes of the Meeting- April 19, 2010

Present        Peter Martel, Chairperson  
                  Chris Clough, Vice Chairperson  
                  Sam Cohen  
                  Barbara Moorehead  
                  John Paradise, Alternate  
                  Melissa Clark, Alternate

Guests        Andrew Jenks  
                  Peter Hopkins, Code Enforcement Officer  
                  Jeffrey Rose, Planning Board  
                  James Bolduc, Joshi Hospitality Group  
                  Rex Gray, Abutter

Melissa Clark was sworn in before the beginning of the meeting.

Chairperson Martel called the meeting to order at 6:49 p.m. The Jenks Hearing was reopened.

The written Notice of Decision was reviewed and worked on by the Board. Sam Cohen made a motion to accept the written Notice of Decision. All voting members were in favor ( Peter Martel, Chris Clough, Sam Cohen, and Barbara Moorehead.) The final decision will be mailed and filed with the Town Clerk. Chris Clough made a motion to close the Jenks Hearing. The Hearing was closed at 7:17 p.m.

The Joshi Hospitality Group Hearing was opened at 7:18 p.m. Melissa Clark and John Paradise were made voting members for the Hearing. Barbara Moorehead recused herself as she is an abutter to the Joshi property.

Mr. Bolduc presented information to support the application for an equitable waiver noting that Joshi Hospitality would like to put the facility back in service. Mr. Bolduc presented a proposal for a thirty-two unit condo to be created from the existing motel structure and owned by thirty-two individual owners. The project will require a site plan review, sub-division, as well as other permits from the Town and State. This is a 2.46 acre lot that currently does not meet Town Ordinances. The issues before the Board are; the number of parking spaces available, the number of proposed units, and a pre-existing set-back issue. There are two buildings on this lot. Building A is located within the setback and a will require an equitable waiver. The building was constructed in 1987 and there have been no changes to the footprint. The owner and the Town were not aware of the setback issue until the engineer discovered it. The building has existed for twenty-three years without complaint. The West side of the building is twenty-four feet from the property line instead of the required thirty feet. The cost of correcting the setback issue outweighs the benefit. It was noted that the back of the building is thirty feet from the road. The frontage is defined as the side with the most frontage therefore the back of the building is in compliance. Peter Hopkins suggested that the Board determine what the ordinance was at the time when the building was built. Chris Clough made a motion to close the Public portion of the meeting and go to deliberation. All were in favor.

The Board noted that the Town has done no enforcement in the last ten years concerning the setback issue. It is not believed that the misplacement of the building was of malicious intent and the cost of correcting it would not outweigh the benefits. Chris Clough made a motion to approve the equitable waiver. All were in favor.

The Public Hearing was re-opened at 7:46 p.m. The Board discussed the number of parking spaces and the number of proposed units. Two parking spaces per unit are required. Mr. Bolduc noted that the motel operated with thirty-two units and had the same parking conditions that are presently existing. As the condo units are to be sold as vacation/recreational units, Mr. Bolduc felt that not all units will be used at one time. The condo units would change ownership and not use. It was questioned as to the plan if all units were occupied and some owners brought more than one car. Overflow parking will be provided at the lodge parking area. The lodge is not part of the condo plan. There was a question about using the parking area as the lodge may be sold at some point in the future. It was noted that the tennis court, which is at the lodge, would be available to the condo occupants. Mr. Bolduc noted that the condo documents could deal with issues of the allowed number of cars a condo owner may have. He also noted that there are possible thirty-two or more parking spaces that can be available on the graveled area for parking. Code Enforcement Officer Peter Hopkins noted that the parking area should be defined. He would need to have information for the parking area to enforce the rules. This will be required of the applicant. Abutter Rex Gray expressed a concern that if there is not adequate parking at the condo units, the owners will park on the adjoining property. A question was presented about two non-conforming lots owned by the same owner and if this will become one contiguous lot. Peter Hopkins presented the deed for the property stating that the lot is one lot shown as four tracts.

As the condos are to be sold to individual owners, a sub-division will be needed. There is a density issue with creating thirty-two units on this small acreage. Chairperson Martel called a recess at 8:33 p.m.

The Board reconvened at 8:40 p.m. The Board reviewed the questions for a variance. It was determined that the proposed condo units as not contrary to public interest as the motel has been vacant for years and will create jobs in the area, the property abutting the motel has been granted use as a condo, and the ski area would benefit from the use of the proposed condo units.

Mr. Bolduc stated that a denial for the variance would cause an unnecessary hardship as the lot size is constrained by surrounding lots and the building can not be expanded as well as is not being practical to reduce the number of units in the building.

As condos are an allowed use, the proposed condo units are not contrary to the spirit of the ordinance.

Chairperson Martel asked for the public's input at this time. Mr. Gray stated that the ski area is a family geared mountain and that the size of the proposed units is not practical for a family. He inquired whether converting to sixteen units might be more practical. Joshi Hospitality Group is not in favor of reducing the number of proposed units. Peter Hopkins stated that the condo documents would need to be reviewed by the Town's attorney at such time as when the applicant sees the planning Board. Jeff Rose stated that the Town does not have a Density Ordinance in place. At this time each residential unit is required to have two acres. Sam Cohen noted that as a townsperson he felt that thirty-two units owned by individual owners would be better cared for than a rental

situation. It was noted that the condo owners might use their condo unit as rental property. A stipulation can be placed on the units to require no more than a thirty-day stay. John Paradise asked if this would be thirty days per year, per person or at one time. If at one time, how long will be required between stays? There is also a question of how many people could stay in a unit.

Melissa Clark asked how many people the condo units are projecting to employ. There could be as many as fifteen individuals hired for part-time employment. Mr. Bolduc noted that allowing the condo units could also bring the lodge and restaurant back into business. A concern for parking needs was expressed at this time.

Chairperson Martel asked if the variance were to be denied, what might the Board allow? Fewer units would be a possibility that the Board would consider. Mr. Gray, an abutter was turned down for seven condo units and it does not seem right to allow thirty –two units on a neighboring lot. Allowing thirty-two units could make the adjoining lot useless.

Peter Hopkins asked about the septic system for the motel. This will need to be approved by the State. Sam Cohen made a motion to move to deliberation. All were in favor.

Chairperson Martel stated that the Board needed more information. A layout for the parking area is needed as well as the information on the requirements for handicapped parking. The concept of shared parking poses a possible issue. The Ordinance calls for two parking spaces per unit. A history of the lot line change would need to be researched to see if it was done adequately. There is a question as to if there might have been a variance granted to adjust the lot line. When two non-conforming lots are together and owned by the same owner it may be possible that a lot merger may be needed. The problem of enforcing a limit on the length of a stay will need to be researched. It was noted that the use is not contrary to the ordinance, the number of units is what is in question.

Chris Clough made a motion to continue the Hearing on May 3, 2010 at 7:00 p.m. All were in favor. Chairperson Martel will draft a letter to the applicant listing the information required from the Board.

Chairperson Martel asked that the Board reserve the first Monday of the month for a possible meeting or Hearing as might be needed.

Chris Clough made a motion to adjourn the meeting. All were in favor and the meeting was adjourned at 10:15 p.m.

Respectfully Submitted by

Debra Belcher  
Zoning Board of Adjustment Recording Secretary