

Thornton Zoning Board of Adjustment Meeting Minutes of January 30, 2013

CALL TO ORDER:

G. Kriebel called the meeting to order at 6:03pm.

ROLL CALL:

N. Decoteau called the roll and found the following members/alternates present:

G. Kriebel, Chairman J. Demeritt, Vice-Chairman D. Gravel, Member
D. Day, Member H. George, Member

Attorney for the Zoning Board, Chris Boldt, Esq. was present.

Attorney for the applicant, Bert Zalinsky, Esq. was present.

Members of the Public present:

B. O'Donnell D. O'Donnell C. Schofield M. Peabody, Selectman
R. Gilman T. Phillips D. McIver S. Morton, Selectman
D. Muller J. Pultmeno S. MacIntosh

APPROVAL OF MINUTES:

MOTION: "To approve the minutes of January 22, 2013 as presented."

Motion: J. Demeritt Seconded: D. Day Motion Passed 5-0

The Thornton Zoning Board of Adjustment determined to continue the Public Meeting held on January 22, 2013 to Wednesday, January 30, 2013 at the Thornton Town Office at 6:00 pm for the purpose of ruling on the following matter:

Appeal of Administrative Decision of the Planning Board to deny the site plan application submitted by CBDA Development on behalf of property owner Carlton C. Ham for a recreational campground at Tax Map 10 Lot 8-8 located on US Route 3. The Appeal of Administrative Decision is submitted by CBDA Development, LLC on behalf of property owner Carlton C. Ham and cites Article V Section A(14), Section D(1), Section E(1) and Section D(2) of the Thornton Zoning Ordinance.

G. Kriebel reminded the members the area of jurisdiction is limited to the Zoning Ordinance.

G. Kriebel stated that the campground regulations are not within the purview of the ZBA.

G. Kriebel asked for discussion from the Board.

D. Gravel stated that the ZBA has spent a large amount of time on this appeal and the one issue that it comes down to for him is "did the Planning Board err in their interpretation of the Zoning Ordinance?"

D. Gravel stated that after looking at everything, it is his opinion that the Planning Board did not err in their interpretation of the Zoning Ordinance.

D. Gravel stated that Article 14 Section 11 of the Zoning Ordinance defines a Manufactured Home Park or Subdivision as a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

D. Gravel stated that he finds the proposal to be more in line with the definition of a Manufacture Home Park or Subdivision than a campground.

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D. Day stated he concurs with D. Gravel and stated that he could not find a reason to disagree with the decision of the Planning Board.

G. Kriebel asked why D. Day and D. Gravel consider the proposal to be more of a manufactured housing park than a campground.

D. Day stated the proposal was for manufactured mini homes with dimensions of approximately 12' x 34', a bedroom, a bathroom, a kitchen and heated.

D. Day continued by stating when a manufactured home is moved onto a property and left there for twelve (12) months every year, with a possibility of leaving it there for up to 60 years as proposed in the lease agreement it is more of a permanent housing development than anything else.

D. Gravel mentioned the lease agreement.

G. Kriebel clarified for the record that the final sample document submitted was a license agreement rather than a lease agreement although there were no major differences between the two documents.

D. Gravel continued by stating in his camping experience he never was required to pay property tax, cable, electricity, gas or not be allowed to park a trailer he was pulling on site.

D. Gravel stated that what is being proposed is not a campground and is by far more like a subdivision in his opinion.

J. Demeritt stated that because of the high cost of electricity many campgrounds today do bill for electricity.

J. Demeritt stated that campgrounds provide services like cable and charge for the use of them but agreed that campers would not receive a tax bill.

J. Demeritt stated that some campgrounds in New Hampshire that have seasonal campers which remain year round assess the campers as buildings and the campgrounds charge for the property tax.

D. Gravel clarified that the campground pays the tax bill and the owner of the seasonal camper left on site year round does not receive a separate tax bill or electric bill.

J. Demeritt agreed that in most campgrounds the individual who owns the camper would not get a bill.

D. Gravel pointed out that the proposal is not set up to operate that way.

D. Day stated that during the public hearing when he asked attorney Cronin if the park models would be registered or taxed as buildings attorney Cronin indicated that they are receptive to either registration or taxation as real estate.

J. Demeritt stated that during the Planning Board hearing process there was discussion on the topic of how the units would be taxed but that he is unclear as to how the taxation issue is set up.

G. Kriebel stated that nothing about the current application is clear.

G. Kriebel stated the overlap between the definition of a campground and a manufactured home park is quite significant.

G. Kriebel asked if there is overwhelming evidence that the Planning Board decision was wrong.

G. Kriebel stated that case law indicates the burden of proof is on the applicant and if the Planning Board has a reasonable basis for a decision it should be upheld.

H. George agreed with G. Kriebel that there is not over whelming evidence to indicate the decision of the Planning Board was wrong and made the following motion:

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MOTION: "The Thornton Zoning Board of Adjustment determines that the Planning Board did not err in its decision and therefore the appeal of administrative decision submitted by the applicant is denied as it relates to the Zoning Ordinance."

Motion: H. George Seconded: D. Gravel

G. Kriebel asked for discussion on the motion and hearing none called for a vote.

Motion Passes 5-0

G. Kriebel stated for the record that any request for a rehearing on this matter must be submitted within thirty (30) days.

At 6:25 pm the following motion was made:

MOTION: "To adjourn."

Motion: J. Demeritt

Seconded: D. Gravel

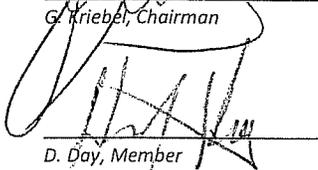
Motion Passes 5-0

Respectfully Submitted,

Nancy Decoteau, ZBA Assistant



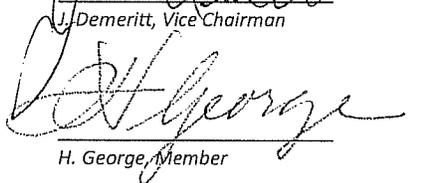
G. Kriebel, Chairman



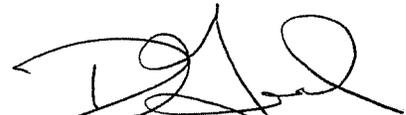
D. Day, Member



J. Demeritt, Vice Chairman



H. George, Member



D. Gravel, Member

Approved on 2/20/2013