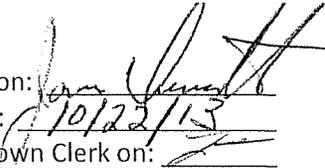


TOWN OF THORNTON
Zoning Board of Adjustment

Approved on: 
ZBA Initials: 10/22/13
Rec'd by Town Clerk on:
Town Clerk Initials: 29 OCT 13

ZONING BOARD of ADJUSTMENT MEETING MINUTES
October 15, 2013

CALL TO ORDER:

J. Demeritt called the meeting to order and led the pledge of allegiance at 7:00 pm.

ROLL CALL:

The following members/alternates were present:

J. Demeritt, Chairman D. Gravel, Vice Chairman D. Day, Member W. Rose, Member
J. Marshall, Member G. Kriebel, Alternate

APPROVAL OF MINUTES:

MOTION: "To approve the minutes of April 2, 2013 as presented."

Motion: D. Gravel

Second: W. Rose

Discussion: None

Motion Passes: 5 Yes - 0 No

Regular Business:

J. Demeritt stated that the amended Rules of Procedure for the ZBA are ready to be adopted by the Board at the next meeting and encouraged Board members to review the document again prior to the next meeting.

N. Decoteau explained that the document is what the Board has been working on for the past year and pointed out that two changes have been made since the members last looked at it:

1. A 2-2 vote would be interpreted as a denial
2. Changes to the Rules of Procedure could be made at a public meeting following ONE (instead of TWO) meeting where the changes were presented.

D. Gravel noted that there is an explanation of Variance requirements provided to each member for their review.

D. Gravel stated that it is a document that could be presented to applicants to assist them in understanding the requirements of obtaining a variance.

D. Gravel stated that Attorney Boldt should review/approve the document prior to incorporating it into the application process.

J. Demeritt discussed with the Board members the issue of Attorney Boldt moving to the position of attorney for the Planning Board.

The Board members agreed that it would be a good decision.

J. Demeritt explained that due to the continuing litigation against both the Planning Board and the Zoning Board of Adjustment Attorney Boldt will continue with the Zoning Board.

PUBLIC HEARING:

J. Demeritt opened the Public Hearing at 7:15pm.

Public Hearing to consider the Application for a Variance from Article 5: Permitted Uses in Various Zones B. General Residence Zone to allow Valley Snow Dogz, LLC to operate Sled Dog Educational Excursions on property owned by Bradford Benton and Helen Steele identified as Tax Map 10 Lot 3-37 known as the Sugar Shack Campground located at 2015 NH Rt. 175. The Application for a Variance is submitted by Lydia Dale-Mesaros of Valley Snow Dogz, LLC.

G. Kriebel questioned whether the application before the Board should be for a Special Exception rather than a Variance.

G. Kriebel referred to the Zoning Ordinance, Article VIII B. 7 which reads:

B. The Board of Adjustment may make special exceptions to the terms of this ordinance in harmony with its general purposes and intent, if the Board finds:

7. Within the spirit and intent of B1 through B6 above, the Board of Adjustment may approve special exceptions for recreational businesses in the residential zones under the Innovative Land Use provisions of RSA 674:21. Such special exceptions may include any of those businesses allowed in the recreational zone, provided: There is in the Board's judgment sufficient land to accommodate the business seeking any special exception under this section, to insure minimum impact on abutters.

G. Kriebel reviewed the list of businesses allowed in the recreation zone listed in Article V: C. 2. h.

h. commercial indoor and outdoor recreational activities and related facilities and improvements to serve the same; such activities may include, but no be limited to golf, tennis, swimming, cross country skiing, horseback riding, snowmobiling, hiking and bicycling

G. Kriebel reviewed the explanation of a Special Exception put out by the OEP

A Special Exception is a use of land or buildings that is permitted subject to specific conditions that are set forth in the ordinance. A variance is a waiver or relaxation of particular requirements of the ordinance when strict enforcement would cause undue hardship. A variance is permission granted to use a specific piece of property in a more flexible manner than allowed by the ordinance. A Special Exception is a specific permitted land use that is allowed when clearly defined criteria and conditions contained in the ordinance are met.

G. Kriebel summarized by saying that if the application is for a permitted use, it must be approved if the conditions listed in the Zoning Ordinance are met, and if the application is for a use that is not permitted the Zoning Board of Adjustment does not have the authority to grant it.

G. Kriebel suggested the Board determine whether the application is for a permitted use or not.

D. Gravel pointed out that Article V: C. 2. h. includes the phrase "not limited to" and that sled dog excursions would fit within the activities listed.

The Board agreed that the application should be for a Special Exception and that sled dog excursions fits into what is allowed.

N. Decoteau provided an Application for a Special Exception listing the six criteria to the applicant as follows:

1. That the granting of such exception is required to promote the public interest and convenience of the citizens of Thornton.
2. That the granting of such special exception will not result in diminution of the value of surrounding properties.
3. The adequate and appropriate facilities will be provided.
4. That no excessive demand on municipal services and facilities will be required.
5. That no traffic safety or substantial traffic congestion will occur.
6. That the granting of such special exception will not be contrary to the spirit of this ordinance. In granting of such special exceptions, the Board may impose such reasonable conditions and safeguards as it considers appropriate.

J. Demeritt stated his concern that the use being applied for may conflict with the existing use of the property and asked for a review of the Site Plan Planning Board approval for the Sugar Shack Campground.

Upon review of the Sugar Shack approval the Board agreed that the current application does not present a conflict with the existing approval for the campground.

D. Gravel asked the applicant to respond to criteria #1 and explain how granting the exception will promote the public interest and convenience of the citizens of Thornton.

L. Dale-Mesaros responded that it will provide the local residents access to an amenity not otherwise provided in the area as well as offer an educational opportunity to the local schools.

L. Dale-Mesaros added that they are limited to offering their sled dog excursions only after 4:00pm at their current location of operation in Waterville Valley and that operating on a limited basis at the property in Thornton will allow daytime excursions.

D. Day asked if bathroom facilities would be provided:

L. Dale-Mesaros responded that no bathroom facilities would be provided and that it has never been an issue.

G. Kriebel asked how many people would be on site at a time.

L. Dale-Mesaros responded that they usually deal with families, so it may be up to four.

L. Dale-Mesaros indicated that each sled can only take up to one or two passengers and that the weight limit is 230-240 lbs.

J. Marshall asked how many sleds could be run at a time.

L. Dale-Mesaros indicated that up to six sleds can be run at a time.

G. Kriebel clarified that the maximum at one time would be approximately a dozen people.

L. Dale-Mesaros agreed and added that it is pretty rare that all six sleds would be scheduled to run at the same time.

J. Marshall asked if the hours of operation would be exclusively during the daytime.

L. Dale-Mesaros stated that she expects most of the hours of operation will occur during the day.

L. Dale-Mesaros added that during the winter in gets dark earlier so there may be some activity around dusk but typically, any rides would be completed by 6:30pm.

D. Gravel asked regarding the noise associated with the sled dogs.

L. Dale-Mesaros stated that the dogs are quiet for most of the time until they are being hooked up for a ride, and the animals are excited about it.

L. Dale-Mesaros indicated that it would take 5-6 minutes to hook the dogs up and begin the ride.

L. Dale-Mesaros indicated that once the dogs are running they do not continue to bark.

L. Dale-Mesaros added that it is important to note there are different breeds of sled dogs and that some dogs bark more than others and added that her dogs only bark during the few minutes it takes to get them hooked to the sled.

D. Gravel asked what the applicant does when there is no snow.

L. Dale-Mesaros responded that they have wheels to put on the sleds.

D. Gravel asked the applicant to respond to criteria #2 and explain how granting the special exception will not result in diminution of the value of surrounding properties.

L. Dale-Mesaros stated that there should not be any change to the value of the surrounding properties as they will not be making any changes to the property because no new structures are necessary.

L. Dale-Mesaros stated the operation is completed self-contained and after they have completed the tours and left the property no one would not be able to tell they were ever on site.

L. Dale-Mesaros noted that the trails where the dogs would be running are deep enough into the property so that there would be limited visibility of the excursions taking place.

L. Dale-Mesaros added that no exterior lighting will be added as they use headlamps when it gets dark.

D. Gravel asked the applicant to respond to criteria #3 and explain how adequate and appropriate facilities will be provided.

L. Dale-Mesaros stated no facilities are necessary.

D. Gravel asked the applicant to respond to criteria #4 and explain how no excessive demand on municipal services and facilities will be required.

L. Dale-Mesaros stated that they do not anticipate any demand on municipal services and facilities.

D. Gravel asked the applicant to respond to criteria #5 and explain how no traffic safety or substantial traffic congestion will occur.

L. Dale-Mesaros stated there is no expectation of creating any traffic issues.

J. Marshall asked if they will be crossing NH Rt. 175 at any point.

L. Dale-Mesaros stated that people will park on the campground side of NH Rt. 175 and all of the trails are on that side of the road so there is no plan to have anyone crossing NH Rt. 175.

D. Gravel asked the applicant to respond to criteria #6 and explain how it will not be contrary to the spirit of the Zoning Ordinance. In granting of such special exceptions, the Board may impose such reasonable conditions and safeguards as it considers appropriate.

G. Kriebel reviewed the list provided under the purpose of the Zoning Ordinance A – I and stated he did not see any area in which the application was contrary to the spirit of the ordinance.

D. Gravel asked for input from abutters.

B. Johnson asked if the proposal is just for the winter season.

L. Dale-Mesaros stated it would run for the Fall through the end of Winter.

B. Johnson asked if this would be replacing or in addition to the current tours provided in Waterville Valley.

L. Dale-Mesaros stated that it would not replace what they offer in Waterville Valley, but rather it would be in addition to that.

B. Johnson asked for clarification that the “provide educational excursions” aspect of the application doesn’t mean it is not a for profit business.

L. Dale-Mesaros stated that the tours are educational but that it is a for profit business.

B. Johnson asked why the applicant had to apply for the special exception rather than the property owners, H. Steele and B. Benton.

D. Gravel responded that the Board is ruling on the use of the land, not the ownership of the land.

M. Boyd stated the history of the parcel of land has quite a bit of controversy associated with it and claimed he and K. Coburn are abutters to the property but did not receive certified notice of the public hearing.

Mr. Boyd stated that he has seen sled dog events where there is a lot of barking but also visited the website of Sled Dogz, LLC and noted their dogs were very quiet.

L. Dale-Mesaros stated her dogs are not hounds and that hounds do tend to bark more.

M. Boyd asked that the Board members do their due diligence and view the website to make an informed decision regarding the noise issue.

M. Boyd stated that the dog noise and the noise generated by people driving the sled should be considered.

L. Dale-Mesaros stated the event M. Boyd is referring to is a race and is a completely different circumstance from the type of dog sledding she is proposing.

D. Gravel stated that the Public Hearing is noticed on the website and posted in town.

W. Rose asked regarding the location of M. Boyd's property.

N. Decoteau stated the parcel of land under consideration is Map 10Lot 3-37 and that property belonging to M. Boyd as well as that belonging to K. Colburn is close to the parcel but does not abut Map 10Lot 3-37.

T. Ham stated that she supports the application and welcomes the low impact use proposed for the property.

J. Demeritt asked the applicant to show on the map how the excursions will operate.

J. Demeritt stated that the proposed parking area is not an approved NH DOT curb cut.

L. Dale-Mesaros stated that they can use the parking area closer to the golf driving range.

L. Dale-Mesaros indicated on the map the trail system to be used for the excursions.

J. Demeritt asked who would be responsible for the plowing of the parking area to be used.

L. Dale-Mesaros indicated that she has talked to the Benton's regarding the plowing issue.

J. Manning asked where the dogs will be housed prior to the start of the excursions.

L. Dale-Mesaros stated the dogs stay with the truck in the parking area until the excursion begins.

J. Manning asked if the staging area could be moved further in to the property to keep the noise from being generated so close to NH Rt. 175 and the abutting properties.

G. Kriebel noted that the proposed staging area is not close to any of the homes on abutting properties.

J. Demeritt asked for additional input from Board members.

J. Marshall stated that conditions can be included as part of any approval the ZBA may grant to allay some of the concerns expressed by the abutters.

J. Demeritt asked the applicant to confirm whether there are any food vendors planned for the site.

L. Dale-Mesaros stated no outside vendors are planned for the site.

W. Rose stated the applicant should be specific in what hours of operation they are requesting.

L. Dale-Mesaros stated that the excursions are done by appointment only and agrees that a stipulation of 4 days a week would be acceptable.

A discussion followed regarding how to specifically identify what hours of operation are permitted, how many days a week they can operate and during what hours of the day.

It was determined that the applicant needs to be specific in the application as to when they will operate.

J. Demeritt asked for clarification as to how many dogs may be on site at once.

L. Dale-Mesaros said they could run up to three sleds with up to 5 dogs per team, so the maximum number of dogs on site at a single event would be fifteen.

J. Demeritt asked if there is any signage planned for the site.

L. Dale-Mesaros responded that no signage is planned.

D. Gravel stated the application submitted for a Variance explains the proposal very well and suggested the information be included on the application for a Special Exception.

The Board and the applicant agreed that the Public Hearing for a Special Exception could be held another night. G. Kriebel stated that the Zoning Board members should be prepared with a specific list of conditions of approval that address all of the concerns relative to the application.

J. Demeritt clarified that conditions of approval should contain specific details of the business operation proposed by the applicant such as: hours of operation- to include how many days a week and how many hours per day as well as what months out of the year, plowing of the area, parking/staging area location, provision of facilities etc., and number of cars expected.

J. Demeritt encouraged the applicant to include these things in the application request.

MOTION: "To continue the Public Hearing for an Application for a Variance from Article 5: Permitted Uses in Various Zones B. General Residence Zone to allow Valley Snow Dogz, LLC to operate Sled Dog Educational Excursions on property owned by Bradford Benton and Helen Steele identified as Tax Map 10 Lot 3-37 known as the Sugar Shack Campground located at 2015 NH Rt. 175 to Tuesday, October 22, 2013 at 7:00pm at the Thornton town office. The Application for a Variance is submitted by Lydia Dale-Mesaros of Valley Snow Dogz, LLC.

Upon initial review of the application the ZBA determined it will be submitted and reviewed as an Application for a Special Exception to allow Valley Snow Dogz, LLC to operate Sled Dog Educational Excursions on property owned by Bradford Benton and Helen Steele identified as Tax Map 10 Lot 3-37 known as the Sugar Shack Campground located at 2015 NH Rt. 175."

Motion: W. Rose

Second: J. Marshall

Discussion: None

Motion passes: 5- Yes, 0-No

J. Demeritt clarified for those present that the Public Hearing will be continued and that will include an opportunity for the public to comment.

A brief discussion followed regarding the process that the current applicant has gone through and how to avoid the same thing happening again.

J. Demeritt confirmed that in the future he or the vice chairman can come in to review applications to assure they are being submitted correctly.

W. Rose suggested that the applicant will not have to pay another application fee and the Board agreed.

G. Kriebel noted that the Planning Board should be informed that they misguided the applicant in directing her to apply for a variance.

N. Decoteau clarified for the Board that J. Boyd is not an abutter that required notice per the RSA and that the application was noticed properly.

G. Kriebel suggested that packets be emailed to board members prior to the public hearing on applications.

ADJOURNMENT:

At 8:48pm the following motion was made:

MOTION: "To adjourn."

Motion: D. Gravel

Seconded: J. Marshall

Discussion: None

Motion Passes: 5 – Yes, 0 – No

Respectfully submitted by:

Nancy Decoteau, Zoning Board Secretary

Approved on: Oct 22, 2013