

Town of Scarborough

Zoning Board of Appeals

January 10, 2007

AGENDA

1. Call to Order (7:00 P. M.)
2. Roll Call
3. Approval of Minutes (December 13, 2006)
4. Appeals
 - a. Appeal No. 2345 – A Special Exception Appeal by Patricia Wentworth, 154 Highland Avenue, Assessor's Map U6 Parcel 66, to operate a chiropractic office as a home occupation in the R-2 Zone
 - b. Appeal No. 2347 – A Practical Difficulty Appeal by Sonny Greenwood, 20 Pearl Street, Assessor's Map U2 Parcel 87, to demolish an existing cottage, shed and garage and construct a new home 12 feet from the right side property line, 11 feet 2 inches from the front property line, and 10 feet 6 inches from the left side property line in the R-4 Zone
 - c. Appeal No. 2348 – A Practical Difficulty Appeal by William Honan and Rachelle Cashman, 14 Downeast Lane, Assessor's Map U45 Parcel 30, to construct a second floor addition 14 feet from the front property line and 11 feet from the side property line in the R-4A Zone
 - d. Appeal No. 2349 – A Special Exception Appeal by Daniel DeCosta, dba Lilley's Limousine, 275 Gorham Road, Assessor's Map R38 Parcel 22, for outdoor storage of vehicles in the B-2 Zone
5. Zoning Board Comments
6. Adjournment

NO NEW APPEALS SHALL BE TAKEN UP AFTER 10:30 P. M.

Town of Scarborough

Zoning Board of Appeals

January 10, 2007

MINUTES

Members Present

Mr. Blaise
Mr. Craft
Mr. Dryzga
Mr. Loisel
Mr. Maroon
Mr. Massengill
Mr. Temm

Staff

Mr. Grysk, Code Enforcement Officer
Mrs. Logan, Recording Secretary

1. Call to Order

Mr. Dryzga called the meeting to order at 7:00 P. M. The Pledge of Allegiance was recited.

2. Roll Call

The Recording Secretary called the roll; all members were present.

3. Approval of Minutes (December 13, 2006)

Mr. Blaise moved to approve the minutes of December 13, 2006; Mr. Maroon seconded

Voted 4-0-1 – Mr. Dryzga abstained.

4. Appeals

a. Appeal No. 2345 – A Special Exception Appeal by Patricia Wentworth, 154 Highland Avenue, Assessor’s Map U6 Parcel 66, to operate a chiropractic office as a home occupation in the R-2 Zone

Ms. Wentworth stated that she would like to have a part time practice a couple of days a week; she stated that her primary practice was in New Hampshire.

Mr. Dryzga and Ms. Wentworth addressed the Special Exception and Home Occupation criteria as presented in writing. Mr. Dryzga read a letter in opposition to the appeal from Teresa Hodgdon, of 158 Highland Avenue; she stated that her concerns were traffic and the fact that Ms. Wentworth did not live at Highland Avenue and therefore should not have a home occupation.

To a question from Mr. Blaise, Ms. Wentworth replied that clients would enter her house through the front door and wait in the living room before entering her office addition. To a question from Mr. Craft, Ms. Wentworth replied that she stayed in the house a couple of days per week. To a question from Mr. Massengill, Mr. Matt Morrill, the appellant’s contractor, replied that there was space for parking at both the left and right sides where cars could turn around. Mr. Massengill asked whether this would ever be the appellant’s primary residence; Ms. Wentworth replied that she wanted to determine whether she could have a full time practice here; she stated that she now split her time in Maine and New Hampshire.

Mr. Dryzga opened the public hearing; no one spoke for or against the appeal; Mr. Dryzga closed the public hearing.

Mr. Maroon stated that he was concerned because this was not the appellant's primary residence as noted under the definition for Home Occupation in the Ordinance, "customarily carried on in a dwelling unit...; carried on by resident members of the family occupying the dwelling unit; clearly incidental and secondary to the use of the dwelling unit for residential purposes;..." Mr. Maroon stated that it was clear that this was not secondary or incidental to the residence. He stated that his second concern was that using the front door, the hallway and the living room, as well as the addition, constituted more than 20% of the dwelling unit. He stated that he did not think cars could turn around in a 20 foot lane. Mr. Dryzga agreed that a home occupation was usually in someone's primary residence and, the way the ordinance was written, the business had to be secondary. To a question from Mr. Dryzga, Ms. Wentworth replied that she paid taxes and her car was registered in New Hampshire. Mr. Dryzga stated that he could not support this appeal because the business was not secondary to the residence.

Mr. Blaise moved to approve the appeal as presented; Mr. Maroon seconded.

Voted 0-5 – The appeal was denied.

Mr. Maroon noted findings of fact as follows: He stated that the Board had to determine whether a proposed Home Occupation met the criteria; he noted that the appellant's neighbor had a problem with the request. Mr. Maroon stated that the business was clearly not incidental or secondary to the use of the dwelling for residential purposes, that the driveway turnaround was not adequate. He stated that with the use of the front of the house, the business would occupy more than the allowed 20% of the dwelling unit. The Board agreed to the findings of fact.

b. Appeal No. 2347 - A Practical Difficulty Appeal by Sonny Greenwood, 20 Pearl Street, Assessor's Map U2 Parcel 87, to demolish an existing cottage, shed and garage and construct a new home 12 feet from the right side property line, 11 feet 2 inches from the front property line, and 10 feet 6 inches from the left side property line in the R-4 Zone

Mr. Walter Wilson, of The Design Company, showed the lot and the buildings; he noted that he had included photos showing the present condition of the structures. He stated that the house sat far back on the lot, but five feet from the side and rear property lines and was in very poor structural condition so could not be remodeled. Mr. Wilson stated that the appellant wanted to remove all the existing buildings and build a house more in line with the existing houses on Pearl Street.

Mr. Dryzga and Mr. Wilson addressed the criteria as presented in writing. Mr. Dryzga read letters from Lisa Jesmain, 23 Pearl Street, and Susan and Brad Thompson, 1 Ocean Avenue, in favor of the project.

Mr. Dryzga opened the public hearing; no one spoke for or against the appeal; Mr. Dryzga closed the public hearing.

Mr. Blaise asked about the exterior shower; Mr. Wilson replied that it would be on the corner of the house surrounded by a stockade fence. To a question from Mr. Blaise, Mr. Grysk replied that a fence was not considered a structure for setback needs. Mr. Blaise stated that he understood wanting to keep the house in line with the others on the street, but the lot was very deep and there was room in the back to move the house back. Mr. Wilson stated that he chose the 21 foot front setback for the front of the house because it would line up with the other houses and would look as if it had been there and had been renovated.

Mr. Dryzga stated that he was pleased with the scale of the house and thought it kept the character of the neighborhood. Mr. Massengill stated that the package was reasonable and a very good use of the Practical Difficulty Variance Appeal. To questions from Mr. Temm, Mr. Wilson replied that there was a good chance this would become a year round home; he stated that, because the houses on this section of Pearl

Street were back much further from the street than other houses on the street, the setback would not affect snow removal.

Mr. Maroon stated that this was an example of a perfect Practical Difficulty Variance Appeal and appreciated the fact that the applicant did not try to fill every piece of the land. Mr. Wilson stated that the owners wanted to upgrade the neighborhood where Mrs. Greenwood grew up.

Mr. Maroon moved to approve the appeal as presented; Mr. Massengill seconded.

Voted 5-0

c. Appeal No. 2348 – A Practical Difficulty appeal by William Honan and Rachelle Cashman, 14 Downeast Lane, Assessor’s Map U45 Parcel 30, to construct a second floor addition 14 feet from the front property line and 11 feet from the side property line in the R-4A Zone

Mr. Honan stated that they had a small ranch house and wanted to build up and change the roof pitch with an addition of 620 square feet of living space for two bedrooms and a bathroom. Mr. Grysk stated that the existing house did not meet the setbacks and they were building straight up other than with the overhang of the front canopy.

Mr. Dryzga and Mr. Honan addressed the criteria as presented in writing. Mr. Dryzga read letters in favor of the appeal from Joe and Cathleen Murphy, 16 Downeast Lane, and Henry Griffin, 12 Downeast Lane.

Mr. Dryzga opened the public hearing; no one spoke for or against the appeal; Mr. Dryzga closed the public hearing.

Mr. Dryzga stated that this was within the footprint of the existing house and fit in with the neighborhood. Mr. Massengill stated that this was a good use of the Practical Difficulty Variance Appeal process.

Mr. Craft moved to approve the appeal as presented; Mr. Blaise seconded.

Voted 5-0

d. Appeal No. 2349 – A Special Exception Appeal by Daniel DeCosta, dba Lilley’s Limousine, 275 Gorham Road, Assessor’s Map R38 Parcel 22, for outdoor storage of vehicles in the B-2 Zone

Mr. Massengill and Mr. Blaise recused themselves from this appeal because of business conflicts. Mr. Dryzga authorized Mr. Loisel and Mr. Temm to vote.

Mr. DeCosta stated that his limousines had to be parked or stored outside and he would like to keep them in front of the building where they would not be an eyesore. Mr. Dryzga clarified that the Board was considering only the parking of limousines and not the business itself.

Mr. Dryzga and Mr. DeCosta addressed the criteria as presented in writing. Mr. DeCosta stated that he had almost no walk-in customers.

To a question from Mr. Maroon, Mr. DeCosta replied that he was a tenant in half of the building and the lot was good sized; he stated that his landlord lived in the house. To a question from Mr. Maroon, Mr. DeCosta replied that he had six vehicles and three employee vehicles which would be swapped when the limousines were taken out; he stated that the landlord parked in the rear. To a question from Mr. Grysk regarding parking on the grass, Mr. DeCosta replied that the landlord had agreed to do some paving. To

a question from Mr. Craft, Mr. Grysk replied that the Board was asked to approve the storage of vehicles where they were shown on the plan. To a question from Mr. Loisel, Mr. DeCosta replied that there would be six or seven vehicles parked overnight and there may be a little growth of one to two vehicles but Maine could sustain only so much of this business.

Mr. Temm noted the criteria regarding sediment or erosion and stated that there would be at least an eye-sore created if the parking were on a muddy lawn. Mr. Grysk stated that the applicant indicated that the land-lord was willing to pave and that would probably require site plan approval by the Planning Board. Mr. DeCosta noted that at his last place of business, there were only three or four weeks per year where there was a problem parking on the grass. Mr. Maroon noted that parking regulations, Section XI. G., required graveled parking areas. Mr. Grysk noted that the Zoning Board had to approve the parking before the appellants could go to the Planning Board.

Mr. Dryzga opened the public hearing. Mr. Daniel LaRochelle, of 277 Gorham Road, asked how the parking of vehicles would affect the value of his property. Mr. Maroon noted that Mr. LaRochelle's property was in the B-2 Zone and could be used for business but the Board could not tell him how it would affect his value; he noted that the proposed use was a mild use in the B-2 Zone. Mr. Dryzga closed the public hearing.

Mr. DeCosta stated that it was difficult to have anything going on during the busy summer months and asked whether the paving could be done in the fall. Mr. Grysk noted that only two to three spaces on the grass were needed because some of the area was now paved. Mr. DeCosta stated that they needed to park on the grass for maneuverability because of the size of the vehicles.

Mr. Dryzga and Mr. Maroon thought the parking should meet the requirements; Mr. DeCosta stated that that had always been his intent.

Mr. Loisel moved to approve the appeal as presented with the condition that parking meet the construction requirements as listed in Section XI. G. of the Zoning Ordinance by October 30, 2007; Mr. Maroon seconded.

Voted 5-0

5. Zoning Board Comments

Mr. Maroon moved to reelect Mr. Dryzga as Chairman for 2007; Mr. Craft seconded.

Voted 4-0-1 – Mr. Dryzga abstained.

6. Adjournment

The meeting was adjourned at 8:10 P. M.