

TOWN OF BENNINGTON
PLANNING BOARD
Minutes of the Meeting- July 9, 2009

Present: Jeffrey Rose, Chairman
Joseph Cuddemi, Ex Officio
Melissa Stewart
Peter Eppig

Chairman Rose called the meeting to order at 5:58 p.m.

The Planning Board discussed the guidelines to file for a re-hearing of the Gray case before the Zoning Board of Adjustment. A request must be made within 30 days of a decision and the Selectmen must make a motion for the ZBA to re-consider a re-hearing.

The ZBA has approved what they had seemed to disapprove at an earlier date. The Planning Board was not aware of the decision, as recently there has been no liaison from the ZBA present at Planning Board meetings. The LGC has recommended that the Planning Board might chose to have the case re-heard as it could set a precedence of bringing a case back to a board until such time as it will receive a favorable vote. Once a case is denied, it can not be re-applied for without changes in the plan.

A motion was made to petition the Selectmen to make a motion to have the ZBA re-hear the June 11, 2009 decision for the 582- 584 Francestown Road case (case #2009-2). The reasons are as follows; Mr. Gray essentially had his case re-heard without substantial change. The noted change was calling the units condos instead of apartments. It is believed that the ZBA heard erroneous facts for the case. The property is not in compliance with the ZBA decision. The case has to return to the Planning Board and the property is still a non-conforming lot, which can not be made into a more non-conforming lot. The density of the lot is an issue.

The Planning Board discussed the misrepresentation of the fact to the ZBA regarding the 2002 variance. According to the variance, the first floor of the entire building was a single-family residence. On January 15, apartments were denied and unnecessary hardship was unfounded. On June 11, per the notice of decision worksheet, the case would not result in unnecessary hardship whereas the minutes of the June 11, 2009 meeting state it would result in unnecessary hardship and is not contrary to the spirit of the ordinance. This is a contradiction to the findings of the January 15, 2009 hearing. Changing the use from apartments to condos is still the same land use. (Reference Fisher + Dover) The old notice of decision (2002) is not in compliance. The ZBA was presented erroneous information. Mr. Gray believes the residential units are consistent with the Workforce Housing Act. There is no proof of this. Mr. Gray states that the 2002 variance allowed 7 to 8 bedrooms in the building. This is an incorrect statement.

Melissa Stewart presented a motion to ask for a re-hearing. The motion was accepted as written by Melissa, Peter and Jeff (Joe recused himself). Chairman Rose signed the request.

The agenda for the July 13, 2009 Planning Board meeting was briefly discussed and the meeting was adjourned at 7:37 p.m.

Respectfully Submitted by

Debra Belcher
Planning Board Recording Secretary