



COMMUNITY DEVELOPMENT

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Draft Zoning Board of Adjustment Minutes October 22, 2013

Board Members:

Heath Partington Chairman – Excused
Jim Tierney, Vice-Chairman – Present
Mark Samsel, Secretary – Excused
Jay Yennaco, Member – Present

Mike Scholz, Member – Present
Mike Mazalewski, Alternate – Present
Tony Pellegrini, Alternate - Excused

Staff:

Nancy Prendergast, ZBA/Code Enforcement Administrator
Cathy Pinette, ZBA Minute Taker

Call to Order/Attendance

The Vice Chair called the meeting to order at 7:30 pm, introduced the Board, and explained the meeting process.

The Vice Chair appointed Mr. Mazalewski to sit for Mr. Samsel.

Public Hearings

The Vice Chair asked the applicant if they would like to proceed with the Hearing as there was not a full Board in attendance. Mr. George Fredette, SFC Engineering Partnership, Inc stated they did wish to go ahead with the Hearing. The Vice Chair asked if they would like to combine the Cases they had on the agenda and Mr. Fredette stated yes.

Mr. Mazalewski read Lot 3-A-800, Case #32-2013 and Lot 2-A-700, Case #33-2013 into the record along with the abutter lists.

Lot 3-A-800, Case #32-2013

Applicant – SFC Engineering Partnership, Inc.
Owner – Crossing Life Church
Location – 122 North Lowell Road
Zone – Neighborhood Business District, Rural

Crossing Life Church proposes to use the property for church purposes, and to enjoy other uses which are customary and incidental to a church on this property. A variance is requested from Section 604.1 of the Town of Windham Zoning Ordinance to permit use of the property for church purposes, and uses which are customary to a church in the Neighborhood Business District where it is currently not an allowed use.

Lot 2-A-700, Case #33-2013

Applicant – SFC Engineering Partnership, Inc.

Owner – Crossing Life Church

Location – 125 North Lowell Road

Zone – Neighborhood Business District, Rural

Crossing Life Church proposes to use the property for church purposes including a parish house and parochial school, and to enjoy other uses which are customary and incidental to a church on this property. A variance is requested from Section 604.1 of the Town of Windham Zoning Ordinance to permit use of the property for church purposes including a parish house and parochial school, and other uses which are customary and incidental to a church in the Neighborhood Business District where it is currently not an allowed use.

- Mr. Fredette stated was he represented Crossing Life Church. He spoke about the Church and it's founding in Windham. They now have two other parishes in Maine and Holland. He stated members have been meeting in houses and at the High School. He spoke about their vision to have a toddler facility and services provided to their Church community. The stated they have approximately 80 acres. They have a master plan in place for now and the future which includes the Church, school, parish house, thrift store, outdoor theater and areas for outdoor activities. They will be using the existing buildings and some will be remodeled. The will be using the site mostly on evenings and weekends. Also, there is a proposed subdivision if they decide to pursue that which would help with some of the financing to build some of the buildings and usage areas they would like. They will still have a lot of green space. He stated 65 acres is in the Rural District and the rest is in the Neighborhood Business District (NBD). The Church, school and house are located in the NBD. The NBD allows nursery schools, assembly and dwellings as part of commercial enterprise. They would like the variances for these three structures. He read the 5 criteria for Lot 3-A-800, Case #32-2013.

Questions/Comments from the Board

- The Board asked Mr. Fredette what the occupancy loading was for the current Bingo hall. Mr. Fredette did not know but stated there are 140 parking spaces.
- The Board asked Mr. Fredette to expand on the evening times. Mr. Fredette stated that Church groups usually meet during the evening hours.
- The Board asked if Mr. Fredette was here this evening for the thrift store and food pantry also as they were on the plan. Mr. Fredette stated no, they are part of the future master plan.
- The Board asked why they did not put the thrift store where the proposed Church would be as retail is allowed in the NBD. Mr. Fredette stated because it would be an accessory use and not allowed. The Board and Mr. Fredette discussed this. Mr. Fredette stated the existing building is the preferred use for the Church. The Vice Chair stated they would need a variance for the thrift store later. Mr. Fredette stated that would be in the future, perhaps 2 – 5 years from now.

The Vice Chair opened the hearing to the public at 8:04 pm.

- Ms. Betty Dunn questioned if the variance was to just use the current building as a Church or to grant the other buildings Mr. Fredette has on the plan. The Vice Chair stated that most accessory

uses would be permitted in the zone they are proposing for later and this is just to use the existing building for a Church.

- Mr. Tom Case stated this is already a preexisting use, there is a Bingo hall and daycare there now. Meeting houses are allowed in the NBD. He does not think they need a variance.
- Mr. Mazalewski read the Conservation Commissions letter stating they have no comments.
- Mr. Fredette stated that rules can be interpreted different ways. The Town Ordinance states a church is allowed in the Rural Zone but not in the NBD. They are here because the Town stated they needed a variance. The Vice Chair stated the applicant was changing the use of the property.

The public portion was closed at 8:10 pm

- Mr. Fredette spoke to Lot 2-A-700, Case #33-2013 and the accessory uses to the Church. He stated there will be a parish house, a parochial school, an activity center and other uses related to church activities. He read the 5 criteria.
- Mr. Prendergast stated the capacity for the current building is 400.

The Vice Chair opened the hearing to the public at 8:15 pm.

- Mr. John Mangan, 1 Depot Rd stated this was an amazing plan but he was concerned about safety because of the traffic increase. He stated safety is a big issue in this area, there have been 2 deaths over the years at the intersection, the speed limit is 40 miles per hour on No. Lowell Rd, and there is a lot of activity with the rail trail and the Depot. He would like safety to be addressed. The Vice Chair stated the plan would go before the Planning Board and they would make that determination.
- Mr. Bob Coole, 20 Morrison Rd stated a change in words can mean a lot. He stated the applicant said the daycare would become a parochial school, it could go up to 12 grades or even a college. The Vice Chair stated that would be a change of use and the Building Inspector and Fire Department would have input.
- Mr. Tom Case stated he has been to bingo at that location and there has never been a problem with traffic.
- Ms. Betty Dunn questioned why this case needed a variance as there was an existing preschool, residence and hall there. The Vice Chair stated the single family home will be used as a parish house. It is allowed in the Rural Zone but not in the NBD. Also, the daycare will not be there, it will be a parochial school.
- Mr. Fredette stated there is a nursery school there which will continue to exist. The Zoning slices this lot up into two separate zones but the only difference is that a Church will own the parcel now. The Vice Chair stated it would be a change of use when dealing with the ages of the children. Mr. Fredette stated their intention is not to build a college. Mr. Fredette asked the Board if it was a Church if they would need site plan approval. The Vice Chair states yes as it is a change of use.

Mr. Fredette stated the parish house is like a single family, just like St. Mathew's and the Presbyterian Church who have a church and parish house on 2 separate parcels.

- The Board clarified that Mr. Fredette was asking for variances to use the Bingo Hall as a Church, the residence as a parish house and the nursery school as a parochial school. Mr. Fredette stated yes.

Mr. Scholz motioned to go into Deliberative Session, seconded by Mr. Mr. Mazalewski. Motion passed 5 – 0.

Case #32-2013

- The Vice Chair stated that not much is changing just that the use of a church is not permitted in that Zone. Mr. Scholz stated his concerns about safety but testimony heard was that it was already being used for large events and it will go to the Planning Board and TRC. Mr. Scholz stated the spirit and intent of the Ordinance is met, it is a unique property as it is a divided zone and the values of the surrounding properties will not diminish. Mr. Mazalewski stated the building is currently being used for assembly. Mr. Yennaco stated it was just a change of use with the verbiage.

Mr. Scholz motioned in consideration of the 5 criteria to grant the variances for Case #32-2013, Lot 3-A-800, from Section 604.1 of the Town of Windham Zoning Ordinance to allow the existing building located in the Neighborhood Business District to be utilized as a Church in the Neighborhood Business District where it is currently not a permitted use, seconded by Mr. Yennaco. Motion passed 4 – 0.

The Vice Chair stated there is a 30 day appeal period.

Case #33-2013

- Mr. Scholz stated the structures were currently used as a single family residence and a nursery and this doesn't substantially change the character of the neighborhood and is not contrary to public interest. Traffic and safety will go before the PB and TRC for approval.

Mr. Scholz motioned in consideration of the 5 criteria to grant the variances for Case #33-2013, Lot 2-A-700, from Section 604.1 of the Town of Windham Zoning Ordinance to permit a parish house and parochial school for Church purposes in the Neighborhood Business District where it is currently not a permitted use, seconded by Mr. Yennaco. Motion passed 4 – 0.

The Vice Chair stated there is a 30 day appeal period.

- Mr. Scholz stated he was being specific with his motion and did not add in other uses which are customary and incidental to a Church. The Board discussed assembly which was permitted in the Zone.
- Mr. Fredette stated the other uses he spoke about are two existing buildings that would be incidental to church uses and the Board did not add that to the variance. The Board stated by leaving them undefined he would see they are permitted in the Zone and if it is not clearly defined

in the variance they did not add it to the motion. The Vice Chair stated Mr. Fredette could associate all the incidental uses shown on the plan by having the approval.

The Board took a recess at 8:55 pm and was back in session at 9:03 pm.

Zoning Board of Adjustment By-Laws & ZBA Application – Review and Approval

- Ms. Prendergast stated she had made the changes the Board requested at the last meeting. Most changes were verbiage and references to specific RSA numbers which were removed. The application has been updated to include numbering of houses. The Board discussed the changes that were made.

The Vice Chair opened the hearing to the public at 9:07 pm.

- Ms. Betty Dunn asked where the section was about what staff could sign and what the Chair had to sign. Mr. Scholz stated section 2.2.
- Two minor changes will be made to the By-Laws

Mr. Scholz motioned to approved the Zoning Board of Adjustment By-Laws & amended ZBA Application, seconded by Mr. Yennaco. Motion passed 4 – 0.

Review and Approval of Draft Meeting Minutes

9/24/2013 - The minutes were amended and will be brought back before the Board for approval.

10/08/2013 - postponed

Old/New Business

Pledge of Allegiance discussion

The Vice Chair stated the Pledge of Allegiance discussion would be postponed until the entire Board was in session.

Ms. Prendergast stated that regarding Case 27-2013 and the move of the hearing to Nov. 26th, she has notified the concerned abutters and the Belise's via certified mail.

Adjournment

Mr. Scholz motioned to adjourn, seconded by Mr. Mazalewski. Motion passed 4 – 0.

Meeting adjourned at 9:20 pm.

These minutes are in draft form and respectfully submitted for approval by Cathy Pinette, ZBA Minute Taker.