

**LINCOLN ZONING BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
WEDNESDAY, JANUARY 29, 2014 – 6:00PM
LINCOLN TOWN HALL - 148 MAIN STREET, LINCOLN NH**

APPROVED

Present: Chair Paul Beaudin II, Vice-Chairman Jonathan Ham, Board of Selectmen's Representative Patricia McTeague and Don Landry.

Members Excused: Ronald Comeau.

Members Absent: None.

Staff Present: Planning and Zoning Administrator Carole Bont, and Town Manager & Town Planner, Alfred "Butch" Burbank.

Guests:

- Teasha Camargo, Linwood Senior Center Program Coordinator & daughter of Nancy Riley at 9 Georgiana Falls Road.
- Daniel Lehouillier, 5 Little Pond Road, Thornton, NH, carpenter working with Pontacoloni
- Raymond F. Mulleavey, 403 US Route 3, Lincoln, NH 03251 abutter to Pontacoloni who owns 403 US Route 3 (Map 106 Lot 016) and speaking on behalf of Edith Schmidtchen of 254 Joppa Hill Road, Bedford, NH 03110 & her daughter Karen L. Schmidtchen of 157 Round Pond Road, Nottingham, NH 03290 who both own Map 106, Lot 008 at 17 Hanson Farm Road
- Andrew Noyes, representing NCCA (North Country Center for the Arts) and the tourist attraction Jean's Playhouse, 34 Papermill Drive/Lumberjack Drive, Lincoln, NH 03251
- Elizabeth Pontacoloni & Tulio Pontacoloni, 170 Ridge Road, Northwood, NH 03261-3424 & owner of 3 Georgiana Falls Road
- Nancy Riley, 9 Georgiana Falls Road, Lincoln, NH 03251 (Map 106, Lot 010) – abutter to Ponatacoloni

I. CALL TO ORDER: by Chairman Paul Beadin II at 6:00 P.M.

Chair Paul Beaudin II called the meeting to order.

II. CONSIDERATION OF DRAFT MEETING MINUTES FROM:

1. October 30, 2013

Motion to approve the minutes as written.

Motion: McTeague.

Second: Landry.

Motion carried (3-0). Ron Comeau abstained as he was not present at the meeting.

III. NEW BUSINESS

- A. 6:00 pm. **Application for Special Exception for an Off Premise Sign Approved by Planning Board as Part of an Integrated Sign Plan for Tourist Attraction** under the provisions of the Lincoln Land Use Plan Ordinance, Article VIII, Section A, Paragraph 2.

1. **Case #ZBA #2014-03**

2. **Locations:**

- a. **Location of tourist attraction: Jean's Playhouse**

10/34 Papermill Drive

Tax Map 119, Lot 001

Village Center District (VC)

- b. **Location of off premise sign:**

LO Main Street, Parcel D

Tax Map 118, Lot 002

Village Center District (VC)

3. **Applicant:** Andrew Noyes on behalf of Jean's Playhouse

4. **Property Owner: (Where Jean's Playhouse is located)**

Tax Map 119, Lot 001

North Country Center for the Arts

c/o Andrew Noyes

PO Box 1060

Lincoln, NH 03251

5. **Property Owner: (Where Off Premise Sign is located)**

Tax Map 118, Lot 002

TFG Lincoln Properties, LLC

c/o The Finch Group

6111 Broken Sound Parkway NW #150

Boca Raton, FL 33487-2774

DESCRIPTION: Under Land Use Plan Ordinance, Article VIII, Section A, Paragraph 2, Andrew Noyes on behalf of the tourist attraction, Jean's Playhouse (Tax Map 119, Lot 001) is seeking a Special Exception to place an off-premise sign on property owned by TFG Lincoln Properties, LLC (Tax Map 118, Lot 002) in the Village Center (VC) District. The sign uses the pre-existing wood frame and light formerly used by Rivergreen at its former entrance on Main Street north of the Inn Seasons Drive. The Planning Board granted a sign permit on May 22, 2013, as part of an integrated sign plan to use an off premise sign. Although the sign is allowed as part of the approved integrated sign plan, as an off premise sign it also requires a Special Exception Approval under Article VI-B, Section E, Paragraph 9, Subparagraph q,ii. Therefore, Noyes, is requesting a Special Exception from the Zoning Board of Adjustment (ZBA).

ACTION: Acceptance of the application as administratively complete by the ZBA.

ACTION: ZBA may conduct a public hearing, or schedule a public hearing at some future date established during this meeting.

ACTION: Approval, approval with conditions, or disapproval by the ZBA.

Andrew Noyes presented on behalf of the Applicant, Jean's Playhouse. He submitted written authorization to represent the applicant. The proposed sign (already installed) can be seen if you are heading east on NH Route 112, just past the Town Offices parking lot on your right. The sign is in the same wood frame where the Rivergreen sign used to be. Jean's Playhouse got permission to use that sign from Leslie Finch, a principal in TFG Lincoln Properties, LLC (c/o The Finch Group) who is the owner of the property. Noyes went before the Planning Board on May 22, 2013, and received approval to put the new sign up. As a condition of that permission, they took down the two signs (Papermill Theater signs) that were on the large freestanding sign at the Village Shops – so two signs came down in exchange for this one new sign. The new off-premise sign is part of an Integrated Sign Plan for a tourist attraction not located on the main road so part of the purpose of the sign is to point travelers to the attraction when the attraction cannot be seen from the main road.

Chair Beaudin explained that this request for a Special Exception is a formality. In order to have an off premise sign the Land Use Ordinance also requires the applicant to get Special Exception from the ZBA. The Planning Board did not realize a Special Exception was required at the time it granted approval for the off-premise sign. The chairs of the Planning Board and ZBA discussed the matter and decided Jean's Playhouse should come in for the Special Exception from the ZBA.

Chair Beaudin expressed his understanding that the Town's goal, as supported by the Sign Ordinance portion of the Land Use Ordinance, is to upgrade signage over time. The Town through its Planning Board and ZBA has been trying to make the off premise signs and signs in general look more attractive and less fleeting. He referred the applicant to the Clark's Bears Trading Post sign on NH Route 112 as an example of a desirable attractive permanent sign.

As a relatively new nonprofit business, Jean's Playhouse does not have funds available to make that kind of sign right way. Chair Beaudin asked whether Jean's Playhouse had any plans to upgrade the sign to make it more permanent and more attractive. The new sign is like a banner made of plastic fabric stretched over the sign frame. If the ZBA allows the sign to stay there indefinitely, over time the sign will fade and get tattered. Chair Beaudin suggested the ZBA approve the sign for a certain number of years. For example, allowing the sign for 5 or 10 years would give Jean's Playhouse some time to raise funds to make a better more permanent sign so that this sign would not just sit there, deteriorate over a long period of time and then no one would pay attention to it.

Noyes responded to Chair Beaudin's concerns. The banner portion of the sign still has to be fixed so it goes all the way across the frame. That fix is in process. The top portion of the sign is fabric. If it gets tattered Jean's Playhouse will replace it. That banner portion of the sign is fairly inexpensive to replace. If Jean's Playhouse had to come up with the funds to put up a sign like Clark's, "it would be a tough row to hoe" unless the ZBA gave them 5-10 years to fundraise for that purpose.

Chair Beaudin expressed the ZBA's support of Jean's Playhouse having a sign located where it is and the need for the sign to be seen by the traveling public. Chair Beaudin is concerned, however, that if a lot of people duplicate the Jean's Playhouse fabric sign Lincoln will have a lot of signs that are just plastic fabric. No one will pay attention to the signs because they are no longer attractive. Years will go by and because the owners have a permanent approval, the Town will not be able to do anything to get rid of the substandard signs. He would prefer that the Town revisit the Jean's Playhouse sign in five or ten years to see if Jean's Playhouse could come up with a more attractive permanent sign. The ZBA could revisit the sign approval and Jean's Playhouse could tell the ZBA why it is unable to make a better sign.

Noyes agreed that this condition of 5-10 years sounded reasonable.

ZBA members asked questions about Jean's Playhouse's other signs. How do travelers find Jean's Playhouse with this sign? Noyes described the location of Jean's Playhouse and the location and purpose of the existing signs. Noyes explained that there are other directional signs down on Dennis Ducharme's property (InnSeason Resort) that point travelers to turn right onto South Mountain Drive. The road goes right and then behind the Village Shops and around the rotary onto Papermill Drive and "BOOM! The building is right there!" There is a large sign on the building that says "Jean's Playhouse".

Landry asked whether the other directional signs for Jean's Playhouse were also fabric signs. Noyes answered that to the best of his knowledge all of the Jean's Playhouse signs are fabric; however, he does not know for certain. One of the directional signs is also tilted because Dennis Ducharme is doing construction on the InnSeasons Resort back there. Another sign is supposed to be located on the little roundabout where South Mountain Drive intersects with Papermill Road, but Ducharme has taken that sign down right now because of the construction on InnSeasons Resort.

Chair Beaudin reiterated his opinion that the present sign is acceptable, but if everyone has fabric signs and the ZBA does not put a time limit on them, in a few years they will be looking at those substandard sign forever without making any kind of assessment about whether the business could eventually make a better sign. If that happens, the signs in Lincoln will never improve their appearance.

Landry asked whether the ZBA was considering all of the Jean's Playhouse signs or just the one sign. Chair Beaudin assured him the ZBA was only addressing the one off premise sign on NH Route 112.

Landry asked about the history of that sign. The sign was previously a sign for Rivergreen. When Rivergreen took down their sign, leaving the frame and light, the property owner allowed Jean's Playhouse to take over the use of the frame and light. Jean's Playhouse worked with the Planning Board to get an approval for the sign as part of an Integrated Sign Plan, not realizing that they also needed a Special Exception for the off premise sign.

McTeague expressed her concern about the ongoing maintenance of the sign. Bont explained that on the back of the sign permit we have language straight from the Sign Permit section of the Land Use Plan Ordinance requiring them to maintain the sign. (See Appendix B.) However, the ZBA could require the applicant specifically to maintain the sign as a condition of the approval and require that the ZBA revisit the issue in a certain number of years.

Motion to Accept the Application as Administratively Complete.

Motion. McTeague.

Second. Ham.

Motion carried (4-0).

Motion to Open the Public Hearing.

Motion. Ham.

Second. McTeague.

Motion carried (4-0).

No public comments or questions.

Motion to Close the Public Hearing.

Motion: McTeague.

Second: Ham.
Motion carried (4-0).

FINDINGS OF FACT:

Using the Special Exception for Signage Worksheet the ZBA voted as follows:

1. **Motion that granting the special exception would be consistent with the Town of Lincoln Master Plan and the stated purpose for the Lincoln Sign Ordinance (Article VI-B) because:**
 - a. **One of the purposes of the master plan is to promote the tourist businesses in town. To deny it would be inconsistent with the Master Plan.**
 - b. **The sign ordinance encourages the Integrated Sign Plan for the tourist attraction because we are a tourist town.**
 - c. **Town meeting recently added flexibility to the Sign Ordinance so the Town could address tourist attraction signage issues in a more comprehensive manner. Granting a special exception in this case would be supportive of that goal.**
 - d. **This tourist attraction is located back away from the Main Street so it needs to have signage out front.**
 - e. **In addition to needing signage to direct people to the location, we want people to know that there is a tourist attraction like a playhouse in town.**

Motion. McTeague.
Second. Ham.
Motion carried (5-0).

2. **Motion that granting the special exception for the sign would enhance the tranquility of the neighborhood or Zone because:**
 - a. **Although the sign at present enhances the tranquility of the neighborhood, it may or may not enhance the tranquility of the zone or neighborhood in five years due to lack of maintenance.**
 - b. **At this time the sign is permitted due to financial constraints of the Applicant.**
 - c. **For this reason the ZBA would like to revisit the sign in five years (2019). In five years (2019) the applicant shall come back to propose or discuss a more permanent sign.**

Motion. McTeague.
Second. Landry.
Motion carried (5-0).

Noyes agreed that five years should be enough.

3. **Motion that granting the special exception for the sign would enhance the overall quality of the neighborhood or zone in which it is located because:**
 - a. **Although the sign at present enhances the overall quality of the neighborhood, it may or may not enhance the tranquility of the zone or neighborhood in five years due to lack of maintenance.**

- b. At this time the sign is permitted due to financial considerations.
- c. For these reason the ZBA would like to revisit the sign in five years (2019). In five years (2019) the applicant shall come back to propose or discuss a more permanent sign.

Motion. Ham.
Second. McTeague.
Motion carried (5-0).

- 4. Motion that granting the special exception for the sign would resolve existing or potential hazards and will improve unsightly distractions related to traffic, lighting, color, size, or the overall tranquility of the district because:
 - a. The sign is well-lighted.
 - b. The light shines directly on the sign itself.
 - c. The location of the sign is not a distraction.
 - d. There is no entrance right next to the sign. The entrance is a little further down by South Mountain.

APPROVAL WITH CONDITIONS:

Motion to approve a Special Exception to place an off-premise sign on property owned by TFG Lincoln Properties, LLC (Tax Map 118, Lot 002) in the Village Center (VC) District using the pre-existing wood frame and light formerly used by Rivergreen at its former entrance on Main Street north of the Inn Seasons Drive for a period of five (5) years or until January 29, 2019.

CONDITION:

- 1. Within five years (January 29, 2019) the applicant shall come back to the ZBA with an application for a more permanent sign or show good cause why Jean's Playhouse needs an extension to build a more permanent sign. If Jean's Playhouse receives a grant or funds to fix up the sign before the five years is up, Jeans Playhouse may come in and ask the ZBA to remove that condition.

Motion: McTeague.
Second: Ham.
Motion carries (5-0).

Chair Beaudin asked Bont and Noyes to note the five year deadline on their calendars so that the sign can be reviewed at that time.

- B. 6:00 pm. **Application for a Dimensional Variance to build a single family residence within two setback requirements under the provisions of the Lincoln Land Use Plan Ordinance, Article VIII, Section A, Paragraph 3 as defined in Article IV.**

1. **Case #ZBA #2014-04**

2. **Location:**

- a. 3 Georgiana Falls Road
Tax Map 106, Lot 009

3. **Applicant:** Tulio Pontacoloni
170 Ridge Road
Northwood, NH 03261

4. **Property Owner:** Tulio Pontacoloni & Elizabeth Pontacoloni
170 Ridge Road
Northwood, NH 03261

DESCRIPTION: Under Land Use Plan Ordinance, Article VIII, Section A, Tulio Pontacoloni of 170 Ridge Road, Northwood, NH 03261 is requesting a dimensional variance from setback requirements for property located off Georgiana Falls Road (Tax Map 106, Lot 009) in the Rural Residential (RR) District, to build a single family home:

1. Article VI, Section E, Paragraph 7, requires that primary buildings be setback 50' from the reference line. The proposed primary building will be 8.8' from the "reference line" which is the top of the bank.
2. Article VI, Section B, requires a 15' rear, front and side setback in the Rural Residential (RR) District. In this case the house will be 8.8' from the top of the Hanson Brook bank, although it is approximately 19' from the boundary located in the center of Hanson Brook.

ACTION: Acceptance of the application as administratively complete by the ZBA.

ACTION: ZBA may conduct a public hearing, or schedule a public hearing at some future date established during this meeting.

ACTION: Approval, approval with conditions, or disapproval by the ZBA.

Pontacoloni presented on his own behalf. Roy Sabourn surveyed the lot. Sabourn told Pontacoloni about the required setbacks on the property. In 2008 Pontacoloni met with someone at the town offices. In 2008 there was a modest deteriorated camp on the lot. People in the town offices said Pontacoloni needed a building permit to tear the camp down so he got one. The permit was signed by Peter Moore & Pat Romprey. (Lincoln must have been in between Planning & Zoning Administrators). On the permit, it notes that the camp would be rebuilt at a later date. Pontacoloni produced a copy of what was titled "Attachment to Building Permit No. 08-18" dated June 11, 2008. "Brief Description: Demolish existing seasonal camp to rebuild a structure at a later date." (See Appendix C.)

Pontacoloni's father originally owned most of the land on that side of the road. His father sold a piece across the brook to George Dowling and Nancy Osgood Dowling (now it is owned by Nancy Osgood Riley and Gordon Riley). His father kept a small piece of land with the camp on

it because he although he had moved to Georgia, he wanted to come back up to New Hampshire for the summers.

Chair Beaudin asked what the building had been used for. Was the cabin used as a camp and was it lived in or was it just used for storage? Pontacoloni explained that the seasonal cabin or camp was actually lived in. It had two bedrooms and a bathroom with town water and sewer. "My father believed that if you used a big enough piece of wood you could build a camp directly on the ground without a foundation and it would last forever. The camp lasted as long as he did so I guess it worked for him." The camp was in such poor disrepair that Pontacoloni tore it down with the hope that eventually he could rebuild it. Now he has the chance to purchase a home built by the Manchester Community College to Energy Star Standards and to the National Electric Code standards to put on his lot. It is a 26'X32' building. He has submitted the specifications on the home with his application for a variance.

The camp Pontacoloni tore down was 24'X40' [960 square feet]. The new proposed building is smaller: 26'X32' [832 square feet]. Many years ago when the camp was originally built there were no setback requirements. Pontacoloni directed the ZBA's attention to the plot plan Roy Sabourn prepared for Pontacoloni. Sabourn put the remnants of the concrete block foundation for the old camp on the plot plan. The plot plan shows part of the existing concrete block foundation where it says "remnants of the concrete block foundation". The back side of the camp on the 40' side is shown on the plan along the bank of Hanson Brook. The camp was 24' coming out and 40' going towards the road. Pontacoloni also presented a copy of a plot plan sketch of the proposed location of the 26'X32' building. He was able to meet all of the setbacks with the exception of a corner that intrudes into the rear setback near the top of the Hanson Brook bank. The setback there should be 15'. His proposal puts the house 6'2" into the rear setback. He tore the building down in 2008. The permit says at the top: "Brief Description: Demolish existing seasonal camp to rebuild a structure at a later date."

Pontacoloni denied being informed by any town officials or staff that he only had one year to rebuild if he was going to rebuild on the existing foundation of the pre-existing nonconforming lot. Bont informed the ZBA that under the present Land Use Plan Ordinance tearing down a nonconforming building and rebuilding within the same footprint is not an option. The Land Use Plan Ordinance only allows people to rebuild within one year if the building is destroyed by fire or other natural causes – not if it is simply torn down. (See Appendix A.) Many people recently indicated that they were advised that if they removed a building they could rebuild it in the same footprint the same size within one year of its removal.

Chair Beaudin expressed his concern about Pontacoloni's proposed encroachment into the 15' setback towards Hanson Brook. On that corner of the house Pontacoloni has only an 8.8' setback from the top of the bank. He is encroaching 6.2' into the setback from Hanson Brook.

Landry asked, "What does it mean when the notice says it is 19' from the boundary line located in the center of the brook?" Bont explained that in this case the property boundary line goes to the center of Hanson Brook. That is not always the case. In some cases the property boundary line goes only to the top of the bank. If you look at a tax map you will see two different types of property boundary lines when it comes to water bodies. In this particular case the boundary

goes to the middle of the brook. So, theoretically, Ponticoloni's house would be further back from the rear property boundary line than the required 15' setback, however, traditionally most towns use the top of the bank.

Chair Beaudin pointed out that the Shoreland Protection Act also uses the top of the bank as the property line for their purposes. The concern with the Shoreland Protection Act is that even though Hanson Brook is not classified as one of the "Fourth Order or Higher Streams", it is still identified as a stream and under the Shoreland Protection Act you are not able to use any pesticides or fertilizers within 50' of a stream. Chair Beaudin asked Pontacoloni if he would be able to move the house closer to the road if the ZBA were to grant a variance for the front and side setbacks, bringing the house closer to the edge of the pavement and further away from the stream. Pontacoloni said he would be amenable to that. Landry pointed out that if Pontacoloni moved the house towards the road the house would still be some distance away from the pavement.

Chair Beaudin expressed the ZBA's concerns about safety if people locate their buildings too close to the brook/stream. Maintaining the quality of the water is also a concern. Pontacoloni pointed out that the original cabin was actually right next to the brook. Pontacoloni would have to move the house approximately 6.2 feet into the front setback, to get it out of the rear setback. Then the rear corner of the building would be at the 15' rear setback mark.

Lehouillier asked if moving the house would mean they would not be able to use the existing four foot concrete pad underneath the footers. Pontacoloni confirmed that they would not be able to use the concrete pad and said he would have Roy Sabourn lay out the location of the house.

Motion to Accept the Application as Administratively Complete.

Motion. McTeague.

Second. Ham.

Motion carried (4-0).

Motion to Open the Public Hearing.

Motion. McTeague.

Second. Ham.

Motion carried (4-0).

The ZBA received a letter from abutter Nancy Riley, however, Riley also was present at the meeting. The letter will be attached to these minutes.

Riley expressed her concern about Hanson Brook. "That little brook becomes a river during storms."

Camargo further elucidated, explaining that during the last two large storms, Hurricane Irene and Hurricane Sandy, two areas up above were inundated. Each winter the snowmobile trail with the bridge gets wiped out. During the winter thaw and spring when there is an ice jam up there the water gets really high very fast right there.

Pontacoloni does not want to be in the river either. He was trying to maintain the front and side setbacks.

Riley asked whether moving the house towards the road would also mean moving it closer to the neighbor Edith Schmidtchen and her daughter Karen Schmidtchen. They could not attend the meeting tonight. The Schmidtchen property line is near the stockade fence.

Mulleavey informed by the meeting that Edith Schmidtchen and her daughter asked him to represent them tonight. He asked the ZBA if the required setback under the Shoreland Protection Act is still 50' from the water. Chair Beaudin responded that the 50' setback from rivers just applies to the use of pesticides and fertilizer because Hanson Brook is not classified as a Fourth Order or Higher Stream.

Mulleavey asked Pontacoloni if he was going to build his house closer to the side where the Schmidtchens live. Pontacoloni responded that he was not. Chair Beaudin tried to clarify that the house was going to move closer to the front road so he would not build in the brook setback. Instead of giving Pontacoloni a variance for the back/brook setback the ZBA is proposing to give him a variance to encroach in the front and side setbacks instead.

After going over the maps with Pontacoloni, Mulleavey indicated that in his opinion Pontacoloni had improved the siting of the building on the lot. He also reviewed the plans for the modest-sized house. Pontacoloni has two bedrooms, one bathroom and a kitchen and a living room.

Riley asked if Pontacoloni would have to come back to the ZBA with new plans and whether as abutters they would get another chance to look at them. Chair Beaudin explained that Pontacoloni would not have to come back to the ZBA. He will have to come in with new revised plans and an application to get a Land Use Permit from the Town. The Planning and Zoning Administrator will check the plans to make sure the house is located where it is supposed to be.

Motion to Close the Public Hearing.

Motion: McTeague.

Second: Ham.

Motion carried (4-0).

FINDINGS OF FACT:

Using the Variance Worksheet the ZBA voted as follows:

- 1. Motion that granting the variance to build in the FRONT setback would not be contrary to the public interest because:**
 - a. The old minimal camp had deteriorated and lacked an appropriate foundation. It will be replaced by a newer less deteriorated structure of a smaller footprint than the prior camp.**
 - b. The prior building was only 2' from the top of the bank of Hanson Brook and significantly encroached within the setback next to Hanson Brook. The new building will be minimum rear setback of 15' from Hanson Brook which increases the safety of the inhabitants of the house and any first responders who might be summoned should there be flooding from Hanson Brook.**

- c. The prior building envelope was not compliant with the rear or side setbacks. The new building envelope will encroach into the front setback closest to the road, but will still be far enough away from the actual road to allow safe ingress and egress to the lot.

Motion. McTeague.

Second. Ham.

Motion carried (5-0).

- 2. Motion that granting the variance to building in the FRONT setback would observe the spirit of the ordinance as Article 2 of the Land Use Plan Ordinance says the purpose of the ordinance is to promote the health safety and general welfare of the inhabitants, to protect the value of property and to prevent the overcrowding of land because:
 - a. It will be safer for the environment because the building will be further away from Hanson Brook.
 - b. It will be safer for the inhabitants because the building will be farther away from the water.
 - c. It will feel less crowded because the building will be sited farther away from each neighbor as possible given the small and triangular shape of their pre-existing nonconforming lot.
 - d. The proposed location of the building on the lot will be more respectful of the neighbors and the brook.

Motion. Ham.

Second. McTeague.

Motion carried (5-0).

- 3. Motion that granting the variance would do substantial justice because :
 - a. They are taking down the old camp with no foundation and replacing it with a modular home built to Energy Star standards.
 - b. The 15' rear setback next to Hanson Brook will be maintained.
 - c. The new house will increase the taxable valuation as well as improve the quality of housing in the neighborhood.

Motion. Ham.

Second. McTeague.

Motion carried (5-0).

- 4. Motion that granting the variance will not cause the values of the surrounding properties to be diminished for the following reasons:
 - a. The new proposed house will be of a better quality, more attractive and sited further away from Hanson Brook.
 - b. The new home is more energy efficient.
 - c. The new siting will bring up the quality of the neighborhood resulting in increased values overall.

Motion. McTeague.

Second. Ham.

Motion carried (5-0).

5. Motion that owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:
- There is a fair and substantial relationship between the general public purpose of the ordinance provision (i.e., safety) and the specific application of that provision to the property because the variance would allow a reasonable use of a tiny pre-existing non-conforming triangular-shaped lot in a way that respects Hanson Brook and we are going to be replacing a camp with a better quality year round home in a neighborhood of homes; and
 - The proposed use is a reasonable one because they are replacing a deteriorating camp with a better quality but smaller home and they will be moving the building further away from Hanson Brook.

Motion. Ham.
Second. McTeague.
Motion carried (5-0).

After much discussion the ZBA recommended that the applicant be granted a variance to move the proposed building forward to encroach within the front setback and away from Hanson Brook to avoid encroaching on the 15' rear setback closest to Hanson Brook.

APPROVAL WITH CONDITIONS:

Motion to approve a variance to place the proposed 26'X32' modular home into the fifteen foot (15') front setback closest to the road while maintaining the 15' rear setback from Hanson Brook, providing he submits a new plan to the Town showing the revised setbacks, fills out a Land Use Permit Application and receives a Land Use Permit.

CONDITION:

1. Submits a new plan to the Town showing the revised setbacks;
2. Fill out a Land Use Permit Application; and
3. Obtain a Land Use Permit.

Motion. McTeague.
Second. Ham.
Motion carried (5-0).

As with all Land Use Permits, Pontacoloni has one year to start the project. If he does not start the project within one year he will have to come back to the ZBA.

V. OTHER BUSINESS – ZBA members/alternates, Zoning Board Staff

A. The ZBA discussed the revising application forms and ZBA worksheets.

1. *Administrative Appeals;*
2. *Variances;*
3. *Special Exceptions for signs; and*
4. *Special Exceptions for all other matters;*

Forms and ZBA Worksheets

Bont will add a place on the worksheets to put conditions. Next year we will try to amend the Land Use Plan Ordinance to put the criteria for the Special Exception for Signs next to the general section for Special Exceptions for everything else. The Sign Ordinance used to separate from the Land Use Plan Ordinance, but now they are combined. Bont will speak with the Office of State Planning about going forward until we amend the Land Use Plan Ordinance.

Until we are able to fix this, we can consolidate 1, 2, 3 & 4 with 5, 6, 7, and 8.

VII. PUBLIC PARTICIPATION AND OTHER BUSINESS: Public comment and opinion are welcome during this open session. However, comments and opinions related to development projects currently being reviewed by the Zoning Board of Adjustment will be heard only during a scheduled public hearing when all interested parties have the opportunity to participate.

No public input.

VIII. ADJOURNMENT

Motion to Adjourn.

Motion: Ham.

Second: McTeague.

Motion carried (5-0).

The meeting was adjourned by at 7:05 pm.

Respectfully submitted,

Carole Bont, Planning and Zoning
Administrative Assistant

Dated: February 19, 2014



Paul Beaudin II, Chair

APPENDIX A.**ARTICLE III
APPLICABILITY AND NON-CONFORMING USES**

Section C. NON-CONFORMING USES. A non-conforming use may be continued, subject to the requirements set forth in this Section:

1. When any existing non-conforming use has been discontinued for one year, that land, building or structure may thereafter be used only in conformity to this Ordinance, except that the Board of Adjustment, upon application duly made, may grant a special exception pursuant to Article VIII to permit the resumption of the non-conforming use under such conditions as the Board may impose.
2. Any existing non-conforming use shall not be changed to another use, except in conformity with this ordinance.
3. A non-conforming use may not be expanded, except upon a finding by the Board of Selectmen or their designee that (a) the expansion reflects the nature and purpose of the existing non-conforming use so as not to constitute a different use and (b) the expansion will not have a different or detrimental impact on the neighborhood in which the use is located.
4. A non-conforming structure or building which is damaged or destroyed by natural cause, such as fire or other calamity beyond the control of the owner or occupant, may be repaired or rebuilt and any non-conforming use of the structure or building may be resumed, if the following conditions are met:
 - (a) Repair or rebuilding must be completed within one year after the damage or destruction occurs, unless an extension is allowed by the Board of Selectmen for good cause shown;
 - (b) The structure or building shall occupy the same footprint as the damaged or destroyed structure or building and its height and volume may not be expanded or extended.
 - (c) Repairs or reconstruction shall be conducted pursuant to a properly issued land use permit, and site plan review where applicable, and shall conform to all applicable building, plumbing, electrical and other code and water and sewer regulation requirements.
5. Single-family dwellings with or without accessory apartments are allowed on non-conforming lots of record. All other proposed uses for non-conforming lots of record must receive approval for a Special Exception from the Zoning Board of Adjustment. All uses whether allowed by right or allowed by Special Exception must adhere to the requirements of the District in which the lot is located. A “non-conforming lot of record” means a lot separately designated on the Town of Lincoln Tax Map or a duly approved subdivision plan record in the Grafton County Registry of Deeds, which lot was lawfully created and which, solely by reason of the enactment or amendment of this Ordinance, no longer conforms to the dimensional requirements of this ordinance. Any use of a non-conforming lot of record must demonstrate that it can be safely used and that water supply and sewage disposal are properly available for the use proposed.

Appendix B.

POST PERMIT APPROVAL:

a. Installation Completed.

When the sign has been installed, the sign owner shall photograph the completed sign and forward the photograph to the Planning and Zoning Department and schedule a compliance inspection.

b. Inspection for Compliance.

The Selectmen or their designee shall perform a final inspection after installation of any approved sign to verify compliance with the Ordinance and approved sign permit.

c. Discrepancies.

The Selectmen or their designee shall identify, in writing, any discrepancies between a sign as approved per plan and the sign as constructed. If the Selectmen or their designee identifies any discrepancy, the sign owner shall correct the discrepancy. If the sign owner does not correct the discrepancy within seven (7) days after written notice, the sign will be considered in violation of this Ordinance and subject to the provisions in Article VI-B, Section K (Enforcement and Violations).

d. Maintenance.

i. Any sign owner whose sign is neglected and/or dilapidated shall either remove or repair the sign at the owner's expense.

ii. Any sign owner whose sign is unstable, in danger of falling or is otherwise unsafe, shall remove or repair the sign at the owner's expense.

iii. Any sign owner may replace these signs in need of maintenance only if the signs are otherwise in conformance with this Ordinance.

e. Removal of Signs

Any property owner whose sign pertains to an abandoned or former use or business later than six (6) months after discontinuance of that use or business shall remove the sign at the property owner's expense.