

Town of Cornish, New Hampshire  
Zoning Board of Adjustment  
PUBLIC HEARING MINUTES  
December 11, 2023

The Zoning Board of Adjustment met on Monday, December 11, 2023 at 6:30pm at the Cornish Town Hall to hear Continued Case 23-02. James & Diane Liggett for a Special Exception.

Present for the ZBA: Kate Freeland, Merilynn Bourne, Kerry Osgood, Troy Simino and Alternate David Haseman. Michael Fuerst recused himself due to his attorney/client relationship with the Liggetts. Karim Chichakly and Lyle Parry were absent

Applicant Present: James Liggett

Present for the Public: none

Kate Freeland, Acting Chair, called the meeting to order at 6:30pm

Merilynn Bourne, Clerk, called the roll.

James Liggett was present for the continuation. Mr. Liggett remarked that we had gone through the entire case last Monday but without a decision. Kate Freeland explained that we would be deciding the case tonight. Ms. Freeland stated we would be going into deliberations and that during that process the board might have questions for Mr. Liggett.

Ms. Freeland asked if the Board had a chance to read the Planning Board Minutes from the 2014 Site Plan Review for Mr. Liggett. The Board had. Ms. Freeland asked if the Board had read the Municipal Association's response to her question regarding "travelled way". The Board had. Merilynn Bourne stated she had emailed the site plan and Planning Board decision to members hearing the case. There followed a discussion regarding the purpose of our hearing. The ZBA is to rule on the request for a Special Exception, Expanded Cottage Industry and nothing more. The Planning Board had, in the past, referred to the Liggett operation as "grandfathered" but that designation was incorrect as the operation came into existence after the adoption of the Zoning Ordinance and had never applied for a Special Exception. That is the purpose of this hearing; to cure that defect. In order to do that, Mr. Liggett's operation must meet all the criteria under Expanded Cottage Industry.

There followed a lengthy Board discussion regarding "traveled way" and the 75-foot setback issue. Kerry Osgood remarked that the official town map shows the roadway as a private, non-town maintained road. The board took a vote regarding the issue of the intent of the ordinance relative to road right of way vs traveled way. Ms. Freeland directed, if you are in favor of the interpretation that a private drive is not subject to the 75-foot setback under Expanded Cottage Industry, please respond with "Aye":

Kerry Osgood voted "Aye"

David Haseman voted "Aye"

Kate Freeland voted "No"

Merilynn Bourne voted "Aye"

Troy Simino voted “No”

Merilynn Bourne then made a motion to approve the applicant’s request for Special Exception under Article IV, Section C, 19a for Expanded Cottage Industry, Map 03, Lot 16 and Lot 38; the motion was seconded by David Haseman.

Kate went through the criteria for Special Exception under Article 10, d) of the Zoning Ordinance. The Board voted unanimously and without exception that the proposed use would not adversely affect:

1. The capacity of existing or planned community facilities
2. The character of the area affected
3. Traffic on roads and highways in the immediate vicinity
4. Town Services and facilities
5. Neighboring land use present and prospective
6. Significant wildlife habitat, trails, natural scenic or historic features.

Relative to Article IV, Section C, 19a, g), this Board’s interpretation of the ordinance excludes “McSwain Drive, Private” from the 75-foot setback. A Unique Condition is that the official town road map shows McSwain Drive as a privately maintained drive and shown as a private right of way over the Liggett property.

Ms. Bourne’s motion was re-read followed by a vote to approve the Liggett application for Special Exception for Expanded Cottage Industry:

Kerry Osgood voted “Aye”

David Haseman voted “Aye”

Kate Freeland voted “No”

Merilynn Bourne voted “Aye”

Troy Simino voted “No”

The motion passed.

Kate filled out the decision and finding of facts.

Troy Simino remarked that we should make it clear that our decision was simply to determine if the applicant met the criteria for Expanded Cottage Industry. That is what we voted on.

Kate Freeland explained to Mr. Liggett that he is now approved for the use. His next step is to see the selectmen for any permit he may need and they may or may not require site plan review.

Kerry Osgood moved to adjourn, seconded by Merilynn Bourne

Adjourned 7:45pm

Respectfully submitted,  
Merilynn Bourne, Clerk