

TOWN OF CENTER HARBOR
ZONING BOARD OF ADJUSTMENT
Hearing
Tuesday, September 29, 2015

Chairman Bernie Volz called the hearing to order at 6:00 p.m. Present were Vice Chair Chris Williams, Member George Lamprey, Alternates Palmer Smith, Anthony Avrutine and Clerk Aimee Manfredi-Sanschagrini. In the audience were Planning Board member Bill Ricciardi, Ken Ballance, Code Enforcement Officer, Attorney Michael Kasten, Tom Carpi owner Center Harbor Inn, and Monte Fiske.

I. SITE VISIT CENTER HARBOR INN LOCATION 5:30 P.M.

Site visit at Center Harbor Inn location commenced at 5:30 p.m. Chairman announces no wandering on the premises, no discussion between Board members. If a question is asked by a Board member all must be able to hear the question and the response. No questions will be taken from the public during the site visit, if the public has questions they will be addressed when we reconvene the hearing in the Cary Mead Room. No decisions or votes will be taken during the site visit.

Chairman turns over the discussion to the applicant Tom Carpi. Tom Carpi indicates the positioning of the building does block the residential abutter on the right side from where the events would be held (viewing property from rte. 25). On the left side he indicates the tree line and beach buffer the left side of the building. Tom Carpi continues with the construction of the deck and the amount of people it can hold. Tom Carpi again refers to the engineering survey he had completed which was a requirement from the Code Enforcement Officer. Tom Carpi shows the entrance to the property is a central location where the occupants can access their rooms from. Tom Carpi, "It seems like a commercial property even though it is in the residential zone."

George Lamprey: is the split rail fence where the boundary line is on this side (referring to the side that abuts Center Harbor Town Property). Tom Carpi, yes it's pretty close, it moves along the tree line. George Lamprey, and on the other side of the building where is the boundary there? Tom Carpi, where the bushes are, it's very tight on that side.

Bernie Volz: All the rooms are accessed from the front entrance and only a few down on the bottom and top that don't use that entrance? Tom Carpi, correct.

Chris Williams: So you have staff that lives here too? Tom Carpi, staff lives in the house where the office is. Chris Williams, do you have areas where people can get together. Tom Carpi, yes a room for card games or to grab take out and go in the common area and eat.

Chris Williams asks to see how to access the rooms. Tom Carpi takes the Board inside the entrance way and shows the access.

Anthony Avrutine asks how many weddings were held at the property last year. Tom Carpi, two. "One that was allowed by the Town and then a second one that my manager did without my knowledge." Anthony Avrutine, but you do not anticipate having weddings during the season? Tom Carpi, no just during the bumper months. Tom Carpi, we typically fill the rooms during the summer. Castle in the Clouds will send people over to stay here so we are usually full. I don't foresee anything different. For the property itself I just want the ability to have such events if we so choose.

Chairman asks if there are any further questions, hearing none site visit was concluded at 5:52 p.m.

II. HEARING – CONTINUED CENTER HARBOR INN – 6 P.M.

Chairman starts the hearing by asking members to announce themselves. Chairman goes through the procedure of how the hearing is to be conducted. Chairman then refers to a notice submitted to the Board on September 29th through the Zoning Clerk. Chairman refers to RSA 36:55 definitions followed by RSA 36:56 and 36:57. Chairman continues, what it does say for review required is this: *A local land use board, as defined in RSA 672:7, upon receipt of an application for development, shall review it promptly and determine whether or not the development, if approved, reasonably could be construed as having the potential for regional impact. Doubt concerning regional impact shall be resolved in a determination that the development has a potential regional impact.*

Source. 1991, 300:1, eff. Jan. 1, 1992. 2009, 194:1, eff. Sept. 11, 2009.

Now the definition which is in Section 36:55 says: *In this subdivision "development of regional impact" means any proposal before a local land use board which in the determination of such local land use board could reasonably be expected to impact on a neighboring municipality, because of factors such as, but not limited to, the following:*

Chairman, I am only going to read number IV because this is the only one that pertains to this situation: *IV. Anticipated emissions such as light, noise, smoke, odors, or particles.*

Chairman continues, what it looks like we are supposed to do in this case and you will find this under Section 36:57 *Upon determination that a proposed development has a potential regional impact, the local land use board having jurisdiction shall afford the regional planning commission and the affected municipalities the status of abutters as defined in RSA 672:3 for the limited purpose of providing notice and giving testimony.*

Chairman, I believe we should notify Moultonborough because they are across the bay, as well as notify the Lakes Region Planning Commission (LRPC) because they are the regional planning commission of this area. I think to do that we would need to continue the hearing and allow them to participate if they so desire.

Chairman, if we feel that this RSA does apply to this situation, then we have to notify the Town of Moultonborough and the LRPC.

George Lamprey, my initial reaction first off is that I am surprised. I always thought of that contextually in relationship with subdivision plans that were up against the Town boundary. That has been the context I have been familiar with. However, you have certainly articulated the particular line regarding the noise and if that is an issue for us, it is certainly an issue for both sides of the bay going out as opposed to just Center Harbors. I'm stunned first because I just never thought that would be appropriate to this. I am going to listen to further arguments before I feel like this pertains to this situation. It's intriguing the interpretation of it.

Chairman, when I first read it I said it's not a development situation so I was not sure it would really apply. But then when I looked to see what they define that "development" means it seemed that it may fall under this.

George Lamprey, and it does not articulate a Planning Board it has a Land Use Board which I find interesting. (Per the 10/15/15 approval of minutes as corrected George Lamprey intended to state “Zoning Board” inadvertently said Planning Board. Recording reflects Planning Board at the 10:37 mark of the recording).

Attorney Kasten for Center Harbor Inn, I have not had a chance to review this. Like you it’s quite a surprise this would come up. I don’t really believe this is the type of use that would have a potential regional impact. We are talking about a wedding reception, I don’t think it would hold that much weight in that type of analysis. Again, being surprised by this, I would agree with the statements that this is probably intended for more of a significant development. This situation is a less than seasonal use that we are talking about that would be part of the property.

Chris Williams, has this been run by Attorney Chris Boldt? Chairman, no.

Ken Ballance, is it possible for me to weigh in at this point? Chairman, yes we are open to discussion. Ken Ballance, I did contact the Moultonborough Planning Clerk 3 days ago, Bonnie Whitney and she was of the opinion that they would want to weigh on this. I did bring up the fact this was something going on in Town and this is how this started.

George Lamprey, I do notice that the definition in this section begins “in this subdivision” which I think supports my original impression which is this relates to the development of a subdivision.

Ken Ballance, the Municipal Association gave opinion over the phone that they thought it would be necessary to notify. That is where we got the RSA numbers from.

George Lamprey, who is it that we have to let know? Chairman, the Town of Moultonborough and the LRPC.

George Lamprey, is it your position that we make a motion and decide if notice need be given? Chairman, yes. I think that is what we are being asked to do, is to determine whether this notification is necessary or not.

George Lamprey, because this has been articulated to the degree that it has I think it needs to be decided. I would move that notice be given to the Regional Planning Commission and the Town of Moultonborough relative to both the application for a Special Exception and for Variance under Section 36:55, 36:56 and 36:57. Seconded by Chris Williams. Chairman, any further discussion? No further discussion.

Vote: Three were in favor two against, motion carries to send notification to Town of Moultonborough and LRPC.

Attorney Kasten, so am I understanding that you are stating notification must be sent before you make a decision on the application? Both Chairman and Vice Chair state that is their interpretation. Hearing has been continued to October 15, 2015 at 7 p.m.

OTHER BUSINESS.

Chris Williams moves to approve the minutes as corrected, Anthony Avrutine seconds. All were in favor.

Meeting adjourned at 6:40 p.m.

Respectfully Submitted by Aimee Manfredi-Sanschagrin