

1 **MINUTES OF THE ZONING BOARD OF ADJUSTMENT**
2 **MEETING JANUARY 12th 2009**
3 **MERIDEN TOWN HALL**

4 Zoning Board

5 Members Present: Richard Colburn, Chairman Ted Moynihan
6 William McGonigle Brad Atwater
7

8 The meeting opened at 7:00pm.
9

10
11 The December 8th meeting minutes were approved as amended.
12

13 **Case 2009-01 Shawn Wilder, Wind power generator:** Chairman Richard Colburn opened the
14 hearing by reading the posted notice. Mr. Wilder explained his application to install, at his
15 residence, an up to 100' monopole tower with a 1.8 kw wind powered electric turbine. Mr.
16 Wilder indicated that many of the projects details remain in flux. By example the application
17 proposes blades with a 12' diameter, but he may want to go up to 20' in diameter. Shawn noted
18 that the tower pole height would not be greater than 100'. Shawn supplemented the file with
19 some photos of the property that have a 100' tower with a 12' diameter three bladed wind tower
20 depicted on the proposed site. The board felt these photos were very helpful in judging the
21 impact of the project on neighbors. Don Jordan, representing property of Alice Jordan, the
22 property that likely has the created line of sight to the project, noted that his family has no
23 objections to the proposal. The board held a detailed discussion about the priorities for this type
24 of application. In absence of a specific ordinance to address these project the board is held to the
25 more general standards for granting special exceptions. These criteria focus on public safety and
26 minimizing impacts to neighbors. Board members felt it was important to insure that removing
27 the tower when it was no longer functional was a priority and to insure that the tower is
28 constructed to the applicable codes for these types of structures. Board felt that if the planning
29 board develops a wind turbine ordinance it definitely should include provisions separating "large
30 scale from small scale operations," as well as decommissioning of the tower, also tower heights,
31 blade length and width should all be given consideration.
32

33 While wanting to be supportive of small-scale residential electricity generation the board
34 struggled with the concept of reviewing the application without knowing for certain the
35 specifications for the tower and turbine that is being proposed. Part of this discussion centered on
36 responsibility to abutters who may have formed certain expectations based on the filed
37 application. All agreed that much like town meetings some modification can and do result from
38 the public hearing process. In the end, the board determined that some deviations from the
39 application would be allowed, but that any changes would be governed by the following criteria:
40

- 41 1) The building inspector will review the specifications for the tower/turbine to determine
42 code compliance.
43
- 44 2) The tower is required to be removed when no longer capable of generating electricity.
45
- 46 3) Any increase greater than 25% in turbine capacity, noise emissions or blade length over
47 that proposed in the application materials will require additional board review.
48

1 The above being acceptable to the board, Moynihan moved to approve the application as outlined
2 and governed by the above conditions. The motion was seconded and voted in the affirmative by
3 a vote of 4 to 0.

4
5 They're being no other business the January meeting was adjourned.

6
7 Submitted,
8
9 Stephen Halleran

10
11
12

1 **MINUTES OF THE ZONING BOARD OF ADJUSTMENT**
2 **MEETING February 9th 2009**
3 **MERIDEN TOWN HALL**

4 Zoning Board

5 Members Present: Richard Colburn, Chairman Ted Moynihan
6 William McGonigle Stephen Sheehan
7 Margaret Cassedy

8
9 Planning Board

10 Members Present: Jane Stephenson, Chair Ruth Cassedy
11 Des Hudson Mike Sutherland
12 Judy Belyea

13
14 The meeting opened at 7:00pm.

15
16
17 The ZBA January 12th meeting minutes were approved as amended.

18
19 As previously determined, several Planning Board members attended the meeting to discuss two
20 zoning ordinance projects that the Planning Board is working on for 2010.

21
22 The first was an ordinance to regulate **wind powered generating devices**, both for residential
23 and commercial applications. The Planning Board has been using information from the State
24 Office of Energy and Planning as a starting point for its discussion. State law is clear that while
25 local ordinances can be used to regulate these devices, the regulations must not act as a
26 significant disincentive for those wishing to install wind turbines.

27
28 From the discussion the following concepts emerged:

29
30 Wind powered generators should be an option that is widely available throughout town. While
31 regulation are an important way to minimize the adverse impacts of these units, renewable energy
32 is to supported and encouraged.

33
34 As a means of insuring good communication with the town and abutters all proposals, whether
35 residential or commercial in nature should be required to go through the special exception
36 process.

37
38 Larger more intensive commercial projects should also have to go through the site plan review
39 process. By example residential units are likely no higher than 100' while commercial units can
40 be as large as 300' in height.

41
42 Residential proposals would likely be capped at no more than a single tower with a maximum
43 height of 100' and a generating capacity of no greater than 100kw/hour.

44
45 Part of the application process will be that applicants must demonstrate that the proposed
46 generator is designed and will be constructed to current codes and standards. The unit should be
47 located so as not to endanger property of others in the event of a failure.

48

1 The application must include some sort of visual analysis that will allow the ZBA to determine
2 the impact of the proposed unit (s). Balloon tests and /or computer-enhanced photographs are
3 both possibilities.

4
5 Insuring that the generator does not emit levels of noise that would rise to the level of a nuisance
6 is also important.

7
8 Plans for removing the tower once it is no longer generating electricity will also be important.

9
10 Commercial projects are also governed by state law RSA 162-H and will be required to have
11 gone through that process as part of any local approvals.

12
13 The Planning Board will, once available, forward a draft of any proposed ordinance to the ZBA.

14
15 The second issue of discussion was **Work Force Housing**. The Planning Board continues to
16 gather information on this topic. The town expects to receive some guidance from the regional
17 planning commission in the coming months. What is clear from the new legislation is that the
18 town has a responsibility to insure that our zoning ordinance does not discourage the creation of
19 affordable or so called workforce housing projects. Looking critically at our zoning regulations,
20 large per unit lot sizes, no apartments or units in detached buildings and our requirements that all
21 projects must be on public roads are possible barriers to these sorts of projects. The Planning
22 Board continues to consider the idea of permitting, perhaps by special exception, a density bonus
23 for projects that include affordable housing units in the overall plan for a given project.

24
25 The meeting broke up at 9:00pm.

26
27 Submitted,

28
29 Stephen Halleran

Richard Colburn, Chair

30
31
32
33
34
35
36

1 **MINUTES OF THE ZONING BOARD OF ADJUSTMENT**
2 **MEETING MAY 11th 2009**
3 **MERIDEN TOWN HALL**

4 Zoning Board

5 Members Present: Richard Colburn, Chairman Ted Moynihan
6 William McGonigle Brad Atwater
7 Stephen Sheehan Margaret Cassedy

8
9
10 The meeting opened at 7:00pm.

11
12 This being the first meeting since February, the February 9th minutes were approved.

13
14 **Case 2009-02 Kimball Union Academy:** Setback Encroachment request for the Hall house
15 relocation project. Chairman Colburn opened the hearing noting that the ZBA's role in the case
16 is strictly the setback issue, the broader issue of the appropriateness of the building move is an
17 issue that will be in front of the Planning Board in early June.

18
19 Rod Finley of Pathways Consulting explained that as part of the relocation of the Hall house from
20 7 Main Street to the vacant land between Welch House and Huse House KUA wishes to be able
21 to line the relocated structure up with Welch and Huse both of which are approximately 22' from
22 the Main Street right of way. A 30' setback is required by the ordinance, however the setback
23 can be cut in half by special exception. It was noted that there is no reason other than aesthetics
24 that the building cannot be located to satisfy the setback. The Zoning Board held a detailed
25 discussion about how this application should be handled, as an area variance or setback
26 encroachment. The board determined that given that the site plan includes provisions for merging
27 the parcel in question into the main campus property, thus clarifying that this will be an accessory
28 building to the established use of a private school that a setback encroachment as listed in
29 schedule A was an appropriate way to proceed. Section 3.11 of the ordinance outlines specific
30 criteria for setback encroachments when a building existed prior to 1974. Several board members
31 questioned whether the application should wait until after the Planning Board conducted its
32 review. The board determined that the application could move forward with the condition that
33 the planned lot merger is approved. If the merger is not approved or a material change in the plan
34 occurs a return to the ZBA would be necessary.

35
36 The case was opened to abutters for comments. A letter from Lee Marden in support of the
37 application was read and is in the project file. Direct abutters Greg and Lori Estey noted that the
38 reported setback distance for Huse house did not include the front porch, but was measured from
39 the main dwelling. This led to a question as to what modifications were planned to the front of
40 Hall house. Jim Gray, KUA CFO noted that the plan was to orient Hall house in the same way as
41 it is now on Main Street and to keep the front looking exactly as it does now. There are no plans
42 for a porch. A future addition to accommodate a women's dormitory is planned for the rear of
43 the building, but not at this time. The immediate use of the building will be faculty housing.

44
45 James Holdaway noted that the large gable end (fronting face) of Hall house might be better
46 served by the additional 8' of setback, so as not to overwhelm Huse or Welch. He encouraged
47 KUA to look at this closely using an imaging tool such as photo shop. It was noted that the
48 granting of the encroachment does not require the building be located within the setback, it only
49 provides the applicant and the Planning Board the option of lining up the three buildings.
50 Pathways noted that they will have a visual analysis available at the site plan review.

1
2 A discussion followed as to the finished grades and transitions with Main Street and the adjacent
3 drainage way. The low point of the site will be raised about 5' to accommodate the new
4 structure. As planned all slopes can be transitioned to existing grades without retaining walls.

5
6 The Zoning Board reviewed the general criteria for granting all special exceptions and the
7 specific criteria for the setback encroachment finding that the proposal satisfied the requirements
8 and did not result in any negative consequences a motion to approve the encroachment was made
9 and seconded subject to the following condition:

10
11 Approval by the Planning Board of the proposed lot merger and site plan review.

12
13 The motion was approved on a unanimous vote.

14
15 **Spruce Park:** Park President John Smith and park resident David Lersch met with the Zoning
16 Board to discuss the process for applying for a 6 unit expansion of the park. See attached
17 support. Board members noted that the commitments made by a previous owner to cap the park
18 at 29 units remain in effect subject to some significant change in the zoning ordinance and or a
19 directive from either state law or the town itself. A one unit expansion of the park was denied
20 some years ago. The park leadership was encouraged to also meet with abutters to the park to
21 learn more about their issues and concerns with any expansion and to also meet with the Planning
22 Board to see what changes are proposed to the zoning ordinance in response to the workforce
23 housing legislation. All agreed that the ownership of the park has done a wonderful job with the
24 facility, however, the land use approvals go with the property not the owner and subject to some
25 significant change, current boards are unlikely to change decisions made by previous zoning
26 boards.

27
28 The meeting adjourned at 9:45pm.

29
30 Submitted,

31
32
33 Stephen Halleran

Richard Colburn, Chair

34
35
36

1 draft
2 **MINUTES OF THE ZONING BOARD OF ADJUSTMENT**
3 **MEETING AUGUST 10th 2009**
4 **MERIDEN TOWN HALL**

5 Zoning Board

6 Members Present: Richard Colburn, Chairman Ted Moynihan
7 William McGonigle Stephen Sheehan
8 Margaret Cassedy

9 The meeting opened at 7:00pm

10
11 This being the first board meeting since May, the meeting minutes from May 11th were approved
12 as amended. The Board reviewed the details of the upcoming Office of Energy and Planning
13 October 17th Planning and Zoning Conference. Board members who wish to attend can register
14 by contacting the town office.

15
16 **Case 2009-03 Sara Burbee former Hook's Welding Shop:** The applicants through their agent
17 explained that they have purchased #644 Route 120 property formerly used as a welding shop and
18 plan to use the facility for the limited sales and repair of cars and campers. Mr. Burbee owns a
19 much larger facility between Claremont and Newport and the Plainfield property would be used
20 for overflow sales and incidental repairs. Retail auto repairs are not part of this application. The
21 facility will be used to make repairs to cars and campers that are being sold or perhaps have
22 recently been sold by the business. John Burbee added that the building is close to his home and
23 gives him a place to work locally. He plans to rehab the entire facility both inside and out and has
24 already begun the task of cleaning up the outside. As proposed, the business will have hours of
25 operation no greater than Monday thru Saturday 8:00am to 7:00pm with no more than four
26 employees and no more than seven units (cars, trailers, or campers in any combination) for sale at
27 any one time. In practice, John expects that the building will not be staffed most of the time and
28 that sales will be made by chance when he or one of his employees happens to be on site or by
29 perspective buyers calling a posted phone number. Future rental of the single-family residential
30 unit attached to the garage is also planned and is part of this application. Building Inspector Dave
31 Lersch explained that to be occupied the residential unit will need a two hour fire wall between it
32 and the shop area. Likewise hardwired smoke detectors will need to be installed throughout both
33 the shop and the rental unit. The detectors will have to be connected so as to alert anyone in
34 either space of a problem within the entire building. Insuring that all bedrooms have properly
35 sized egress windows will also be a necessity.

36
37 Halleran noted that the Selectboard has concerns about the status of the existing septic system on
38 the lot. These concerns are based on investigative work done by perspective buyers for the
39 property who as part of their research spent time in the town office and on the site. John Burbee
40 noted that their experience is that the septic system is functioning properly and that if at some
41 point in the future it failed a replacement would be immediately installed.

42
43 Jim Gray, representing KUA was the only member of the public in attendance and voiced no
44 opposition to the proposal. Board members interpreted the lack of attendance or written
45 comments from the property's residential abutters as not objecting to the proposed use as it
46 relates to the existing neighborhood.

47
48 Board members began the task of sorting through the application and representations made by the
49 applicant to see if the project conforms to the town's zoning ordinance. As proposed, the project
50 is a combination of related uses (vehicle sales/repair with a rental apartment). Noting the lack of

1 a detailed site map board members were willing to move forward with the application but found it
2 necessary to leave most of the operational details to the site plan review process. It was noted
3 that the proposed use is planned for the same building and grounds that have previously housed
4 an active welding repair shop with an attached residence that included an extended family. As
5 presented to the ZBA, the new use will be far less intensive. John Burbee explained that he is
6 before the board due to a request by the town office. Specifically, the Selectboard felt that sales
7 of vehicles without a declared primary use was not in conformance with the town's zoning
8 regulations. He and his wife have not fully thought out all the details of the proposal at this time,
9 they simply want to clean up the property, use it for incidental sales/repair and as time and funds
10 allow fix up the residence.

11
12 Board members focused their review on the appropriateness of a residential rental unit within the
13 same building and on the same 1.6 acres as a sales/repair operation. Deducting the dimensions of
14 the building and the existing parking area board members determined that lot coverage is in
15 conformance with the zoning ordinance, leaving at least 80% of the parcel available as green
16 space for the residential unit. Likewise the board determined that there was ample space to
17 realistically allow for residential parking on the north end of the parcel and retail sales and
18 employee parking at the south end of the lot.

19
20 Board member Cassedy noted that she is not comfortable with the level of detail in the
21 application and would like to see more specifics before a vote is taken. While generally agreeing
22 that the application lacks specifics, a majority of the board felt that sufficient information and
23 knowledge about the parcel and proposal was available for the ZBA to move forward with its
24 broad determination as to appropriateness of the use. All agreed that to complete the site plan
25 review process with the Planning Board significant work would be required, by the applicant, to
26 develop a site map.

27
28 Member Moynihan moved to approve the combination of related uses to include a single family
29 residence and an approved business project. In doing so the board finds that uses will fall within
30 the envelope of the existing structure and historical use of the property with the residential use
31 confined to the north end of the property and the display and satellite repair use confined to the
32 existing shop and south end of the property allows the application to meet the requirements of the
33 ordinance as laid out in 4.3B as well as 5.6II. The approval subject to the following conditions:

- 34
35 1) Applicant will produce a site plan acceptable to the Planning board as part of the required
36 site plan review.
37 2) The Planning board shall specify how the residence and business will be separated.
38 3) Building Inspector will certify that the two uses are code compliant including a review of
39 the septic system on the site.
40 4) The business is to be kept small and limited to no more than four employees with hours
41 of operation no broader than Monday through Saturday 8:00am to 7:00pm with no more
42 than seven units for sale at any one time.

43
44 The motion was seconded and voted in the affirmative on a vote of three to one with
45 Chairman Colburn abstaining. Margaret Cassedy again explained that her vote is in objection
46 to the quality of the application not the merits of the proposal.
47
48

1 The Board reminded Halleran that all applicants are required to submit a detailed site map for
2 board review prior to the scheduling of a hearing.

3

4 The meeting adjourned at 9:15pm.

5

6

7 Submitted,

8

9 Stephen Halleran

Richard Colburn, Chair ZBA

10

11

12

13

14

15