

ASHFIELD ZONING BOARD OF APPEALS

Public Hearing

Thursday, December 11, 2014

Town Hall, Ashfield

7:00 p.m.

MINUTES

Case #: 2014-2

Buckland Road Trust/ Laura Quinn & Rich O'Brien

Application by Laura Quinn, as trustee of the Buckland Road Trust, for a Variance from Section VI C (2) of the Ashfield Zoning Bylaws which restricts a "mobile home" from resting in the town for more than six months in any calendar year. Petitioner is owner of the property, Ashfield Assessors Map Page 4-1, Lot 13. Petitioner wants to permanently site on the property an Escape Park Model RV home.

Abutters were notified of the hearing by mail, a notice was printed in the Greenfield Recorder on November 26 and December 3, and notice of the hearing was posted online and in Town Hall on November 19 and mailed to abutters on November 22.

Present:

ZBA members: Mollie Babize, Chair; Kit Nylén; Anne Yuryan

Laura Quinn and Rich O'Brien, petitioners, 101 Kimberly Drive, Dalton, MA 01226

Alan Rice, Ashfield Planning Board

Lester Garvin, Ashfield Conservation Commission

Gordy Van Guilder, abutter

Beverly LaBelle, abutter

Michael Melcher, prospective ZBA member

Supporting documents:

Application for Variance

Letter from Building Commissioner James Hawkins denying a building permit for the mobile home
Deed for the 7.83-acre lot recorded in Book 6432/Page 344

Scale drawing of the site plan

Photos and floor plan of the RV

Brief in support of granting the Variance

Proposed findings and decision

Meeting called to order at 7:00.

Minutes from meeting of October 31, 2014 approved unanimously as written.

Hearing opened at 7:05.

Petitioners' presentation:

Laura Quinn and Rich O'Brien want to permanently site a Park Model RV (on wheels) on their property year-round, but Ashfield zoning law prohibits mobile homes from permanently "resting" in the town for more than 6 months in a calendar year. They bought the property from John LaBelle, who was granted a variance by the ZBA in 2013 (see ZBA Case 2013-1) to permit a dwelling to be constructed on the lot. So although the lot has only 150 feet of frontage, it is now a legal building lot.

The site is steep, shallow to bedrock, with (intermittent) streams on both sides and a good deal of sheet runoff from the hillside, resulting in a very minimal building envelope. The Ashfield Lake is directly across the narrow road. The Conservation Commission is preparing an Order of Conditions to approve this plan (if a variance were granted), and really appreciates the limited footprint of this 14x40' trailer. Conventional modular or stick-built construction would probably involve blasting with considerably more site impact. (Although the site has huge constraints, it is by no means unique; almost all properties along the north side of Ashfield Lake share these characteristics.)

Quinn and O'Brien hired an architect to design a house, taking into consideration the water coming down off the hill, the conservation easements, the small building envelope of "maybe 1/4-acre," the drop-off, and the placement of the two streams on the property. They had a 1,000-square foot house designed, but it would have cost \$250,000.

They feel that the zoning regulation doesn't really pertain to the home they want to put on the property. They say that this home is not a typical "mobile home." The 400-square-foot RV has insulation, tongue-in-groove pine, a tiled shower, heated floors, and other high-end finishings. It will rest on wheels on a metal foundation, elevated, with concrete cinderblocks to make sure it remains stable. They will skirt it, enclose the wheels, and put a deck and landscaping around it. Water and sewer are right at the property and hookup will be to code.

General discussion:

The unit (see it at escapehomes.us, Classic Model ESCAPE) is handsome and, from the photos supplied, appears to be well built and nicely appointed.

From the manufacturer's website:

** Park Model RVs are for seasonal use, normally in a campground, are on their own chassis and by law can not exceed 400 square feet in size. Each ESCAPE is hand made in America, meets or exceeds the rigid ANSI A119.5 building standards and is RVIA approved.*

(Ashfield Zoning Bylaws description of a Mobile Home: Manufactured housing with at least one dwelling unit and built in accordance with the National Housing Construction and Safety act (Title VI of Public Law 93-383, 88 Stat. 700, 42 U.S.C. 5401 et seq.) as regulated by the United States Department of Housing and Urban Development (HUD) and not otherwise regulated by the state building code.)

** By law, ESCAPE is a Park Model RV and therefore is not subject to property tax. You simply buy a tag from the DMV every year.*

** Federal regulations provide that a Park Model RV is a towable RV built on a single chassis and measuring 400 square feet or less. In addition, a Park Model RV must be designed as temporary living quarters for recreational, camping, travel or seasonable use and not as a permanent dwelling. Because federal construction standards for manufactured (mobile) homes do not apply to Park Models, most manufacturers, including ESCAPE, comply with standards established by the American National Standards Institute (ANSI). Park Models are titled and registered with state Departments of Transportation where they are used.*

The design of this unit would definitely be an asset to this neighborhood. Ashfield is a Green Community, and the Board supports the idea of providing affordable, energy-efficient, year-round homes in this increasingly costly economy, while still meeting stretch code requirements for permanent buildings.

However, Ashfield zoning law explicitly prohibits a mobile home from being on a property for more than six months a year. Although the ban on mobile homes could be construed as being "snobbish," there is a legitimate issue as to taxes. As essentially a recreational vehicle, this kind of seasonal structure apparently (according to the manufacturer) is not taxed as a residence; it would raise the ire of neighbors and townspeople if it only generates excise tax, not property tax, and the owners are taxed only on the land and thus not bringing revenue to the town to pay for town services. (Others who own homes around the lake do pay property taxes even though they only occupy their houses for part of the year.)

Section VI C 2 of Ashfield Zoning Bylaws:

VI Use Regulations

C. Building Requirements

1. A temporary dwelling, or mobile home, may be used during construction of a permanent residence . . . for a period of no longer than three years from the date construction is commenced . . . Any such temporary mobile home shall be subject to provision of the State Sanitary Code.
2. Mobile homes will be otherwise permitted to rest in the Town of Ashfield for not more than six (6) months in any calendar year.

The ZBA is authorized to grant variances only if it finds that an application meets all of these criteria:

1. owing to circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located
2. a literal enforcement of the provisions of the ordinance or bylaw would involve substantial hardship, financial or otherwise, to the petitioner
3. desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or bylaw

After considering the three points above, the board unanimously agreed that it could not grant a variance to the petitioners to permanently site a mobile home on their lot for the following reasons: the soil conditions, shape, and topography of the lot are difficult, but many lots in the area have similar constraints; it does not seem that enforcement of the bylaw would not involve substantial hardship to the petitioners; granting a variance for this mobile home would substantially derogate the intent of the bylaw. In addition, the inability to collect property tax on the home while having to provide town services, is a substantial detriment to the public good.

If, however, the unit could be altered in some way or placed on a foundation, it might qualify as a permanent structure.

The Board told the petitioners that either (a) we must deny his application to place a mobile home permanently on this (very constrained) site, or (b) they could find a way in which to make this structure a “modular” or at least not mobile home, in which case he could build it by right.

The question is, how much of the building code would it be necessary to comply with in order to make it a year-round, permanent structure even if only used seasonally. Putting in a foundation is one clear requirement, as would be energy conservation measures.

Determining whether a structure is permanent or modular is not within the authority of the ZBA—such a determination lies with the Building Commissioner.

We are continuing the hearing and the petitioners will contact Building Commissioner Jim Hawkins to search for possible ways they might be able to place the unit on the site and meet conditions for a permanent structure.

Hearing concluded at 8:45. Continued to Thursday, February 5 at 7p.m. in Town Hall.

Other discussion:

Michael Melcher, who sat in on the public hearing to see how the board works, would like to become an alternate member of the Board. Mollie will ask executive administrator Mary Fitz-Gibbon to bring his appointment before the Select Board so that he can be sworn in.

Meeting adjourned at 9:00p.m.

Respectfully submitted,
Kit Nysten