

MINUTES
PEMBROKE ZONING BOARD OF ADJUSTMENT
January 26, 2015 **Pending 1-28-2015**

MEMBERS PRESENT: Bruce Kudrick, Vice Chair; Tom Hebert, Paul Paradis, Dana Carlucci

ALTERNATES PRESENT: Bob Montmarquet

EXCUSED: William Bonney, Chair; Mark Johansen, Alternate

STAFF PRESENT: Everett Hodge, Code Enforcement Officer; Susan Gifford, Recording Secretary

Vice Chairman Kudrick called the meeting to order at 7:00 p.m. Bob Montmarquet was designated to vote on Case #15-01-Z.

PUBLIC HEARING

Case #15-01-Z

Applicant: Arthur and Violette Champagne
 724 Route 28
 Pembroke, NH 03275

Property Owner(s): Arthur and Violette Champagne
 724 Route 28
 Pembroke, NH 03275

Property Address: 724 Route 28
 Pembroke, NH 03275
 Tax Map 868, Lot 30 located in the R3 Rural/Agricultural – Residential
 and the AC Aquifer Conservation Zoning Districts.

Case 15-01-Z A request for a **Variance** under **Article IV Use Regulations, §143-19 Table of Use Regulations**. The applicant, Arthur and Violette Champagne, 724 Route 28, Pembroke NH, is requesting a **Variance** to operate a Dental Lab at 724 Route 28. A variance is required because manufacturing is not an allowed use in the R-3 Zoning District and Multiple uses are not allowed in the R-3 Zoning District under 143-17 **Multiple Uses in the B1, B2, C1 and LO Districts**. The property is owned by Arthur and Violette Champagne. The property is located at 724 Route 28, Map 868, Lot 30 in the R-3 Rural/Agricultural-Residential and the AC Aquifer Conservation Zoning Districts.

Mr. Everett Hodge confirmed that all abutters were notified.

Vice Chairman Kudrick opened the public hearing at 7:03.

There were 4 regular members and 1 alternate member present. Therefore, there was a full five-member board present for this hearing. Vice Chair Bruce Kudrick explained the rules of the hearing. The Board makes its decision based upon the facts presented by the applicant. If any of these facts are subsequently found to be different, the Board reserves the right to revisit its decision.

Copies of assessment card, aerial photograph of the 132-acre lot dated January 2, 2015, Tax Map dated January 8, 2015, sketch of proposed dental lab, and photographs of employees working at a State-of-the-art Fully Integrated Digital Lab.

A prior request for a Variance for a different applicant, for motor-cross racing at 702-728 Route 28 was denied by the ZBA on January 21, 1998. Notice of Decision 97-14-Z was included in the packet.

Arthur Champagne addressed the variance criteria:

Please give a detailed description of your proposal below:

Arthur Champagne stated that his proposal was to operate a state-of –the-art dental laboratory that would fabricate dental appliances such as dentures, implants and crowns at 724 Route 28. He expects to hire 5 employees to start, and maybe employ 15 people as the business grows. There will be UPS and Fed Ex trucks making two trips a day. Supplies will be delivered once a month. There is very low traffic impact with no retail sales. He will work strictly with dentists. An occasional sales person or dentist might visit the facility. The existing building is 2,000 feet from Route 28 and not visible from the road.

1. The variance will not be contrary to the public interest.

The proposed business will not alter the essential character of the neighborhood or threaten the public health, safety or welfare. A dental laboratory is a small business that has low impact on the neighborhood. No noise or odors will result.

2. The spirit of the ordinance is observed.

The lot is 132 acres, and the applicant is renovating an existing building on the property. The building is about 2,000 feet from Route 28 and is accessed by a residential driveway.

3. Substantial justice is done. The applicant would be able to operate a small manufacturing operation to fabricate teeth for dentists. The business would provide several local jobs.

4. The values of surrounding properties are not diminished. Surrounding property values will not decline by permitting the requested variance. The building is not visible from the road or from any surrounding properties. The building is an existing woodworking shop that Arthur Champagne will and renovate and add aseptic system. The building already has water supplied from a well.

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.

- i. **No fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because:**
- ii. **The proposed use is reasonable.**

B. If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to make a reasonable use of it.

The proposed use is reasonable on a large property located in the R-3 Zoning District. However, manufacturing is only allowed in the BI, B2, LO and C1 Districts.

Mark Champagne, son of applicant, and dental technician stated that the lab works with plastics and Mortimer (which is flammable) in making dentures. A lot of the work is automated, fabricated from dentist's specifications.

Harold Thompson, Route 28, stated that no one can ask for a better neighbor than Arthur Champagne. If any neighbor is in trouble, he is right there to help. He is a good neighbor.

An email from Bruce Phillips, 734 Route 28 was read into the record. Bruce Phillips was unable to attend tonight's meeting. He has no objections to Arthur Champagne's request to operate a dental lab on his property and is in favor of the Town granting his request.

Arthur Champagne stated that the woodworking workshop that he is renovating as a dental lab was the first building he built on this lot. He plans to renovate the existing building. There is currently septic and well on the lot. Arthur Champagne is planning to put in another septic system in for this building. There will be no retail sales. Occasionally a sales person or dentist may visit the facility. There is more parking than needed for this use. Arthur Champagne plans to purchase expensive new machinery that works with computers and digital scanning. The process generates no dust or noise. Mark Champagne is currently a dental technician and will work for the lab. Arthur Champagne's daughter will handle the business end. Arthur Champagne has 52 years of experience in the dental industry.

Vice Chairman Kudrick summarized the case. This is Case 15-01-Z, a request for a **Variance** under **Article IV Use Regulations, §143-19 Table of Use Regulations**. The applicant, Arthur and Violette Champagne, 724 Route 28, Pembroke NH, is requesting a **Variance** to operate a Dental Lab at 724 Route 28. A variance is required because manufacturing is not an allowed use in the R-3 Zoning District and Multiple uses are not allowed in the R-3 Zoning District under 143-17 **Multiple Uses in the B1, B2, C1 and LO Districts**. The property is owned by Arthur and Violette Champagne. The property is located at 724 Route 28, Map 868, Lot 30 in the R-3 Rural/Agricultural-Residential and the AC Aquifer Conservation Zoning Districts.

Arthur Champagne would like to operate a dental lab fabricating dentures, teeth and crowns for dentists. He will install a septic system for this building. He plans to hire 5 employees to start, up to 15 employees as the business grows. A lot of this work is now done with cameras, computers and 3 D printers. There is some handwork involved. The lot is 132 acres and is accessed by a residential driveway. The manufacturing is low noise with no environmental impact. There was no opposition by any of the surrounding neighbors.

There being no further comment, Vice Chairman Kudrick closed the public hearing at 7:20 p.m.

Deliberations: ZBA members discussed the Variance criteria. Bruce Kudrick noted that he has visited a brace company that works with plaster/plastics and makes prosthetics. There was no indication any business was being done from the outside. Manufacturing is allowed in the B1, B2, C1 and LO districts.

- 1) The variance is not contrary to the public interest. The use does not generate noise or odor.
- 2) The spirit of the ordinance is observed. There is an existing woodworking shop on a 132 acre lot that will be used for the dental laboratory.
- 3) Substantial justice is done. Agree, applicant can do business locally and benefit the public.
- 4) Property values are not diminished. No testimony that property values would be diminished was provided. The existing building is set back from Route 28 2,000 feet and it is surrounded by woods, wetlands and fields.
- 5) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. A dental lab is a reasonable low impact use on a large lot.

MOTION: Bruce Kudrick moved to **APPROVE a Variance** to operate a Dental Lab at 724 Route 28. A variance is required because manufacturing is not an allowed use in the R-3 Zoning District and Multiple uses are not allowed in the R-3 Zoning District under 143-17 **Multiple Uses in the B1, B2, C1 and LO Districts**. The property is owned by Arthur and Violette Champagne. The property is located at 724 Route 28, Map 868, Lot 30 in the R-3 Rural/Agricultural-Residential and the AC Aquifer Conservation Zoning Districts.

The Variance was approved with by a 5 to 0 vote with the following conditions:

1. Must follow all State and local rules and regulations.

Paul Paradis seconded.

VOTE: BOB - YES TOM - YES BRUCE - YES

PAUL – YES DANA- YES

MINUTES OF PREVIOUS MEETINGS

MOTION: Tom Hebert moved to approve the minutes of October 27, 2014 as amended. Bob Montmarquet seconded.

VOTE: DANA - YES TOM – YES BRUCE – YES
 PAUL – YES BOB - YES

MINUTES OF OCTOBER 27, 2014 APPROVED AS AMENDED ON A 5-0 VOTE.

OTHER

Proposed Zoning Amendments for 2015 Town Meeting – Everett Hodge provided ZBA members with a copy of the six (6) proposed zoning amendments that will be voted on at March 2015 Town Meeting.

OLD BUSINESS

Noise Ordinance – Vice Chairman Kudrick reported that he had an opportunity to talk to a person involved with planning and zoning in East Bridgewater MA. This is a rural town with almost a mile of track on a property owned by two racers. The duplexes to the north of the racing facility have no complaints. The homes a mile to a mile and a half south of the track have many noise complaints. Even though the track is highly regulated, and its owners have put in a \$500,000 sound reducing fence, the complaints continue. Birds and wind put the ambient noise over 80 decibels. Interior tracks, and outdoor seasonal tracks like Chucksters, use all electric karts and receive no noise complaints. Vice Chairman Kudrick recommends that if the Town of Pembroke decides to implement a business noise ordinance, they hire a professional consultant to prepare a noise ordinance that will be enforceable.

NEXT MEETING

Date of next ZBA meeting – Everett Hodge noted the next ZBA meeting would be on **Monday, February 26, 2015 at 7:00 p.m.**

ADJOURN **Motion:** Robert Montmarquet moved to adjourn. Tom Hebert seconded. Vote was unanimous in favor of motion. Meeting adjourned at 7:34 p.m.

Respectfully submitted,
Susan P. Gifford
Recording Secretary