

TOWN OF AMHERST  
Zoning Board of Adjustment

November 19, 2019

**APPROVED**

In attendance: Doug Kirkwood – Chair, Robert Rowe – Vice Chair, Jamie Ramsay – Secretary/Treasurer, Charlie Vars, Danielle Pray, and Tim Kachmar – Alternate.  
Staff present: Nic Strong, Community Development Director, Scott Tenney, Building Official, and Kristan Patenaude, Minute Taker.

Doug Kirkwood called the meeting to order at 7:01 pm. He explained the ZBA's process and introduced the Board and staff members. He stated that for this appeal, if the applicant disagrees with the decision, they can apply for a rehearing in writing with just cause within 30 days to the Zoning Administrator. If that request is denied, the next step for recourse is to the Superior Court.

**BUSINESS:**

- 1. CASE #: PZ11905-101819 – Appeal of an Administrative Decision  
Paul Finger on behalf of Friends of Young Judaea (Applicant) – 9 Camp Road,  
PIN#: 008-059-000 - Request for relief from Article H, Section 16, Paragraph D  
associated with the denial of Permit # PO1177-092419 regarding the applicability of  
certain sections of the International Building Code. Zoned Residential/Rural.**

Jamie Ramsay read and opened the case.

Paul Finger explained that he is a member of the Board of Directors for Friends of Young Judaea. He gave a brief background of the camp; the camp was founded in 1939 and has a legacy culture. The camp focuses on communal living and teaching campers to unplug, as no cell phones, televisions, etc., are allowed. The campers spend seven weeks in rugged facilities being introduced to other campers.

Paul Finger explained that the girls bunk area was previously redone. In looking at renovating the boys area, the campers parents have asked that the area stay wooded. The camp is also looking to stay competitive with other camps and feels that updating the boys bunks will help the overall camp and its campers.

He explained that there are issues with the project in terms of the International Building Code (IBC). The IBC doesn't recognize seasonal summer camps as a use group. The closest use group definition that fits is that of a dormitory. This project has already been reviewed and found to be acceptable by the Planning Board and Conservation Commission. The Camp is looking for an appeal of the Building Inspector's denial of their permit based on sections of the IBC.

Paul Finger reviewed some of the relevant standards noted by the Code Enforcement Officer: 1) there were some changes made to the 2009 IBC just prior to the applicant filing. Any necessary changes to represent the 2015 IBC will be made and referenced on the plans; 2) this is proposed to be a non-sprinklered building and the camp has worked with the Fire Department to come up with an enhanced fire alarm system in its place; 3) sprinkler design is being addressed with the advanced fire alarm safety system; 4) the applicant is requesting an appeal from the energy

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efficiency issue due to these being bunks that have no insulation, heating, or air conditioning; 5) the handicap accessibility of the bunks will be addressed by having a management system in place that will allow for installation of a portable ramp when it is needed. One side of the bunk building will have an accessible bathroom. The pool, dining areas, and recreation room are also all accessible; 6) the applicant will address that there is no engineering design for the trusses, floor joists, piers, etc., by complying with all structural requirements. There will be a design build from a general contractor, but this person has not yet been chosen. All information on these design builds will go to the Building Inspector.

The Camp is asking for an appeal due to the unique structure and use of the area. The bunks will be a quality product, safe, and fitting for the situation and setting.

**Discussion:**

In response to a question from Robert Rowe, Scott Tenney, explained that, in his opinion, he would need to see the structural information in order to determine the structural integrity before issuing a permit. He cannot issue a permit without plans to show the loads of these structures. He is also not comfortable with a conditional approval for a building of this type.

Paul Finger stated that the Camp is not asking for a waiver to submit structural design drawings or data. They would not expect a permit to be issued without the submittal of the necessary information.

In response to a question from Doug Kirkwood, Nic Strong explained that, as there is not a Building Code Board of Appeals in Amherst, the Zoning Board of Adjustment takes on that role in this case, per RSA 673:1.

In response to a question from Jamie Ramsay, Scott Tenney explained that Amherst adopted by ordinance the 2009 I-Codes and, subsequently, any amendments adopted by the state. On September 15<sup>th</sup>, the I-Codes were amended from the 2009 to the 2015 version. There is nothing in the 2015 codes that is significantly different from the 2009 codes and nothing that would change the requirements for this application.

In response to a question from Tim Kachmar, Paul Finger explained that the cabins being proposed for the boys side will be in more of a “C” shape, while the girls cabins were designed more in a “T” shape. The structures and finishes, however, will be the same.

Paul Finger explained that the Town has been kind enough to work with the Camp and allow them to file for the entire boys area reconstruction at one time, instead of having to come back for each permit. The project cannot be completed all at once due to funding and a short timeframe, but the project will be undertaken and will proceed in a timely manner.

Scott Tenney explained that the fire sprinkler system is part of RSA 153 – State Fire Code, which requires sprinkler systems. An appeal on this item can only be done at the State Fire

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89 Marshall's Office. The ZBA can grant an appeal based on the town's building code, but not on  
90 the fire code. There has also been no submittal of dimensions for the accessibility ramp that can  
91 be utilized when needed, or the dimensions for the accessible bathroom stall. Without this  
92 information he cannot determine if these items meet the requirements. Items such as these are  
93 what the denial was based on.

94  
95 In response to a question from Jamie Ramsay, Paul Finger stated that the Camp wanted to come  
96 before the ZBA first and will then pursue an appeal at the State Fire Marshall's Office.

97  
98 Paul Finger agreed that the Camp will supply the town with the full dimensions of the bathroom  
99 and any additional fixtures inside it.

100  
101 In response to a question from Doug Kirkwood, Scott Tenney explained that the denial was  
102 based on three items: 1) a lack of detailed structural data (trusses, piers, etc.); 2) a lack of  
103 detailed information on the accessibility items; 3) energy-efficiency code compliance. He urged  
104 the Board to make a decision contingent on receiving these items.

105  
106 In response to a question from Jamie Ramsay, Scott Tenney explained that the lack of  
107 information on these certain items for verification purposes makes it hard to make  
108 determinations on them.

109  
110 In response to a question from Charlie Vars, Scott Tenney explained that the IBC doesn't address  
111 camps as a use group. Instead, the code states that it should fall under the classification it most  
112 nearly resembles. This ends up being the dormitory category based on the number of people the  
113 structures will hold and the intended use.

114  
115 Charlie Vars explained that he took the time to review the girls cabins after they were redone and  
116 he was amazed by the sophistication of the structures. He also noted that he would hate to see  
117 summer camps eliminated because, due to the codes, they can no longer have screens, no heat, or  
118 uninsulated buildings.

119  
120 In response to a question from Robert Rowe, Scott Tenney stated that he is unsure if the State  
121 Fire Marshall would pay attention to the Board's attitude towards this application to be used  
122 during an appeal.

123  
124 In response to a question from Jamie Ramsay, Paul Finger explained that the camp's active  
125 season is from June to August, for approximately seven weeks.

126  
127 Paul Finger noted that the American Camping Association sees an issue with the IBC and that  
128 New York and North Carolina have petitioned the legislature to create an amendment to the  
129 regulations and grant waivers. He hopes to gather support to pursue something similar for New  
130 Hampshire.

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In response to a question from Jamie Ramsay, Paul Finger stated that the Camp has no interest in using the camp year-round.

**Charlie Vars moved to enter deliberations. Jamie Ramsay seconded.  
All in favor.**

**Robert Rowe moved no regional impact on this application. Danielle Pray seconded.  
All in favor.**

Nic Strong explained that, per RSA 674:34, the ZBA as the Building Code Board of Appeals cannot waive items in the Building Code or Fire Code and must make a determination on the appeal based on one of three items: 1) that the true intent of the code or the rules adopted thereunder have been incorrectly interpreted; 2) that the provisions of the code do not fully apply; 3) or an equally good or better form of construction is proposed.

Charlie Vars reviewed the minutes from the ZBA meeting of March 15, 2016 – including language from the appeal made regarding the decision on the girls cabin reconstruction. He indicated that the decision was not a mistake of the Zoning Administrator, as he has to follow the codes and camps are different, factually, from what is listed.

Jamie Ramsay agreed that this entity is a very specific use. It is being defined as a dormitory and, while he doesn't disagree with that classification, it is a different kind of one. He also agreed that Scott Tenney, as the Building Inspector, had no choice as his hands are tied in the matter.

Robert Rowe noted that the category that this structure is being defined as doesn't apply in this instance, as this is a seasonal/summer camp, and not for year-round usage.

Doug Kirkwood agreed that this camp is being held to a standard that does not apply to this use.

The Board agreed that items one and three of RSA 674:34 do not apply to this application.

In regards to item two: that the provisions of the code do not fully apply:

- C. Vars agreed that the other two items don't apply. He also fears that, if the ZBA turns down this appeal, it could be the first step towards eliminating summer camps.
- J. Ramsay agreed that this applicant has a very specific purpose that is not envisioned in the use group that it is being considered in. The definition of this use group does not speak to this application.
- R. Rowe agreed.
- D. Pray agreed that the seasonal nature of the camp is not embodied in the code, as it stands.
- D. Kirkwood agreed and underscored that it is hard to hold the Building Inspector accountable for codes that don't apply to this situation.

**5 True**

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**The Board added the conditions that all construction data will be supplied before a building permit will be issued. This data needs to address the concerns regarding structural data (trusses, piers, etc.), accessibility items, and energy-efficiency code compliance.**

Scott Tenney explained that the request for appeal states that the energy-efficiency code provisions do not apply whatsoever in this case. Thus, there is no need for the energy code information to be supplied.

**The Board noted that, per the Building Inspector's letter dated October 16, 2019, information regarding items 5 [No Accessible provisions noted pursuant to art. 1107.6, "[Accessibility] shall be provided in Group R occupancies [...]" (no ramps provided)], and 6 [Numerous page notes call for pre-cast concrete piers/footings, trusses and engineered lumber. No structural design/data provided for buildings. No specifications or engineered data provided] shall be submitted prior to the issuance of a building permit.**

**Jamie Ramsay moved to exit deliberations. Danielle Pray seconded.  
All in favor.**

**OTHER BUSINESS:**

**2. Minutes: October 15, 2019**

**Jamie Ramsay moved to approve the minutes of October 15, 2019, as submitted.  
Danielle Pray seconded.  
All in favor.**

The Board discussed site walks and the necessity of including information about them in the staff report. Robert Rowe and Doug Kirkwood did not see the need for the language to stay. It was noted that if a site walk was required, it could be discussed by the Board on an as-needed basis.

The Board also reviewed a new, proposed rule of procedure, No-Shows, submitted by Doug Kirkwood. The Board agreed to defer further discussion on this until the next meeting, to allow time for review and understanding.

**Danielle Pray moved to adjourn at 8:52 p.m. Charlie Vars seconded.  
All in favor.**

Respectfully submitted,  
Kristan Patenaude

**Minutes Approved: December 17, 2019**

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