

ZONING BOARD OF ADJUSTMENT
OCTOBER 5, 2010

APPROVED:

11/3/10__jrl_____

AGENDA: CONTINUED VARIANCES: JOHN MESSINA, Holiday Hills Drive, #110-049
4 VARIANCES: MAXTON TECHNOLOGIES INC., Chestnut Street, #115-026
VARIANCE: XLNT LAND INC./MARIAN CENTER, 17 West Shore Road, #111-005

ATTENDING: Alan DeStefano (Chairman), Lorraine Bohmiller, Larry Denton, Ashley Dolloff, Sara Shattuck (alternate)

ABSENT: Michael Willingham (Vice Chair, conflict)

OTHER: Michelle Bonsteel (Land Use Officer), Steve Yannuzzi (Fire Chief), Mike Lewis (Interim Police Chief), Michael Capone (Town Administrator), multiple public

The meeting opened at 6:00 pm. Ms. Shattuck sat in for Mr. Willingham. Mr. DeStefano explained the procedures to follow for Variance hearings and added that there is a 30-day right of appeal following a decision.

CONTINUED VARIANCES: JOHN MESSINA

Mr. Messina requested that the Board continue his hearing to November.

L. Denton made a MOTION, second by L. Bohmiller, to CONTINUE THE VARIANCES FOR JOHN MESSINA TO NOVEMBER 3, 2010. The motion CARRIED.

4 VARIANCES: MAXTON TECHNOLOGIES INC.

The secretary read the applications for the four variances, the list of abutters notified, where the hearing was advertised and stated that there were no phone calls or written correspondence received for this hearing.

When Mr. DeStefano called for the representative for this case, it was acknowledged that no-one had arrived at this time. Mr. DeStefano then asked the Board if they would make a motion to hold this case to later in the evening.

L. Denton made a MOTION, second by L. Bohmiller, to CONTINUE THE HEARING OF MAXTON TECHNOLOGIES INC. TO LATER THIS EVENING. The motion CARRIED.

MAXTON TECH. VARIANCES continued:

At this time, Jim Nyberg, Lake Street, called for a point of order, stating that when an applicant does not appear, it is an automatic denial of the case. This was taken under advisement but the case will be brought up again later this evening as the Board did not know of any such ruling.

XLNT LAND INC./MARIAN CENTER:

The secretary read the Variance application, the list of abutters notified, where the case was advertised and stated that there were no telephone calls or written correspondence received.

Bill Morrison, XLNT Land representative, 320 Summer St., explained that they have a 7' x 14' entrance approval and would like to enclose it so as to have a thermal barrier from the inside to the outside.

Mr. DeStefano asked the Board if they have enough information to continue.

A. Dolloff made a MOTION, second by L. Denton, to ACCEPT THE APPLICATION OF XLNT LAND INC./MARIAN CENTER AS COMPLETE. The motion CARRIED.

Mr. Morrison stated that the entry is post and beam and will have exterior wall framing and windows but no heat. It will act as a thermal barrier and also will catch debris.

Mr. DeStefano asked if the Board had any questions and they had none. He then asked the applicant to address the 5 criteria for a Variance.

NOT CONTRARY TO PUBLIC INTEREST: Enclosing the front vestibule will provide the public with a more effective transition from the outdoors. The exterior will be built in keeping with the Marian Center and surrounding buildings.

THE SPIRIT OF THE ORDINANCE WILL BE OBSERVED: The project would not injure the public and surrounding properties but would rather enhance the building, both visually and functionally.

SUBSTANTIAL JUSTICE: The enclosure will provide a more efficient use of space while not providing a negative impact on the public and surrounding property owners. Enclosing the vestibule will have a positive impact.

VALUES OF SURROUNDING PROPERTIES WILL NOT BE DIMINISHED: The enclosure will be built in keeping with the Marian Center and the surrounding buildings, will be tastefully designed and constructed by professionals.

MARIAN CENTER VARIANCE continued:

Mr. DeStefano stated that hardship had not been addressed.

HARDSHIP: Mr. Morrison stated that denying the variance would prevent the more efficient use of the existing space for the building owner and for the public. It will also prevent the possible decrease in energy use from the thermal barrier provided by enclosing the vestibule.

Mr. Destefano asked that Mr. Morrison present this in writing for the record, which was done. He then asked why this was not done along with the original plan and Beth Morrison, also of XLNT Land Inc., stated that they tried to stay with the original footprint and not change anything from what was there before the building had to be taken down. The architect suggested that this be done while the new building was in process. Mr. Morrison added that it was not suggested at the original hearing in the interest of getting the project going.

At this time, Mr. DeStefano asked if anyone from the public cared to speak in favor. Not finding anyone, he then asked for any in opposition. No-one came forward. Mr. DeStefano then gave a brief explanation of the project and announced that the public portion of the hearing was now closed.

Ms. Dolloff asked if the conditions of the Planning Board were on file. Ms. Bonsteel stated that she has them and the conditions are met.

A. Dolloff made a MOTION, second by L. Bohmiller, to APPROVE THE VARIANCE FOR XLNT LAND INC./MARIAN CENTER. The motion CARRIED unanimously. Again, Mr. DeStefano reminded the applicant of the 30-day appeal period.

4 VARIANCES: MAXTON TECHNOLOGIES INC.

Again, Mr. DeStefano called for the representative for Maxton Technologies Inc. Again, no-one was present.

L. Denton made a MOTION, second by L. Bohmiller, to CONTINUE THE VARIANCE HEARINGS FOR MAXTON TECHNOLOGIES INC. TO NOVEMBER 3, 2010 AT 6:00 PM. Mr. DeStefano asked for the vote and Mr. Nyberg again called for a point of order, stating that a motion requires a discussion be called for. Mr. DeStefano then called for a discussion.

MAXTON TECHNOLOGIES INC. continued:

David Gallagher, Ellen Lane, spoke up and asked how many lots the town owns where this tower is to be located. He was told that the town owns two. He began to add that no one will want to buy the other lot once a cell tower is erected next to it. At this time, it was noted that the discussion has nothing to do with the motion. Ms. Dolloff mentioned that the applicant may have thought that the hearing was at 7:00 PM like other meetings. Mr. DeStefano then called for a vote on the motion.

The motion CARRIED, 4 for and 0 against and the hearing will be continued to November 3rd at 6:00 pm here at the Old Town Hall.

MINUTES OF SEPTEMBER 7, 2010: The following amendments were made: Page 4, 1st paragraph, last line, replace “their” with “there” and last paragraph, 7th line, replace “bought” with “brought”. Page 5, Correspondence, next to last line of the first paragraph, replace “ad” with “and”.

L. Denton made a motion, second by A. Dolloff, to approve the minutes as amended. The motion carried.

COMMUNICATIONS: The notice of the Annual Fall Planning & Zoning Conference, Nov. 13th in Whitefield, NH was addressed. All who are interested in this conference should notify the secretary as soon as possible.

UNFINISHED BUSINESS: None.

NEW BUSINESS: Ms. Bonsteel mentioned that any of the members who are interested in the LGC Conference, Nov. 15, 16, & 17, should notify her.

As Mr. Demarco had just arrived for the Maxton hearing, Mr. DeStefano asked if it was appropriate to open the case again. It was noted that some folks left when the motion to continue was approved and Mr. DeStefano stated that we, therefore, will continue to Nov. 3rd.

With no other business before the Board, L. Bohmiller made a motion, second by L. Denton, to adjourn at 6:30 p.m.

Respectfully submitted,
Jan Laferriere, secretary