



Planning & Land Use Department
Town of Barrington
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Barrington Zoning Board of Adjustment Notice of Decision

Case Number: 238-4-V-14-ZBA-Appeal

Location: 491 Calef Highway

Date: September 25, 2014

Re: George A. Calef and Arvilla T. Calef, Trustees of the George A. Calef Living Revocable Trust of 2008 u/t/a dated May 21 2008 and Arvilla T. Calef and George A. Calef, trustees of the Arvilla T. Calef Living Revocable Trust of 2008 u/t/a dated May 21, 2008 v. Town of Barrington, New Hampshire, APPEAL OF DECISION OF THE TOWN OF BARRINGTON, NEW HAMPSHIRE PLANNING BOARD R.S.A. 676:5(III)

The administrative appeal is denied. The planning board's decision of April 15, 2014 is affirmed to the extent it involves construction, application or interpretation of terms of the Barrington Zoning Ordinance.

1. The applicants withdrew their claims regarding §'s 6.2.2 (8) and 6.2.2 (9) of the zoning ordinance.
2. With respect to the remaining sections of the zoning ordinance cited by applicants, several ordinance sections are general statements of purpose a/k/a "purposes clauses." They are not specific requirements of zoning and they have no regulatory content. Therefore, these sections are not appealable. These are: §'s 2.2, 2.2.5, 7.1, 12.1, 12.2.
3. To the extent these statements of purpose may be appealable as administrative decisions, the applicants did not meet their burden of establishing that the planning board's site plan approval misconstrues, misapplies or misinterprets these sections of the zoning ordinance. The planning board record indicates that it did not misconstrue, misapply or misinterpret these sections of the zoning ordinance.
4. Other zoning ordinance sections cited by the applicants are requirements that developments comply with other sets of regulations. If these other regulations are not met, the appeal should be taken under the procedures of the applicable board or agency, not under the zoning ordinance. These are: § 3.1.6 Site Plan Review. §'s 3.1.5, 4.2.4 (1) DES.
5. The planning board approval is conditioned on approval of three (3) site plans relative to the proposed new well. Concerns about water issues and compliance of the wells with applicable requirements will be addressed during those reviews. The well is not a part of the subject site

plan. Thus, there is no error by the planning board in construing, applying or interpreting § 7.1 (1) of the zoning ordinance.

6. The essence of the oral argument presented by the applicants at the August 27, 2014 hearing involves a dispute between the applicants and Mr. Milo over abandonment of a well and/or rights to a new well. The ZBA has no jurisdiction to adjudicate that private contract dispute.
7. The Joint Motion to Dismiss is granted in part relative to the parts of the administrative appeal which assert that the planning board did not comply with its site plan review regulations. The ZBA has no jurisdiction to review appeals of the planning board's interpretation, construction or application of its site plan review regulations. The remaining parts of the Joint Motion to Dismiss are moot given ¶s 1 - 6 of this decision.

For additional information, please reference the Zoning Board of Adjustment meeting minutes of Wednesday, August 27, 2014.

Case Number: 238-4-TC-14-ZBA

Chair – Zoning Board of Adjustment

Date: September 25, 2014

333 Calef Highway (Route 125)

Map: 238 Lot: 4

Barrington, NH 03825

A motion for rehearing may be made in the form of a letter to the Board. The motion must be made within 30 days; this 30-day time period shall be counted in calendar days beginning with the date following the date upon which the board voted to approve or disapprove the application in accordance with RSA 21:35. *Reference RSA 677:2*

Cc: George and Arvilla Calef
Attorney Jae Whitelaw
Attorney John Arnold
Attorney Michael Donovan