

**KNOWLTON TOWNSHIP ZONING BOARD OF ADJUSTMENT
RESOLUTION OF MEMORIALIZATION**

**Approved: October 4, 2022
Memorialized: November 1, 2022**

**IN THE MATTER OF
JOHN MINTON (LOG CABIN INN)
BLOCK 48, LOT 13
PRELIMINARY AND FINAL MAJOR SITE PLAN AND
VARIANCE APPLICATION
APPLICATION NO. ZB21-003**

WHEREAS, John Minton (Log Cabin Inn), (hereinafter known as the “Applicant”) filed an application for preliminary and final major site plan and variance approval with the Township of Knowlton Zoning Board of Adjustment (hereinafter known as the “Zoning Board”) on October 26, 2021, and

WHEREAS, the application was deemed complete on July 5, 2022, and

WHEREAS, public hearings with notice were held on September 6, 2022 and October 4, 2022, at which time the Zoning Board rendered its decision on the application in accordance with the requirements of N.J.S.A. 40:55D-10(g), and

WHEREAS, it has been determined that the Applicant has complied with all of the rules, regulations and requirements of the Zoning Board for purposes of filing the application and that all of the required provisions of said compliance have been filed with the Zoning Board, and

WHEREAS, the Zoning Board has received as part of the hearing process the following

testimony and documentary evidence submitted by the Applicant and its Consultants, the Zoning Board Staff, and members of the public:

The Applicant is the owner of property known as Block 48, Lot 13 on the Tax Map of the Township of Knowlton. It is otherwise referred to as 47 Route 46, Columbia, New Jersey, 07832. The property consists of 0.9129 acres and is located in the AR-1 Agricultural Zone. Presently located on the property is a restaurant known as the Log Cabin Inn. Mr. John Minton is the current owner of that property.

A review of the application indicates that the Applicant is seeking a use variance to expand a preexisting nonconforming use together with a preliminary and final major site plan. Phase One of the project is to construct a concrete patio which would be 65 by 65 feet with a handicapped access and attendant retaining walls. Phase Two of the project is to construct a cover which would be 65 by 65 feet over the patio. No additional parking is proposed.

As a result of the pandemic and subsequent emergency regulations that were issued by the State of New Jersey, the Applicant was able as part of the pandemic to construct a temporary tent to accommodate outdoor dining. Mr. Minton testified that the existing seating onsite including the indoor dining area and the existing outdoor dining area equals 170 seats. He further advised that the proposed maximum seating for both indoor and outdoor, including the proposed pavilion, would also be 170 seats. The initial plan did not propose any increase in parking.

Mr. Minton testified that while he has only owned the property for six (6) years, the restaurant has been in existence since 1938 thereby establishing it as a preexisting nonconforming use since zoning was not in place at that time for the Township of Knowlton. Mr. Minton further testified that he has operated with the temporary tent and the indoor dining for a period of approximately three (3) years during the pandemic and has experienced no significant problems in terms of operation. While he acknowledged that there is a clear deficiency in parking as would be required for a restaurant use, he noted that many of his patrons are motorcycle drivers and described his operation as a family-friendly biker bar. He testified that while patrons do arrive in automobiles and trucks, there are many that also utilize the existing parking spaces for their motorcycles. He further testified that the current trend in the restaurant business is to accommodate the desire of the public to have outdoor dining. He believes that this was generated by the pandemic but will continue beyond the pandemic period.

When questioned about the seating arrangements, Mr. Minton indicated that he has a small kitchen and that he would not be able to accommodate more than is being shown because the kitchen would not accommodate that volume. He also noted that the restaurant is somewhat self-regulating by the parking. It has been his experience that if patrons can't park, they will simply not come into the restaurant. He has noted that there are times when people park on State Route 46. He has alerted the State Police barracks of the situation. He has been informed by the State Police that people are authorized to park on State Route 46. He has attempted to monitor

that parking in a manner that will result in safety for the traveling public as well as his patrons. He testified that he has not had any safety incidents in regard to this parking arrangement.

Mr. Michael Finelli, a licensed engineer, testified on behalf of the Applicant. Mr. Finelli acknowledged that there is a deficiency in parking. He noted that with the seat count of 170 there would be a need for 68 parking spaces. He was questioned as to how the parking could be accommodated on site given the number of seats that are being proposed. He again acknowledged the deficiency but reiterated that the site has worked in accordance with the testimony of Mr. Minton during the last three (3) years of the pandemic at the seat count that is being proposed. He also noted that the restaurant is being frequented by motorcycles. He noted that three (3) or four (4) motorcycles could be utilizing one (1) parking space. He personally has observed that when he frequents the restaurant.

Mr. Denis Keenan, the Board Engineer, reviewed his reports. He noted that there is a Flood Hazard Area onsite and a wetland transition area. He also noted that there is a need for more detailed information with regard to stormwater management. Mr. Daniel Bloch, a Planner on behalf of the Board, reiterated the concern with regard to the existing parking and the proposed parking in light of the permanent pavilion that is being proposed. He also inquired as to the amount of lighting onsite and requested a lighting plan be provided.

As a result, the Applicant submitted additional information at a subsequent meeting. Mr. Finelli testified with an alternative site plan that increased the parking from 25 to 33. It also

increased the impervious coverage. He noted that the code requires 15% maximum impervious coverage given that this is a residential zone. It would increase with the pavilion to 55.6% with the additional parking, which is the more recent alternative. The impervious coverage would increase to 70.5%.

He also testified that the handicapped parking was now in the rear and they would remove the side ramps since they were no longer needed as there was direct access from the handicapped ramps to the pavilion. He further acknowledged that the new plan would require an NJDEP permit.

Mr. Keenan, the Board Engineer, noted that this plan was cutting into the slope in the rear of the site. This obviously would result in an NJDEP permit. However, he believed this was a benefit for the permit. He further suggested with regard to parking that there would be wheel stops or bumpers to designate each of the parking stalls since there was no intent to surface the parking by any means other than gravel. Mr. Minton acknowledged that he would be willing to stripe the parking stalls.

In regard to lighting, Mr. Finelli indicated that there is no new lighting proposed. Questions did arise with regard to lighting within the pavilion. Mr. Minton testified that since this was a seasonal use structure for the pavilion, the lighting would not have an impact when the leaves are down in the wintertime because the pavilion would likely not be in use.

Mr. James Kyle, a professional planner in the State of New Jersey, testified on behalf of

the Applicant. He noted that the property was located in the AR zone and that this was a request for an expansion of a preexisting nonconforming use together with certain bulk variances including side yard variance, lot depth, lot size, impervious coverage and parking. Mr. Kyle noted that in the case of Price v. Himeji 214 NJ 263 (2013) that certain “c” variances are subsumed in consideration of a “d” variance. However, it was pointed out by the Board Attorney that the Cox book suggested that those circumstances occurred when two (2) factors occurred: (1) the basis for the assertion is the site is particularly well-suited for the intended purpose and (2) acknowledging that the best practice is for the Board to clearly deal with all of the specific variances which are needed bearing in mind that there is case law saying that the Zoning Board has a duty to take cognizance of all variances required for a particular application, even if the Applicant does not address them. Mr. Kyle then discussed both the “d(2)” variance and the bulk variances. He did note that the site is particularly well-suited since the restaurant has been in existence since 1938. It is on a State Highway designated as State Route 46. He noted that for the last three (3) years the owner has in fact had 170 seats with the temporary tent due to the pandemic. He noted that further expansion is unlikely given the fact that the kitchen is not large enough to accommodate larger crowds. He also relied upon the testimony that the manager (Mr. Minton) has managed the parking over the last three (3) years. Mr. Kyle also noted that the two (2) closest residents are hundreds of feet away and are located through dense, wooded areas. He indicated further that this is a particularly isolated site and that it abuts an NJDEP wetland which

means that the site will not be developed. The preserved wetland is to the southeast of the property.

He further indicated that he believed that certain Purposes of Zoning had been advanced. He feels that Purpose (a) is advanced because the outdoor seating is a more healthy option and advances the Emergency Order issued by the Governor, which remains in force and effect until 2024. This Emergency Order provides for the allowance of outdoor seating for health reasons due to the pandemic.

Mr. Kyle also noted that the location of the pavilion is in the rear and is rather attractive, thereby advancing Purpose (i), advancing visual improvement.

He also believes that Purpose (g) is advanced since it is providing a variety of uses by advancing the opportunity for outdoor seating in a restaurant that has been in existence for an excess of 70 years.

Finally, he believes that Purpose (m) is advanced because this is an efficient use of property in this isolated lot.

With regard to the negative criteria, he believes that the site will not have a substantial detriment to the public good since the site is buffered by significant woods and grade from residential properties. He also notes that the capacity of the site is not changing from the installation of the tent due to the pandemic in 2020 through the present time.

With regard to the Zone Plan and the Zoning Ordinance, he believes that there is no

substantial detriment to either. He indicated affirmatively that he believes this advances the purpose of the Master Plan which is to increase the range of commercial uses within Knowlton Township and to provide for economic development and ecotourism, which this expansion does provide. He also believes that there has been a proposal to expand bed and breakfast and eating facilities, which of course this furthers.

From an environmental viewpoint, while he acknowledges that there is a requirement for the Applicant to obtain NJDEP permits, he believes that the amount of impact on wetlands is relatively small in the area of 10,000 to 11,000 square feet, thereby having a *de minimis* impact on the wetland area.

With regard to parking, he believes this is a unique site in that it does cater to motorcycles and therefore while the parking is deficient, many of the patrons will use one (1) parking space to park three (3) or four (4) of their motorcycles, thereby increasing the capacity accordingly. He also believes that it is a more efficient parking arrangement than had previously been provided, and therefore an improvement to the site.

With regard to the wall height, he believes that this is a benefit rather than a detriment because the wall is in the rear and it will help against noise and will not be visible to abutting properties.

There were members of the public who were concerned with regard to noise and light. Mr. Minton indicated that he would be happy to meet with the residents that expressed concern

with regard to light shining into their properties and would adjust the lights to mitigate that concern. He also noted that there was no intent to substantially increase special events that would increase the noise that is currently on the site. After discussion, Mr. Minton agreed that he would place a wood barrier on the wall to further mitigate noise.

In addition to the testimonial evidence, the Applicant submitted the following documentary evidence:

- A-1: A photograph of the original building in 1938.
- A-2: Exhibit of existing conditions dated September 6, 2022.
- A-3: Proposed conditions dated September 6, 2022.
- A-4: Amended site plan and parking plan dated September 28, 2022.

The Board took into account the reports of its Planner and Engineer. The Engineer's reports are dated December 1, 2021, January 31, 2022 and June 27, 2022. The Planner's report is dated _____.

WHEREAS, the Zoning Board, in reviewing the foregoing testimony and documentary evidence, makes the following findings of fact and conclusions:

The Board took into account the testimony and exhibits of the Applicant together with the testimony presented by the members of the public as well as the reports and testimony of the Board's Engineer and Planner and makes the following findings.

The Applicant is seeking a preliminary and final major site plan and a "d(2)" variance for

an expansion of its facility to include a concrete patio and pavilion in the rear of the property along with attendant expansion of parking and retaining walls. The Applicant is also seeking certain “c” variances. The Board finds that the testimony of the Applicant and his consultants is credible. The Board acknowledges that this is a preexisting nonconforming use as there is uncontroverted evidence that the restaurant has been in existence since the 1930’s. The last expansion of the restaurant was in the 1940’s. The Board also takes into account that there has been the construction of a temporary tent as a result of the pandemic to allow for outdoor seating from a health and safety viewpoint in furtherance of the emergency declarations from the New Jersey State Governor’s Office to allow for restaurants to continue to remain in existence. The Board finds that the Applicant’s capacity for the restaurant and the temporary tent was 170 seats. While there was concern raised as to whether or not there could be an expansion of the seating capacity, particularly of the pavilion, the Board found the testimony to be credible that the restaurant’s kitchen is limited and that an expansion of seating would unlikely occur. Further, the Board finds that it should condition any action or approval on the limitation imposed by the Applicant himself, by authorizing no more than an approval for both the restaurant and pavilion of 170 seats. Any further expansion would require further Board approval.

With regard to the “d(2)” variance for an expansion of a preexisting nonconforming use, the Board does acknowledge that the site is particularly well-suited for the intended purpose since the restaurant has been in existence for decades. It also finds that the site has operated at

the same seating capacity over the last three (3) years during the pandemic as the Applicant is proposing for its permanent pavilion. The Board also finds credible the testimony of the Applicant's planner in that it is advancing Purpose (a) of health, safety and welfare by providing an option for outdoor seating. It also finds that Purpose (i) is being advanced in that the Applicant is providing an attractive pavilion onsite. The Board further finds that the pavilion presented to the Board by way of schematic should be incorporated as a condition of approval.

While the Board does take into account the concerns raised by property owners with regard to noise and light, the Board finds credible the Applicant's agreement to work with the property owners to mitigate adverse light that currently exists and to assure that no additional lighting will occur that will have an adverse affect on the surrounding properties. The Applicant is not authorized to expand any special events thereby limiting the amount of additional noise that may occur from the site and adversely affect the surrounding properties.

With regard to the negative criteria for the "d(2)" variance, the Board does find that the nearest neighbors are hundreds of feet away and the view is mitigated by substantial woods, thereby limiting the impact of the expansion on property owners. The Applicant has also agreed to provide a wooden fence on the retaining wall to further mitigate against adverse noise and sound.

With regard to any substantial detriment to the Zone Plan or the Zoning Ordinance, the Board finds that the Master Plan does encourage ecotourism and the advancement of the

economy of the Township. The Board finds that this project will do both. Therefore, there is no substantial detriment to the Zone Plan or the Zoning Ordinance.

With regard to the bulk variances, the Board finds that for similar reasons the Applicant has met the standards for the positive and negative criteria regarding impervious coverage. This is due to the increase in parking and the pavilion. However, the increase in parking is a benefit to the overall plan. The Board also finds credible the amount of impact on wetlands will be *de minimis* and not have a substantial environmental impact. With regard to the other variances, they are primarily preexisting nonconformities and will not be impacted by this project.

For the reasons expressed hereinbefore, the Board finds that there is no substantial detriment to the public good or to the Zone Plan or the Zoning Ordinance as it relates to the bulk variances.

Finally, the Board does find that the alternative plan as found in A-4 is an acceptable plan together with those relevant portions of the submissions of Finelli Consulting Engineers revised through May 24, 2022.

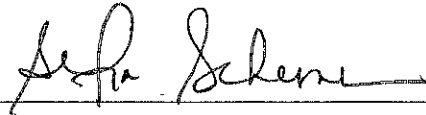
NOW, THEREFORE, BE IT RESOLVED that the Zoning Board of Adjustment of the Township of Knowlton does hereby approve the preliminary and final major site plan as more particularly described in plans entitled “Log Cabin Inn, Preliminary and Final Site Plan, Minton Realty” prepared by Finelli Consulting Engineers revised through May 24, 2022.

This approval is subject to the following terms and conditions:

1. The previously approved plans are modified as indicated in A-4, which is entitled, "Amended Site and Parking Plan, Log Cabin Inn" prepared by Finelli Consulting Engineers revised through September 28, 2022.
2. This approval is subject to the limitation that the Board is approving a seating capacity of no more than 170 seats onsite. Any further expansion of seating will require further Board approval. The number of special events onsite is limited to the average that the Applicant engaged in per year in the last six (6) years as per the event calendar of the Applicant. Any expansion of that number will require a Special Events Permit from the Township Committee.
3. The Applicant shall work with the Board Engineer and Planner to provide mitigation of lighting and noise by way of a fence or other mitigation that shall be located on top of the retaining wall.
4. The Applicant shall provide wheel stops or bumpers in the parking lot to designate the location of the parking stalls as shown on site. The Applicant has agreed to stripe those parking stalls and the Board accepts that representation.
5. This approval is subject to the Applicant obtaining approval or a letter indicating no interest from the County Board of Health.
6. The Applicant shall be required to work with the Board Engineer and Planner to assure that lighting will not adversely affect surrounding properties.

7. This approval is subject to all outside agency review including but not limited to Warren County Planning Board, New Jersey Department of Environmental Protection, the Warren County Board of Health, and such other agencies as may have jurisdiction over this matter.
8. This approval is subject to the payment of all appropriate fees and taxes.

The undersigned does hereby certify that the foregoing is a true copy of the action taken by the Zoning Board of Adjustment of the Township of Knowlton at its regular meeting of October 4, 2022.



RWT 10-28-22, 11-16-22