

ZONING BOARD OF ADJUSTMENT MEETING
OCTOBER 3, 2013

PRESENT: Wendy Freeman, Chairman, Becky Doyle, David Lage, Marianne Graham, Joanne Meshna

The meeting was called to order at 7:30 p.m. at the Town Office.

Wendy announced that the Zaremba Group for Dollar General Stores had filed an appeal in Superior Court. Joanne will schedule a meeting with Attorney Kinyon for November 7.

The Board began review of the June 13 and July 18, 2013 minutes. Joanne was asked to put the deliberations into sentences rather than abbreviating for review at next month's meeting.

7:45 p.m.: Floyd Backes and Laura Bridge - Public hearing for a variance application:

The applicants own lot 10/5 on Boynton Hill Road in the rural district. They submitted an application for a variance from Article X, Section D: 3-6, 4-b.1 and c. of the Zoning Ordinance to permit the construction of a driveway impacting wetlands, the wetlands 50' setback and the wetlands 25' buffer in order to gain access to the rear 38 acres of the 39 acre parcel to construct a single family home as well as to manage the back area.

Mr. Gary Spaulding from G.R. Spaulding Design Consultants presented the proposal to the Board. He noted the Planning Board had approved a lot line adjustment of lots 10/4 and 10/5 in 2012 at which time lot 10/5 was approved as a back lot with 164 feet of frontage.

There are two wetland crossings proposed. Wendy asked if there was a way to avoid the second crossing and Mr. Spaulding responded that there was not because of the location and amount of wetlands, and he added that the driveway is being placed in an area that has the least impact on the wetlands. The wetlands impact for crossing one is 1,340 square feet and for crossing two 950 square feet.

Mr. Spaulding continued the proposed access is a steel bridge with a wood deck and guardrails on the side, the supports are concrete, and the bridge spans 24 feet on center. The total bridge abutment to abutment is 100 feet. There is fill on the west and east side for the abutments. If a conventional crossing was built with culverts, the wetlands impact would be 5,300 square feet. The bridge minimizes the impact.

Wood chips will be used for a temporary road and a geotextile fabric will be put on the wetland. Once the road is done the wood chips will be used to stabilize the slopes along the driveway. Construction is planned during the winter months. Mr. Spaulding noted they are trying not to put any manmade

unnatural products in the wetlands crossing. The wood chips act as a natural filter and are used for erosion control. Wendy asked how they planned to set the piers and Mr. Sweeney responded that they remove the organics, add geotextile fabrics, crushed stone base, concrete footing and then the pier. This would be done during the winter. The organic material would be stockpiled on site and used to stabilize the wetlands. Vegetation will also be used for stabilization. David asked about the stone lined ditch and erosion in that area. Mr. Spaulding responded that with a stone lined ditch there is a lot of disbursement of water and they will try to minimize any impact in that area. They can put in a level spreader to spread it out. The areas not stone lined will be jute matted for stabilization.

With the second crossing a four foot culvert will be installed with natural stone headwalls. The driveway is 10 feet wide with 2 foot shoulders. The total impact is 950 square feet. The driveway is 1,600 feet in length. The grading and the impact area is outside the 20 foot setback. The driveway will be gravel.

No other variances are required to access the west side of the property.

The Board gave the floor to Mr. Spaulding for him to present a review of the criteria for a variance as follows:

- 1) The proposed use would not be contrary to the public interest - The proposed wetland crossings would not be contrary to the public interest because the crossings will allow the construction of a single family residence. The proposed crossings are in locations that will minimize the area of impact and will allow the natural conveyance of water to be maintained. The proposed crossings will not impact abutters' property or have an impact on town roads or infrastructure.
- 2) The use is not contrary to the spirit of the ordinance - The proposed single family home is allowed within this zone and the construction of the driveway will allow access to contiguous soils and slopes that will allow the construction of a residence with minimal impact to the existing terrain and growth.
- 3) Granting the variance would do substantial justice - Minimal wetlands impact are proposed with construction of the proposed bridge and culvert crossing which will allow the property owner to construct a residence for their use and gain access to 38 of the 39 acre parcel.
- 4) The proposed use would not diminish property values - The proposed construction is for a single family residence and will be located away from all abutters' property lines. The surrounding properties are residential family homes.
- 5) Literal enforcement of the ordinance would result in unnecessary hardship to the owner because the following special conditions of the property distinguish it from other properties in the area - Access to the back property and use would not be possible without crossing the two wetlands.
 - a) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property - The wetland impact is minimized with the construction of a bridge and culvert crossing.

There will be no negative impact to the surrounding uses and all proposed work is on the owner's property.

- b) The proposed use is a reasonable one - The construction of a single family dwelling is allowed in the rural district.

Wendy asked where the silt fencing and erosion control will be located at the second crossing. Mr. Spaulding pointed it out on the plan. Ideally the work will be done in the winter months but may be later in the season. Wendy asked what would prevent siltation from going down stream to the abutting lot. Mr. Spaulding responded they could add stone checked dams within the impact areas and at the outlet and then remove them. Wood chips would also be used rather than silt fences.

The bridge will be done when the ground is frozen. The second crossing could be put off if the spring is really wet. The owners hope to build a house on the site next summer.

Wendy stated the only concern she had was that the impact area for the second crossing is close to the property line and she asked what the barrier was and the plan. Rock that is being used for rip rapping could be used during construction for check dams. Check dams and wood chips will be used to minimize any impact to abutters.

Abutters and interested parties were invited to speak:

Thomas Kenney, 46 Kennybeck Court, stated he has water that comes down onto the back of his property and asked if the project would increase the flow. Mr. Spaulding responded it would not because of a ridge between the properties. The house will be set back about 400 feet from the property line.

Todd Swiecz, 40 Kennybeck Court, asked if he could walk on the property since he had missed the site walk and he was given permission to do so.

Kyle Ayer, 179 Appleton Road, expressed his concern about runoff onto his property but noted the applicant appeared to be taking every precaution so the runoff did not affect his property. He added that he liked the idea of using wood chips.

Steve Gendron, 65 Boynton Hill Road, stated he liked the plan.

At 8:30 p.m. David made a motion to close the public hearing. Becky seconded the motion and it passed unanimously. The Board deliberated on the application by reviewing each of the five criteria for a variance:

- 1) The proposed use would not be contrary to the public interest: Becky stated it is in keeping with the rural district and the single family homes surrounding it, and did not see any impact to

the public in a negative way. Marianne added that they seem to have a plan to try and not have any impact to the abutters.

- 2) The use is not contrary to the spirit of the ordinance: Wendy stated the ordinance is designed to prevent pollution and sewage from seeping and referred to the Wetlands and Surface Water Conservation Overlay District in the Zoning Ordinance. David noted they were not changing the water flow, not going to affect the abutters, it is well thought out and there is no other way to gain access to the property. Wendy added she was impressed with the bridge design. Becky stated she thought the use of the wood chips was awesome and the winter construction is definitely the way to go.
- 3) Granting the variance would do substantial justice: Becky stated it gains access to the lot and there is no other way in. David noted he was glad that the Planning Board opted for a single family home on that lot. Wendy added it allows access to the property; there are no additional variances required to access the western portion of the property.
- 4) The proposed use would not diminish property values: Becky stated it was in keeping with the area and it does not diminish property values. Wendy noted that by building in the dell the abutters cannot see the house. Marianne added all the abutters that showed up did not seem to have any concerns.
- 5) Literal enforcement of the ordinance would result in unnecessary hardship...: Wendy noted the wetlands divide the 39 acre parcel in half and not allowing access would cause a hardship. David added there was only one point to come in by.
 - (a) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property: Wendy stated she had been concerned about how close the crossing is to the property line but the applicant has stated what they will do to prevent erosion control.
 - (b) The proposed use is a reasonable one: Becky stated a single family home on 39 acres is very reasonable.

David made a motion to approve the variance to Article X, Section D.3-b, 4-b.I and c. of the Zoning Ordinance to allow two wetland crossings in accordance with the plans that have been presented and conditional upon state regulatory approval. Becky seconded the motion and it passed unanimously.

The Board noted the Building Inspector and Director of Public Works should be informed of the project and be asked to monitor it as it moves forward. Joanne will write a letter to both.

9:00 p.m. Karen Haskett - Continuation of hearing for a special exception:

The hearing was continued from September 5, 2013.

Six parking spaces are required for the business. Two parking spaces are required for the owner and tenant and four spaces are required for the business. Ms. Haskett presented a drawing to the Board showing that her tenant and herself will be parking across the street from the home in two parking

spaces with a cement platform that measure 21.5'x26', there are two parking spaces in front of the home measuring 9'x18' each, and two more spaces to the north of that area measuring 20'x22'. The driveway will be one way with enter and exit signs.

The applicant was told by the Board that the topsoil must be removed and gravel put down on the two parking spaces in front of the building that are for customers.

Becky expressed her concern for the traffic on the corner of Willard and Ashby Roads. She noted additional traffic using the road is hazardous.

At 9:10 p.m. David made a motion to close the public hearing. Marianne seconded the motion and it passed unanimously. The Board deliberated on the application by reviewing the special exception criteria as follows:

- 1) The specific site is an appropriate location for such use: David, Wendy and Becky agreed it was an appropriate site.
- 2) The use as developed will not adversely affect the adjacent area: Becky questioned whether there would be a traffic impact getting in and out of the business on the entrance side of Willard Road.
- 3) There will be no nuisance or serious hazards to vehicles or pedestrians: Becky stated she thought it was a hazard. David, Marianne and Wendy saw no impact.
- 4) Adequate and appropriate facilities will be provided for the proper operation of the proposed use: Wendy noted adequate parking is provided; there is a front door entrance and side door entrance.
- 5) Such approval should be consistent with the intent of the Master Plan...: Wendy stated it was in keeping with the intent of the Master Plan and Marianne and Becky agreed.

David made a motion to approve the special exception to Article VI.C. of the Zoning Ordinance to permit 374 Ashby Road to be an antique shop on the first floor of the house and contingent upon the construction of the parking spaces submitted on the plan. Marianne seconded the motion and it passed unanimously.

9:50 p.m.:

The Board agreed to change their meeting hour from 7:30 p.m. to 6:30 p.m.

The meeting adjourned at 10:00 p.m.

Respectfully submitted,

Joanne Meshna, Land Use Manager

