



OLD VALUES - NEW HORIZONS

COMMUNITY DEVELOPMENT

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Zoning Board of Adjustment Minutes

June 10, 2014 at 7:30 PM

Board Members:

Mark Samsel, Chairman – Present

Mike Scholz, Vice-Chairman – Excused

Heath Partington, Secretary – Present

Jay Yennaco, Member – Excused

Jim Tierney, Member – Present

Mike Mazalewski, Alternate – Present

Kevin Hughes, Alternate – Present

Staff:

Mark Fougere, Code Enforcement Administrator

Laura Accaputo, ZBA Minute Taker

The Chair called the meeting to order at 7:30pm, introduced the Board and Staff, and explained the meeting process.

The Chair sat Mr. Mazalewski for Mr. Yennaco and Mr. Hughes for Mr. Scholz.

Public Hearings

Mr. Partington read Case #23-2014 into the record along with the abutter list and letter of authorization from Mr. Waterhouse, owner.

Lot 14-A-1100, Case #23-2014

Applicant – Jerry Gaucher

Owner – Waterhouse Realty Trust

Location – 18 Mammoth Road

Zone – Neighborhood Business

Variations from the following sections of the Zoning Ordinance are requested to allow for the outside sale of goods seasonally and a freestanding sign 16 feet tall:

Section 604.1 uses permitted- allow outside sales & **Section 706.4.2.1** allow a second freestanding sign & **706.8** to allow a freestanding sign 16 feet tall where 10 feet is allowed.

- Mr. Jerry Gaucher addressed the Board. He stated he would like to hold a weekly outdoor farmers market/craft fair at this location in the spring and fall and believes it is allowed under the existing plot plan which allows for the sale of Christmas trees. He is also asking for a second sign as shown on the plot plan and believes the only issue is relative to the size (16ft where 10ft is allowed). He explained the existing sign is blocked by trees and not visible when traveling west down Route 111. He feels the sign is not adequate for a multi tenant site and the size and location of the property can accommodate a second larger sign,
- The Chair asked the date of the plot plan allowing Christmas tree sales and Mr. Gaucher replied 6/7/94.
- Mr. Tierney asked what the distance would be between the two signs and Mr. Fougere replied approximately 200ft.
- Mr. Gaucher read the five criteria into the record.

The Chair opened the hearing to the public at 7:55pm and hearing none the public portion was closed.

Mr. Hughes motioned to go into Deliberative Session, seconded by Mr. Tierney. Motion passed: 5-0

- The Board discussed whether relief was needed from Section 604.1 since the Planning Board did not specify time or dates on the plot plan from 6/7/94 and outside sales have not been abandoned. Mr. Tierney noted tents would require a permit by state law. The Board agreed a variance would not be required for outside sales.
- The Board discussed the second freestanding sign. Mr. Tierney stated he wouldn't be opposed to a second sign on the other frontage and he would like it to meet size and setback criteria. The Chair stated the existing sign would be more appropriate in the proposed location and he would be in favor of having a single larger sign in a more visible location. Mr. Mazalewski stated he agrees the proposed sign is very large and he believes the hardship with the existing sign is the visibility issue and the fact that the property owner does not own the land with the trees that block it. Mr. Partington stated he believes the second larger sign would be contrary to public interest and the spirit of the ordinance is not observed. Mr. Tierney also noted changeable copy is not permitted in the Neighborhood Business District and therefore this sign would require additional relief.

Mr. Partington motioned for Case #23-2014, Lot 14-A-1100, to deny the variance from Section 706.4.2.1 to allow a second freestanding sign and Section 706.8 to allow a freestanding sign 16 feet tall where 10 feet is allowed as the criteria for hardship has not been met, it is contrary to public interest and the spirit of the ordinance is not observed, seconded by Mr. Hughes. Motion passed: 5-0.

The Chair advised of the 30 day appeal period.

Mr. Partington motioned for Case #23-2014, Lot 14-A-1100, that relief is not required from Section 604.1 as seasonable outside sales is a permitted use that hasn't been abandoned, seconded by Mr. Hughes. Motion passed: 5-0.

The Chair advised of the 30 day appeal period.

Mr. Partington read Case #24-2014 into the record along with the abutter list and letter of authorization from Ms. Fontaine.

Lot 17-L-78 & 17-L 78L2, Case #24-2014

Applicant: Attorney Thomas Leonard

Owner –Michelle Fontaine, Fontaine Rev. Trust

Location – 30 Horseshoe Road

Zone – Residential A

Variations from the following sections of the Zoning Ordinance are requested to allow for the construction of a detached garage as an accessory use to a single family home:

Section 616.6.4.1 & 616.6.4.2 – to allow 32% impervious area – maximum allowed 30% and a new driveway; **Section 616.8.3, 616.8.1 & 616.8.2** to allow proposed development within surface water buffer zone, to allow development within the 100 foot wetland buffer and from the requirement for a hydrological study providing justification for reduction in the buffer; **Section 702 and Appendix A-1 and Section 703** to allow building within front setback (20 & 15 feet where 50 feet is required, side setback (15 feet proposed 30 required) and 15 feet rear (30 feet required).

- Attorney Leonard addressed the Board. He gave a brief history of past business with the Board regarding this property. He explained this request is to construct a 1 ½ story garage on the smaller portion of land divided by the road. He stated this area is hard pack gravel and is used for parking. He noted the new plan was adjusted according to the comments and concerns addressed by the ZBA at a previous hearing in which the variance was denied. The new proposal moves the

garage further away from the wetland and reduces the footprint by 50 sq ft. The driveway will be all permeable and the only impervious surface will be the roof. They have reconfigured the drainage and will have a continuous swale along the wetland at the rear property line that will collect all roof runoff and treat it. They will also install a rain garden with specific plantings. He submitted letters of support from CPIA, Mr. Bemister an abutter, and four others in the immediate area which the Chair accepted as exhibit A. He explained the purposes of the rules have been accounted for as follows: buffer protection has been addressed by drainage system; setbacks purpose has been accomplished as the building will be accessible all around; hydrological study information is provided informally. He also noted this structure cannot be built on the other side of the parcel due to the location of septic, pump, and leach field. He then distributed two photos of the existing area of the proposed building which the Chair accepted as Exhibit B (winter) and Exhibit C (spring)

- Mr. Maynard, Benchmark Engineering, addressed the Board. He explained there is a small amount of pavement on the property that was put there by the Town and this brings their impervious coverage to 32%. They could cut it out to get down to the 30% requirement however the road agent would like the pavement to remain. He then read a letter of support from Nancy Rendall, Certified Wetland Scientist Blue Moon Environmental, dated 5/15/14, into the record.
- Attorney Leonard distributed a rendering of the garage along with 3 pictures of other garages in the area which the Chair accepted as Exhibit D. He then read the 5 criteria into the record.

The Chair opened the hearing to the public at 9:15pm.

- Mr. Partington read one of the letters of support from Exhibit A into the record, from Brad Bemister, 58 Turtle Rock Road. He also noted the names and addresses from the other four letters of support in Exhibit A.
- Ms. Sue Chapman, 26 Horseshoe Road, addressed the Board. She stated she believes the changed plan hasn't solved all of the issues and the garage will change the character of the neighborhood. She stated other garages on the street are on the side with the houses. She believes a garage will overcrowd this small area. She then presented 6 pictures of the area for the proposed garage which the Chair accepted as Exhibit E and two additional pictures of Grove St which the Chair accepted as Exhibit F.
- Mr. Michael Fontaine, owner, addressed the Board. He stated he would never harm the pond and asked for a design that would help improve the current situation. He stated no portion of the building will be on the wetlands.
- Attorney Leonard closed by saying both scientists and engineers have addressed concerns and he believes this request is reasonable and meets the purposes of zoning.
- Ms. Chapman stated her concern for the wetlands and the pond. She also read a letter of opposition from Bob Chapman, 26 Horseshoe Road, into the record which the Chair accepted as Exhibit G.
- Mr. Partington read a letter of opposition into the record from Ellen Patterson, 24 Horseshoe Road, dated 6/7/14.
- The Chair asked since it is one lot now what the percentage of building coverage is and Mr. Maynard replied 17.3%. Mr. Maynard also stated similar variances for setbacks have been granted.

Mr. Tierney motioned to go into Deliberative Session, seconded by Mr. Partington. Motion passed: 5-0.

- Mr. Partington stated the hardship is with the setbacks and a garage is not possible on the other side of the parcel. He also noted the hydrologist statement that there will be less runoff due to the treatment swales and pervious pavement.

- Mr. Mazalewski believes the town pavement on the property contributes to the hardship, the setbacks are reasonable, and this is the best spot for the garage, although he would have preferred a smaller structure. He also believes the applicant should be required to submit the hydrological study.
- Mr. Tierney agreed the applicant should be required to submit the hydrological study and believes this is a more reasonable application than last time.
- Mr. Hughes also noted the expert testimony that the mitigation steps they have taken will improve the area.
- The Chair stated this is considered one lot and that Horseshoe Road cuts through it makes it unique. He believes there is much improvement with this design, careful thought has been given to runoff, and having the vehicles garaged is an improvement. He also agreed relief should not be offered for the hydrological study as most of this information was provided in the application.

Mr. Partington motioned for Case #24-2014, Lot 17-L-78 & 17-L-78L2, to grant relief from Section 616.6.4.1 and Section 616.6.4.2 to allow 32% impervious area where the maximum allowed is 30% and a new driveway; from Section 616.8.3 and Section 616.8.1 to allow proposed development within surface water buffer zone and to allow development within the 100 foot wetland buffer; and from Section 702 and Appendix A-1 and Section 703 to allow a building within front setback (20 & 15 feet where 50 feet is required), side setback (15 feet where 30 feet is required), and rear setback (15 feet where 30 feet is required), per May 15, 2014 plan, seconded by Mr. Hughes. Motion passed: 5-0.

The Chair advised of the 30 day appeal period.

Mr. Partington motioned for Case #24-2014, Lot 17-L-78 & 17-L-78L2, to deny relief from Section 616.8.2 requiring a hydrological study as the variance would be contrary to public interest, spirit of the ordinance is not observed, and hardship is not met, seconded by Mr. Hughes. Motion passed: 5-0.

The Chair advised of the 30 day appeal period.

The Chair called a 10 minute recess at 9:53pm and the meeting was called back to order at 10:03pm.

Mr. Partington read Case #25-2014 into the record along with the abutter list and letter of authorization from the owner Mr. Sholtz.

Lot 25-G Lot 90, Case #25-2014

Applicant – Joseph Maynard

Owner – John Sholtz

Location – 11 Emerson Road

Zone – Residential A

Variance from the following section of the Zoning Ordinance is requested to allow the razing of the existing single family home and replacing it with a new home, septic system and well:

Section 405.2 to allow an increase in the structures area and volume, **Section 702 & Appendix A-1** Area, frontage, yard requirements.

- Joseph Maynard, Benchmark Engineering, addressed the Board. He stated the property has an existing nonconforming dwelling and doesn't have frontage on a town road; access is through a private gravel driveway off Emerson Road which they will relocate further away from the lake. They are proposing to raze the existing home and replace it with a new home rotated away from the lake to improve the view. A new state approved septic system will be installed. Mr. Maynard then read the five criteria into the record.

- Mr. Partington asked about the setback distance from the lake and Mr. Maynard replied existing is 35ft and proposed house will be 38ft. He also noted the impervious coverage will be less than 15%.
- Mr. Mazalewski noted the relief for the setback from the lake is so buyers will have a better view and Mr. Maynard agreed but also noted the existing structure is 3 feet closer to the water than the proposed structure will be.

The Chair opened the hearing to the public at 10:20pm.

- Bill Broadley, 9 Emerson Road, asked about the location of the leach field relative to his well and Mr. Maynard answered it will meet requirements.
- Corey Lewandowski asked if they would adjust the turn to make it easier for abutters and Mr. Maynard agreed to work with the abutters on this.
- Arthur Klemm, 25 Emerson Road, stated his concern that construction trucks will leave deep ruts in the gravel road and asked a condition be placed that the gravel road be scraped down once the project is complete.
- Wayne Morris, President, Rock Pond Improvement Association, stated he has an issue with the proposed 15 inch pipe for drainage and that Conservation did not have an opportunity to look at it. He asked approval be conditioned on the applicant working with Conservation.
- Mr. Maynard stated they are asking for relief for the structure itself and they are willing to work with abutters and Conservation Commission to address any concerns.

Mr. Partington motioned to go into Deliberative Session, seconded by Mr. Hughes. Motion passed: 5-0.

- Mr. Partington stated he does not believe this is contrary to public interest or that the spirit of the ordinance is not observed as there will be a new septic and the new house will be further away from the pond. He feels property values will not be diminished and the hardship is this is an undersized lot with no frontage on a public road. He feels this is a reasonable plan.
- Mr. Mazalewski noted the setback from the lake was not a concern of the abutters.
- Mr. Tierney questioned whether relief from Section 405.5, replacement of non-conforming structure, should be included.
- The Chair stated he was comfortable the applicant would work with the abutters and Conservation to address their concerns relative to the redevelopment of the road, road remediation after work completed, and drainage issues.

Mr. Partington motioned for Case #25-2014, Lot 25-G-90, to grant relief from Section 405.2 to allow relief for area and frontage and Section 702 and Appendix A-1 to allow 0 frontage where 175 feet is required, to allow a lot area of 46,000 square feet where 50,000 square feet is required, and to allow a rear setback of 38 feet from the lake where 50 feet is required, with the following conditions: the applicant will work with the abutters on the driveway layout; the applicant will clean up any road damage; and the applicant will work with the Conservation Commission regarding drainage, seconded by Mr. Hughes. Motion passed: 5-0.

The Chair advised of the 30 day appeal period.

**Review and Approval of Draft Meeting Minutes –
May 13, 2014**

Mr. Partington motioned to approve the May 13, 2014 draft Zoning Board of Adjustment minutes as amended, seconded by Mr. Hughes. Motion passed: 5-0.

May 27, 2014 – postponed

June 10, 2014 ZBA Approved Minutes

Mr. Tierney motioned to adjourn the June 10, 2014 Zoning Board of Adjustment Meeting at 10:55pm, seconded by Mr. Mazalewski. Motion passed: 5-0.

These minutes are respectfully submitted by Laura Accaputo, ZBA Minute Taker.