

**BOARD OF ADJUSTMENT MEETING
MAY 13, 2003**

MEMBERS:

Bruce Breton - Chairman
Rob Gustafson - Vice-Chairman
Chris Doyle - Member
Al Souma - Member (Excused)
Tony Pellegrini - Alternate
Dick Drummond - Alternate
Kara DiFruscia - Alternate (Excused)

Alternate Appointment

The Chairman appointed Mr. Drummond to replace Mr. Souma and Mr. Pellegrini to replace Mr. Gattinella for this meeting.

Lot #1-A-36, Case #11-2003

Joseph R. Carreiro
170 Londonderry Road

A variance is requested from Section 603.1.1 of the Zoning Ordinance to permit the conversion of a barn to a residential unit.

Mr. Pellegrini read the case into the record. Mr. Carreiro presented his case. Mr. Carreiro has owned this property since 1986. He has been renting the existing apartment for 17 years. Mr. Carreiro advised the Board that the building permit for the apartment could not be located. Mr. Pellegrini advised the Board that in the building file there is a Notice of Decision from 1978 denying a request to remodel the barn and use it as separate living quarters for guests and family. Mr. Carreiro provided five photographs of the property. Mr. Flanders, Building Inspector, said that the town is aware of this apartment. Mr. Carreiro read his five supporting facts into the record. Mr. Case spoke in favor of this request stating that the Applicant purchased this property in good faith and it would be unfair to penalize him for things that happened in the past. The Chairman closed the public portion of this case. Mr. Gustafson motioned and Mr. Doyle seconded the motion to go into Deliberative Session. Passed unanimously.

Deliberative Session, Case #11-2003

Mr. Gustafson motioned to grant Case #11-2002 for the apartment as shown on the plans as currently exists from Section 602.1.9.3.5 in that it exceeds 750 square feet and also from Section 602.1.9.3.8 in that it does not have at least 75% common wall. Mr. Pellegrini seconded the motion. Mr. Gustafson, Mr. Drummond, Mr. Doyle, Mr. Pellegrini and Mr. Breton voted to grant this request. Request granted 5-0.

Lot #20-E-135, Case #12-2003

Karl Dubay

On right-of-way between 19 + 23 off of Bear Hill Road

A variance is requested from Section 702, Appendix A-1 of the Zoning Ordinance to permit the subdivision of one lot to two lots and build two houses with Conservation Easements, no frontage on a town approved road, shared driveway over existing town right-of-way fronting the parcel connecting to Bear Hill Road.

Mr. Pellegrini read the case into the record. Mr. Dubay representing the owner, Dr Pesando of Seattle Washington, presented the case. Mr. Dubay advised the Board that Mr. James Gove of Gove Environmental flagged the wetland on this property. This variance would allow the proposed lot to be subdivided into two lots with two houses on the property that were pre-planned with a 50-foot town ROW for the purposes of accessing this parcel and abutting parcels. Substantial amount of woodlands will be protected in deeded easements on the property. The proposed common driveway serving the two houses will replace the need to construct a wide town road on the existing ROW, eliminating tree clearing, earthwork and blasting and would maintain more of the existing natural appearance. The existing ROW is steep and would preclude any reasonable construction of a town road without extensive tree removal, blasting, wetland impacts and additional waivers to the town road standards. Access to the town property in the rear is maintained and will be appropriately deeded with additional protective easements. The shared drive would allow for deeded public access via additional easement language. This proposed 2-lot subdivision meets all other zoning requirements. Mr. Dubay went on to say that the Planning Staff, Road Agent and the town Engineer indicated that they could support this plan. The Conservation Commission voted unanimously to support this project. Lot 1 would be 3.6 acres and lot 2 would be almost 5 acres. Mr. Flanders advised the Board that the town owns the ROW and the Applicant would still need approval from the Selectmen even if a variance were granted. Mr. Dubay read the five supporting facts into the record. The Applicant submitted the following exhibits.

- Exhibit "A" - Letter to Conservation Commission
- Exhibit "B" - Conservation Commission Approval
- Exhibit "C" - Letter to Mr. Turner
- Exhibit "D" - Permit Denial
- Exhibit "E" - Development Plan

Mr. Case asked if the town already has a ROW to Gage Land why do we need these additional easements? Mr. Dubay responded that he is putting his "best foot forward". If the town wants additional rights and privileges on Dr. Pesando's property to effectuate any other access then we are trying to accommodate that. The easement is a 50-foot wide slope easement. If the Conservation Commission wants to relocate a trail and not have people walk on the driveway they can do that. The other easement that will be deeded to the town is a 3.2 acre conservation easement. The wording will be worked out with the Conservation Commission and reviewed by the Planning Department and the Planning Board and the Town Attorney. Mr. Case asked to see the paperwork from the Planning Staff, the Police Department and the Road Agent stating that they support this plan. Mr. Dubay said that there is no paperwork; support of this plan was given during the Planning Meetings that are held every Tuesday in the Planning & Development Department. Mr. Flanders stated that Planning Staff would not support a variance request. Mr. Flanders also said that building could not take place on the area of the proposed conservation easement because of the WWPD. Mr. Case said that the ROW was put in for Gage Land and also for access to this property. Mr. Dubay said that if a town road were put in there would be more disturbance of wetlands. If we have to put a town road in we would then have three building lots. We would need the third lot to justify the cost of the road. The third lot would be right over the conservation easement. Mr. Doyle asked Mr. Dubay if he was saying that the only possible way to get the easement is to have the variance approved? If you must put in a road then you will not be giving the town an easement? Mr. Dubay responded that there would be no need to. If a road must be put in we will just develop the whole thing and there won't be any conservation easements. There is no requirement for that. If we design the road according to town standards we will be doing a lot of blasting. Dianna Fallon, Chairman of the Conservation Commission, spoke in favor of this request. This plan meets the criteria of building with respect to the environment. Mr. Robert Despirito, an abutter, spoke in opposition to this request. Mr. Despirito stated his concerns regarding low flow wells. Mr. Pellegrini read into the record a letter of opposition from Mr. & Mrs. Paul Keller of 17 Bear Hill Road. Mr. & Mrs. Keller are concerned about the overall impact that two up hill homes would have on the overall water table, the integrity of their

well, run-off from construction and the traffic through the long up hill shared driveway. The Chairman closed the public portion of this case. Mr. Gustafson motioned and Mr. Drummond second to go into Deliberative Session. Passed unanimously.

Deliberative Session, Case #12-2003

Mr. Gustafson motioned to grant Case #12-2003 from Section 702 to allow not more than 2 lots without frontage on a town-approved road subject to getting all the required approvals per RSA 674:41 and also getting the approval from the selectmen for a driveway over the ROW and also subject to the proposed conservation easement and there shall be no further subdivision of these parcels. Mr. Drummond seconded the motion. Mr. Drummond, Mr. Gustafson, Mr. Pellegrini and Mr. Breton voted to grant this request. Mr. Doyle abstained (not enough information). Request granted 4-0-1.

Lot #3-B-265, Case #13-2003

H&B Homes Corp.
3 Flat Rock Road

A variance is requested from Sections 610.2.1 and 610.6.1.1 of the Zoning Ordinance to permit the buyers of the units at Hadleigh Woods to be age 55 and older rather than 62 and older.

Mr. Pellegrini read the case into the record. The applicant, Brian Harvey of H&B Homes asked that his case be continued to the May 27, 2003 ZBA meeting. Some of the people that were supposed to make presentations were unable to attend the May 8, 2003 meeting. Mr. Doyle motioned to continue Case #13-2003 to the May 27, 2003 meeting. Mr. Pellegrini seconded the motion. Passed unanimously.

The Chairman granted a five-minute recess.

The Chairman called the meeting back to order.

Minutes

Mr. Gustafson motioned to approve the April 22, 2003 minutes as written. Mr. Pellegrini seconded the motion. Mr. Gustafson, Mr. Doyle, Mr. Pellegrini and Mr. Breton voted to approve. Mr. Drummond abstained because he did not attend the April 22, 2003 meeting. Passed 4-0-1.

Other Business

Mr. Doyle motioned that the Selectmen approve Mr. Georges Roy to fill the remaining portion of Mr. Gattinella's term on the Zoning Board. Mr. Pellegrini seconded the motion. Passed unanimously.

Mail

Letter from Mr. Georges Roy advising the Selectmen that he would like to volunteer as a member of the Zoning Board. Mr. Roy is a former two-term member of the ZBA.

Mr. Doyle motioned to adjourn at 9:30 PM. Mr. Gustafson seconded the motion. Passed unanimously.

The next meeting of the Zoning Board of Adjustment is scheduled for May 27, 2003 at 7:30 PM in the Planning & Development office.

NOTE: These minutes are in draft form and are respectfully submitted for approval by Patricia Kovolyan.

