

Danville Zoning Board of Adjustment
Oct. 4, 2016
7:30 pm

Members present: Chris Stafford-chairman, Tara Burkhart, Joe Luna, Roger Whitehouse, Jason Holder, Sheila Johannesen

Excused members: Roger Denison,

Others present: Jim Lavelle, Peter Gorton, Curt Springer, Chip Current, John and Judy Mathieu

2016-6: Peter Gorton of 78 Walker Road is requesting a variance of the Danville Zoning Ordinance article VI.A, regarding lots with less than 200' of frontage for a proposed subdivision. The lot is known as Tax Map and Lot 3-21-15

Roger was designated a voting member for this hearing. Chris said a variance had been granted previously, perhaps in 2009 or 2010 and this Board should review that information.

Jim Lavelle introduced himself and presented plans to the Board members. The lot being discussed is 5.48 acres. The lot will be subdivided into two lots: the existing home, on Tax Map and Lot 3-21-15, will be on 3.01 acres and the new lot will be 2.47 acres, to be numbered as the town prefers. Each lot will have 100' of frontage on Walker Road. The house to the north has 172' frontage, and is on a lot of just over five acres.

Mr. Lavelle explained that this subdivision will have three homes total with plenty of acreage overall. None of the homes will be abutting too closely to other properties. Currently the two homes share a driveway. The driveway does not currently follow the easement. This will be corrected with the subdivision. The intention overall is to create another lot in a lot that has a peculiar shape.

Mr. Lavelle reviewed the five criteria for granting a variance. He explained this is not contrary to the public interest because it will not injure anyone. One home added to one lot will make no difference to the entrance to the properties.

The spirit of the ordinance is observed because the frontage requirement is designed to prevent overcrowding. With this proposal, the houses are in the back and separated and certainly not overcrowded.

Substantial justice will be done because this allows full use of the lot with the addition of one home.

Surrounding property values will not be diminished. Mr. Lavelle explained there are nice homes in the neighborhood and the plan is to build an equally nice home on the new lot.

The proposal is reasonable because all of the lots will have more than adequate acreage per the zoning requirements. Mr. Lavelle said that these lots are from a lot that was originally 11 acres and the lot was left without adequate frontage. The advantage to the applicant is not outweighed by any injury to the public at large. He said that if the applicant is benefitted and there's no harm to the public, the variance should be granted.

The hardship exists in that the 11 acre parcel was and is essentially landlocked. When it was first purchased by Mr. Gorton, a hockey stick shape piece was given to allow a driveway. A variance was granted to allow two homes on lots with less than 400' frontage on Walker Road.

There was a discussion regarding overcrowding and emergency vehicle access. The fire department typically requires clearing and a certain width for access.

It was mentioned that to have a three home subdivision, a road would need to be built or the lots would all have to have sufficient frontage. The two lots together have 372' of frontage. The driveway easement seems to be approximately 40' wide according to the plans. The gravel portion of it is about 12' wide. Chip Current mentioned that a residential driveway is not considered a permanent structure. He also stated that if three houses are going to share a driveway, it has to be built to town standards per the subdivision regulations.

Chris said the Board needs to assess whether or not this meets the spirit of the ordinance which addresses the safety and welfare of the residents. Mr. Lavelle said a note on the plan could state that the driveway must meet NFPA standards.

There was a short discussion about reviewing the prior variance for restrictions.

Joe asked about the potential for upgrading the driveway and if this could be made into a private road. Chip mentioned it can be expensive to pave a road. It was pointed out that the proposed driveway is shown on the plans as avoiding the wetlands. The grading on either side will have to be made to avoid runoff into the wetlands.

The meeting was open to the abutters.

Donald Mathieu of 58 Walker Road stated that the water doesn't always drain back to Peter Gorton's property. He questioned if the wetlands were depicted accurately on the plans. It was explained that a soil scientist will map the wetlands after determining soil type and vegetation. Chip pointed out a culvert on Walker Road that was not shown on the plans.

Mr. Mathieu said another concern he has is for the driveway from 15 to 15A. Headlights of vehicles will be shining directly into the rear of his house. He also feared the proposed house will be so close to his that it will diminish his property value. It was estimated that his house is about 210' from the stone wall that marks the boundary to the rear lot line.

Chris stated that if this were a traditional subdivision and the houses were all planned at the same time, the placement may be different. He also said there is no law that states a property can only have one variance, but any new request needs to be consistent with what was granted previously.

Curt Springer said he owns the lot to the west. He does not live on that property, but stated he has no issues with the proposal.

Mr. Mathieu asked if the house has to face the coordinating street to which it is addressed. He was told that this Board reviews the variance criteria and not the location of the house unless there is some concern for safety. The only criteria may be that they build within the building envelope.

Chip said he is in favor of letting people do what they want with their property. It was mentioned that there may be some stipulations put on the variance that a driveway has to be built to town road standards.

and cannot be waived for a driveway. Joe suggested talking to the fire department to get their input on how they will get their equipment to the structures in an emergency.

Mr. Lavelle said he was not aware that if there are three houses on one lot that it has to be to town standards. He said he is amenable to building this to the fire department standards.

Chris reiterated that we need to review the prior variance.

Joe made and Sheila seconded a **motion to continue the hearing**. It was agreed to meet on the 25th and to have this item first on the agenda at 7:30pm. The motion **passed** unanimously.

Minutes:

The May 24 and May 31, 2016 minutes were reviewed. Joe made and Chris seconded a **motion to approve the May 24, 2016 minutes as written**. The motion **passed** unanimously. Joe made and Roger seconded a **motion to approve the May 31, 2016 minutes as amended**. The motion **passed** unanimously.

ZO warrant articles:

There was a short discussion about a request from the Planning Board regarding potential warrant articles to amend the zoning ordinance. Chris said one potential article is dependent on an upcoming court case and another is regarding a new law about accessory dwelling units. Barry Hantman of the Planning Board had suggestions for the accessory dwelling unit revision. A draft will be sent to the ZBA for their review on the 25th. Chip informed the Board of the details being reviewed by the Planning Board to revise the Zoning Ordinance and Chris mentioned what the new law states must be in an ordinance regarding accessory dwelling units and what may be in the ordinance.

This will be discussed further on the 25th after the two hearings.

At 8:50pm Roger made and Tara seconded a **motion to adjourn**. The motion **passed** unanimously.

Respectfully submitted,

Janet S. Denison