Zoning Board of Adjustment

May 25, 2021

Public Meeting

Members Present: Walter Baird, Michelle Cooper, Chris Stafford, John Russo,

Others Present: Gail Turilli, Justin Sultzbach, Brian Sultzbach, Carsten Springer, Robert Loree

Chris explained that there is only a 4 person Board tonight. If the applicant decides to move forward with his application, the stipulation is that if a decision is made and he doesn’t agree, he cannot appeal the decision. A five person Board is needed. The applicant stated he would like to move forward with his application. Chris designated Michelle as a voting member.

The hearing is for a Variance Application submitted by Brian and Linda Sultzbach of 37 Ward Way, for the installation of a 12’X26’ inground pool. A letter has been received from Justin Sultzbach who will be representing the applicant, Brian Sultzbach for this hearing.

Chris explained that a Variance has 5 criteria, the Board will discuss and vote on each of the criteria and then, make a decision. There are 2 parts of the Zoning Ordinance that are applicable to this Variance request. Article VIII section P which states that all inground pools are considered permanent structures and above ground pools greater than 3ft in depth and greater than 10ft in diameter are also considered permanent structures. All applicable setbacks apply. Article VIII section D1 and D2 defines permitted uses. Poorly drained soils and a buffer zone of at least 75ft. Chris stated that the location of the pool is within the 75 ft setback. Conservation Commission was consulted for advice regarding this Variance application prior to tonight’s meeting.

Justin stated that the original plan proposed the pool placement in the back of the property outside of the sliding glass door. A new plan is now proposing the pool placement shifted to the left by the stairway towards the deck. There are 68ft and 72ft setbacks on either side from the wetlands. A significant ecosystem is in the back of the property. There is a 15ft setback from the abutting property. The terrain on the property is the biggest issue. Conservation said no to the original plan presented. Chris stated that the hardship criteria is the most difficult to meet and questioned what is unique about the property. Justin stated the grade is more severe than a typical lot. Pool dimensions are 12’X26’. Carsten stated the issues are the pool size, setbacks, ½ acre lot in a cluster development. There is a large area of common land. The open space runs along the back of the property which runs into the Exeter River watershed. Chris questioned putting a retaining wall outside of the wetland setback. Brian stated he would be willing to put in a French drain/dry well for drainage. Carsten would like to review the new plan with the Conservation Commission at their next meeting on June 3rd and give feedback to the ZBA.

Walter raised a concern regarding internal setbacks as being 30ft. Michelle stated 15ft on each side which would account for the 30ft. Per the Zoning Ordinance, Article IV-3:E-5-B, all structures must be at least 30ft apart on all sides in a cluster development. Chris stated he will look into this for clarification.

James Mitchell, abutter, 38 Ward Way, stated he has no issue with what the applicant wants to do and has his full support. Michelle questioned if a French drain/dry well was put in for drainage, would it be outside of the 75ft setback. Brian stated he is willing to do this but is off by just a few feet. There are issues with steep terrain, retaining walls on both sides, and underground utilities. Justin also stated there is a 15-20ft elevation change with a steep drop off. Chris proposed a site walk and a continuance for this Variance request. Walter **made** and John 2nd **a motion to schedule a site walk.** All in favor, motion carries. Site walk scheduled for Wednesday, June 2 at 5:30pm. Walter **made** and John 2nd **a motion to continue the hearing in 2 weeks.** All in favor, motion carries. Continuance scheduled for Tuesday, June 8 at 7:30pm.

Minutes of 5/11/2021 were reviewed. Walter **made** and John 2nd **a motion to accept the minutes as written.** All in favor with Michelle abstaining. Motion carries, minutes are accepted as written. Walter **made** and John 2nd **a motion to adjourn.** All in favor, meeting adjourned at 8:35pm.

Respectfully,

Gail L Turilli