

Zoning Board of Adjustment

Sept. 24, 2013

Members present: Chris Stafford-chairman, Tara Burkhart-vice chairman, Roger Denison, Joe Luna, and Curt Springer, Annemarie Inman-alternate, Janet Denison-clerk

Others present: Kevin Hatch, Jim Daley, Ed Delorey, Henry Corey, Joshua Horns, Bruce Caillouette, Beth Caillouette

The meeting began at 7:30pm and was televised.

1. **Case #2013-3:** An equitable waiver of dimensional requirements request from Zoning Ordinance Article VI.B for the property at 209 Long Pond Road, known as Danville Tax Map and Lot 4-63-1 and owned by Edward Delorey. The existing foundation from 1973 was discovered to be 14.15 feet to the side line where 15 feet is required.

Annemarie was appointed as a voting member for this case in Tara's place. Chris introduced the meaning of an equitable waiver of dimensional requirements.

Kevin Hatch, acting as the agent for the applicants, explained that two adjacent properties were purchased by one person several years ago. In 1973 a steel garage was built on one property. The owner at the time sited the structure incorrectly, thus one corner is approximately 6" too close to the property line.

The current owner wishes to convert the garage into a single family home. The neighboring lot has a new home being constructed. Mr. Hatch explained that the distance between the two homes exceeds the distance that would be there if both structures were built up to the setback, even with one being closer than the allowed setback. He said someone standing on the street would have no idea the structure is too close. A new septic and well are being planned for the proposed home.

Jim Daley, the town building inspector, has spoken with the property owner about recording a deed addendum stating the structure does not meet current setback requirements; the property owner is amenable to doing this. The Board discussed this briefly, saying the decision can be recorded.

Joe stated the measurement is from the building side, not including the roof overhang. Mr. Hatch said there will be a 4" trim board on this side and a 12" overhang on the eaves end.

There were no more questions from the public. Joe made and Roger seconded a **motion to approve the request for an equitable waiver of dimensional requirements with the condition that the property owner record the notice of decision at the Registry of Deeds.** The motion **passed** unanimously. Chris said a notice of decision will be written within five days.

2. **Case #2013-4:** a variance request from Zoning Ordinance Article VII.D.1.a for the property at 15 Main Street, known as Danville Tax Map and Lot 3-168 and owned by Henry Corey. This is to allow an addition to the existing garage foundation which will reduce the wetland setback from the existing 24 feet down to 22 feet.

Mr. Hatch explained the plan to use the existing slab foundation for a new structure, but extend the rear portion of the building. The building is already non-conforming in its proximity to the wetlands. He said the majority of the building will be demolished, thus the overall effect will be a reduction in encroachment, even with the west portion of the building being closer.

Mr. Hatch explained the former owners had a gravel driveway behind the home which the current owner will eliminate. They plan to have a single access from Route 111A and join the parking lot to the property on the south, site of a recently constructed dance studio. Mr. Hatch said, if the 75' wetland buffer were strictly used, the parking, fire lane, and turn-around will encroach on the wetlands. The plan, as illustrated by Mr. Hatch, makes the best use of the lot, forcing the activity away from the wetlands.

Chris asked if the applicant is aware of the flooding that has occurred at this site. Mr. Hatch said they are and Steve Cummings has been hired as the drainage engineer. Mr. Hatch said the site is not in the flood zone. He also said that distance from the wetlands wouldn't help anyway as the site is level. He explained the recent flooding is due to the states' lack of maintenance of the nearest culvert.

Plans have not been sent to the Conservation Commission, as that is usually part of the Planning Board review.

The criteria were reviewed. In addition to the statements on the application, Mr. Hatch stated this is in the public's interest because, although the two lots will have separate owners, there will be one additional access through the dance studio parking lot. This plan keeps with the spirit of the ordinance because, even if the request were denied, the owner could use the existing slab and the building would still be 24' from the wetlands. The proposal does substantial justice as it moves the activity away further away from the wetlands. This will not diminish property values since the town voted to have this area zoned as commercial/industrial. Additionally, the septic system will be repaired and maintained properly.

The applicant was asked if they considered moving the building to the south rather than going west. Mr. Hatch explained that this option was explored. He explained there would be no room for catch basins or other stormwater treatment areas, and moving the building south would actually trap more water on the property. He said the building may be able to be moved one or two feet closer to the road.

There was a discussion about reconfiguring the west end of the building and decreasing the proposed encroachment to 23' from wetlands. Mr. Hatch explained it's best to leave the soil undisturbed as much as possible. Digging up the property with an excavator would be detrimental since the compacted soil keeps the water contained to its present location. The applicant plans to replant vegetation to improve the looks and functionality of the property.

Jim Daley was asked, if the building were going to be built on its original slab with no further encroaching, would the applicant need a permit. Mr. Daley said he would be hesitant to issue any permit as this is so close to the wetlands. He expressed concern for water and soil contaminants and suggested this property needs a site review for these issues. Since this was a residential unit being considered for commercial, the Planning Board will conduct a site review. This will also be reviewed by the town engineer.

Chris stated if the plans change per tonight's discussion, the Board will need to see updated plans. He requested that the Conservation Commission be given plans for discussion and get their opinion on the possible impact.

The Board decided to have a site walk on October 5th at 9:30am. The Conservation Commission will be invited. Curt made and Joe seconded a **motion to have a site walk on October 5th at 9:30am and continue the hearing on October 15th at 7:30pm.** The motion **passed** unanimously.

3. Minutes

The minutes of June 24, 2013 were reviewed. A few edits were made. Joe made and Tara seconded a **motion to approve the June 24th minutes as amended.** The motion **passed** unanimously.

At 9:05pm Joe made and Tara seconded a **motion to adjourn.** The motion **passed** unanimously.

Respectfully submitted,

Janet S. Denison-clerk