

Zoning Board of Adjustment
March 16, 2022
Public Hearing Continuance

Members Present: Walter Baird, Roger Whitehouse, Chris Stafford, John Russo, Jason Holder

Others Present: Gail Turilli, Charlie Zilch, Andrea Delahunty, David Cunningham, Karen Cunningham

The minutes from the last hearing on 3/2/22 were reviewed. Chris noted some changes and are as follows: on line 81, strike sentence and replace with, "The most southerly lot, 28-2, contains 2 acres. Lines 171, 172, & 173, change to "Charlie believes he is at 150ft because of the driveway restriction due to the hill and site distance. Otherwise, he would be within 25ft of the 200ft frontage requirement." Line 224 – change the word an to and. Roger **made** and John 2nd a **motion to accept the minutes as amended**. All in favor with Jason abstaining, **motion carries**. The site walk minutes from 3/5/22 were then reviewed. No changes were noted. Roger **made** and John 2nd a **motion to accept the site walk minutes as written**. All in favor with Jason abstaining, **motion carries**.

Case 2022-2 582 Main Street:

Chris explained that this hearing is a continuance for a variance request for proposed lot 28-2 to contain 150ft of frontage on Main Street where 200ft is required. At the last meeting it was noted that a 5th member could be brought in to the continuance per RSA, as long as all documentation relating to the case had been reviewed by the member. The applicant has no issues with having a 5th member present for the continuance tonight. Jason Holder is allowed to sit in for the duration of the hearing and will be an official voting member. The public hearing is now open.

Chris asked for some feedback on the dual driveway. Charlie stated that the original plans were approved for a single driveway but, were sent back as a concept to the State and they have no issue with a shared driveway as long as the variance is approved. Formal plans will be provided to the State for a shared driveway as they need to see the process. DOT permit is required for the shared driveway. Jason questioned the 400ft site distance requirement. Charlie noted that the current driveway does not meet the requirement and will need to be adjusted and the second driveway does comply. 3'9" from the driver's eye, North and South bound, and 2ft of snow clearance is also required. Jason questioned the well location in relation to the septic system. Charlie noted on sheet 3, to meet State and Town requirements, the plans need to show the well entire well radius within the lot area. The septic needs to prove the lot and will be located in front of the homes. The wells will be tight up behind them. The middle lot was elected to be short on frontage so that the two outer lots would be compliant and provide additional buffering to the existing neighborhood. One of the abutting property owners who was at the last hearing mentioned that the Board shouldn't be in the habit of reducing frontages to under 200ft. There is an allowance where frontages can be created towards 50ft which is the frontage acceptance for larger lots. Charlie calls this the pork chop lot regulation. If there are 5 acres of land, you could have anywhere from 250ft to just under 400ft of frontage. 2 lots could be created with one lot being 2 acres that would have to have 200ft of frontage and the back lot would have to be 3 acres and have as little as 50ft of frontage and up to 199ft of frontage. Charlie has seen quite a few of these plans over the years on pork chop lots. You could have a single family home that would require a special exception. In order to meet that special exception, it's just meeting the lot sizing and frontage requirements. No hardship is involved. Chris asked if Charlie is implying that this subdivision could be re-designed to have a pork chop. Charlie stated that this would not qualify, he was just making a point.

Chris asked Charlie to give his view on what the special exception/hardship is with this property. Charlie stated that this is a quality piece of land with very little wetlands, buildable lots, great access of the roadway and flexibility. It exceeds all the minimum requirements with the exception of the middle lot. The intent is to propose all single- family homes but, the ordinance does allow for a duplex. If the variance is denied and, the middle and southerly lots were combined to a 4- acre lot, it would qualify for a duplex. The land supports three dwelling units. Walter asked Charlie to give his definition of a quality piece of land. Charlie stated good soils, moderate slopes, buildable land with good access. Mr. Cunningham mentioned that he brought in pictures of some single- family homes with a garage under, walk out basement with small retaining walls to show the intent of this project which were passed around to the Board. Chris mentioned that one of the concerns with one of the abutters at the last meeting was storm water runoff and storm water mitigation that would require maintenance. Charlie stated that he met with Civil Design Maintenance in regards to this issue. Solutions would be to have infiltration trenches, rain gardens and also rip rap the driveway. Jason questioned the location of the rain gardens. Charlie noted that they would probably be located behind the homes. Due to the slope of the driveway, it would have to curve to follow the contour and have less of an impact. There were no other questions from the Board or the public. Chris closes the public hearing. Copies of a variance worksheet, provided by Chris, were handed out to the Board. He feels that the worksheet will be helpful as it gives structure to the criteria. The Board will now deliberate on each criteria and vote starting with #2:

2-The spirit of the ordinance is observed. **Vote is 5-0**

3-Granting the variance would do substantial justice. Walter commented that housing demands are not an issue with ZBA. Roger feels that there would be an injustice to the abutters if denied and the applicant puts up a duplex. All drainage will not have to have any kind of rain guards and would not be enforced. This would give the Planning Board the opportunity to make that happen. Chris noted that this Board would have more control if the variance is granted with restrictions. Currently the driveway doesn't meet the state site requirement but, granting the variance will require the driveway to be moved to comply with the ordinance and could be considered substantial justice. The existing driveway will change no matter what with one access in and out. **Vote is 4 -1**

4-The proposal does not diminish surrounding property values. **Vote is 4-0.** Walter abstained as he feels this is a dangerous area. Chris noted that the Board could put a restriction on the driveway entrance. Charlie stated that the NFPA code for a driveway is 20ft wide.

5-Unnecessary hardship. **Vote is 4-1.** Chris noted that the configuration and layout of the lot with the hill and site distance creates the special condition. Roger feels the hardship would be to the abutters and not the applicant. Walter stated he only sees a financial hardship which is not a special condition as the land can be utilized without a variance. Chris mentioned that the Board would have more control with granting the variance with restrictions.

1-The variance is not contrary to the public interest. **Vote is 5-0**

Chris suggested the following restrictions: Implement the best maintenance for drainage and storm water runoff that does not require owner maintenance over time. Obtain the appropriate permit for a shared driveway. Jason suggested the appropriate planting of trees along the lot. Roger stated that the ZBA can't be specific, that would go before the Planning Board. **The variance is granted with the suggested restrictions.**

Chris mentioned that his and Michelle Cooper's terms expire this year and that the ZBA could also use another alternate. He would like to have 5 members present at every hearing. The Boards annual meeting will take place in May and Chris would prefer a Wednesday but, have a Tuesday available for

97 backup. Possible dates discussed were Wednesday, May 18 or Tuesday, May 17. Roger asked about
98 changing the order of criteria making #1 last. The statute has the criteria listed in the order it is
99 currently in. Roger mentioned that a resident in town approached him and stated that with him being
100 on the ZBA and Planning Boards, that it is his duty to uphold the Zoning Ordinance and the law. An RSA
101 was put in place for the town and state. He states he does consider the townspeople when making
102 decisions and how it would affect them. Chris stated that the position of the ZBA is to hear appeals,
103 nothing comes before the ZBA if it is clear cut. Walter gave a handout to the board in regards to a case
104 that was similar to what was discussed tonight in reference to the hardship. The Board will review and
105 discuss this at a later date.

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107 Roger **made** and John 2nd a **motion to adjourn**. All in favor, **motion carries**. **Meeting adjourned at**
108 **9:20pm**.

109
110 Respectfully,

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112 Gail L Turilli - Clerk