

TOWN OF JAFFREY
Jaffrey, New Hampshire
BOARD OF ADJUSTMENT
Meeting Minutes
August 4, 2015

Present: Chairman Sawyer, Members Belletete, Cournoyer, Dodge, Tieger and Webber

Absent:

Staff: Recording Secretary Lemire

MEETING MINUTES APPROVAL

On a motion by Belletete, seconded by Tieger the minutes for the July 7, 2015 meeting were approved as submitted. (5-0)

PUBLIC HEARING

Chairman protem Dodge called the public hearing to order at 7:32 p.m. Notice of hearing for case No. ZBA 15-09 through ZBA 15-11 as advertised in the *Monadnock Ledger-Transcript*; copies were posted in the Town Office building, the Library and the town web site; copies were sent to the Planning Board, the Conservation Commission, and the Board of Selectmen; and notice of hearing was sent by certified mail to all abutters whose names were provided by the applicants.

While waiting for Chairman Sawyer to arrive the board begin the meeting. Member Tieger stated that he would be recusing himself from the Belletete and Greene applications. To ensure a full board it was decided unanimously to hear the applications out of order.

By unanimous vote the board determined that the applications were not ones of regional impact.

Public Hearing - New Items

3. ZBA 15-11 Hurd, et al, Eva, 349 Woodbound Rd., Map 242 / Lot 42; Zone: Residence A (with town water)

Variance – The applicant proposes a variance to enlarge an existing nonconforming deck with less than the required setbacks. (Land Use Code, Section VII, 7.2.1, Wetland Cons District Section XX, 20.5.2 and Shoreland Overlay District Section XIX, 19.4.2)

Presentation: Jeffrey Hurd

Appearance:

Chairman Sawyer was not present. Vice Chairman Dodge would assume the chair. Member Cournoyer would vote.

Mr. Hurd stated that the cottage is one of several structures on the property and it was built in approximately 1940. The expansion of the deck is to not only upgrade the property but to create a safer egress. The front door exits within steps of a very narrow and busy Woodbound Road. With young children this could be a hazard.

Chairman protem Dodge asked if the deck was already there and what are the dimensions. Mr. Hurd replied that it is already there and it is seven by twelve. Chairman protem Dodge asked if the expansion went towards the water. Mr. Hurd replied that it is more towards the street. Chairman protem Dodge asked if this was a year round residence. Mr. Hurd stated that it is seasonal.

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Building Inspector Deschenes stated that there is a slight expansion of about a foot and a half in the direction of the water with the majority of it being towards the street. The edge of the road to the water is less than the required seventy-five foot setback. Member Tieger asked if a building permit had been applied for. Inspector Deschenes explained that he has an incomplete application pending the decision of the board. Chairman Protem Dodge asked if there was a shoreland issue on the project. Inspector Deschenes replied that there may be a permit by notification from the State that needs to be obtained. The applicant has been made aware of this and that it is his responsibility to follow-up with the State.

A site visit was scheduled for Thursday, August 6, 2015 at 4:00 p.m.

There being no further discussion, Chairman Protem Dodge closed the public hearing for this item.

Deliberations:

Ultimately the board does not have an issue with the project however whether or not any permits or approvals from NHDES is necessary is still outstanding and as stated to the applicant by the Building Inspector in correspondence it is the applicant's responsibility to obtain any necessary permits or approvals. The board requested proof of permit or documentation stating otherwise and unanimously decided to continue the deliberations to the September 1, 2015 meeting

1. ZBA 15-09 F.W. Greene Estate, Inc., Gilmore Pond Rd., Map 228 / Lots 47, 49, 50 and 55; Zone: Residence B/Rural

Special Exception – The applicant proposes a special exception for the Ainsworth Pond Dam Removal and Stream Restoration project. (Land Use Code, Section XX, 20.6.2)

Presentation: Sean Sweeney, Headwaters Hydrology

Appearance: Sam Greene

Member Tieger recused himself. Member Cournoyer would vote.

Mr. Sam Greene is the representative for the Estate. A letter of authorization was submitted into the record.

The Ainsworth Pond dam is an earthen dam and was constructed in 1963 by the Frederick Greene Estate to create a wildlife pond upstream from the dam. Mr. Sweeney explained how the dam works pointing out that the dam and the spillway are sighted on four separate pieces of property.

The dam is regulated under RSA 482 for safety. NHDES Dam Bureau regularly performs inspections of the dam to ensure it is safe and they have issued a letter of deficiency indicating there are several problems with the dam. One being the deteriorating condition of the metal pipe and the other that the discharge capacity of the dam is inadequate meaning that it could not pass the fifty year flood test and could probably not pass the ten year flood test. There are a couple of options to address the deficiency. One would be to repair the dam which would involve a lot of work and would be very costly and the other is to remove the dam which is a cheaper alternative and a one time expense. Weighing the two options the applicant would like to remove the dam. Once the dam is removed the historic stream channel will be restored. Mr. Sweeney stated that he made a presentation at a ConComm meeting back in February and they were very much in support of the project.

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In Mr. Sweeney's application he asked for the board's opinion on whether or not a special exception was necessary. When speaking with the Planner, JoAnne Carr and the Building Inspector, Rob Deschenes they concluded that he would need the special exception and he has submitted that application. His interruption of the ordinance lead him to believe that the proposal was an allowed use in the wetlands conservation district and he would not need relief. At Member Dodge's request Mr. Sweeney reviewed the special exception criteria. The end result is that although removal of the dam may result in greater downstream flood flows and depths, it would also prevent the potentially greater impacts resulting from a sudden breach of the dam.

Member Dodge asked Inspector Deschenes for his comment on whether or not a special exception is needed. It was explained that to say a special exception was not required would result in changing the Land Use Code (Shoreland Overlay District) as the Wildlife Pond (Ainsworth Pond) is referenced in sections 19.2 and 19.9. During the board's discussion Member Dodge wasn't sure that changing the ordinance was reason enough to say that a special exception was needed. Member Webber pointed out that Section 20.2.1 of the Wetlands Conservation District Ordinance says to protect the wetlands. He believes a special exception is necessary. On a motion by Dodge, seconded by Cournoyer the board determined that the ordinance applies and a special exception is needed.

Member Webber asked what they plan to do with all of the dirt. Mr. Sweeney replied about one third will be used to fill the former spillway channel and the remaining material will be hauled off site.

Member Dodge asked if the final plan is for this to return to the way it was in 1962. Mr. Sweeney replied yes, prior to the dam.

Several abutters spoke in favor of the proposal as well as Nancy Beiter on behalf of the Jaffrey Conservation Commission. Member Cournoyer asked Ms. Beiter if the ConCom made an on-site visit and she replied they had.

On a motion by Dodge, seconded by Belletete the board waived the site visit. (5-0)

There being no further discussion, Chairman Sawyer closed the public hearing for this item.

2. ZBA 15-10 Belletetes Inc., 80 Peterborough St., Map 245 / Lot 3; Zone: General Business

Variance – The applicant proposes a variance to allow a sign for the Monadnock Plaza to be enlarged. (Land Use Code, Section XVI, 16.9.2 and 16.9.6)

Presentation: Matt Shea, Belletetes, Inc.

Appearance:

Member Belletete stated that although he is family he has no vested interested and does not feel the need to recuse himself.

There is presently a sign at the plaza but the feeling is that it does not showcase the businesses as well as it could. The design of the proposed sign would be reversed from the current sign placing the businesses on top and the name of the plaza at the bottom across the brick work. The sign will not be lit and the footprint will not change however the sign will be approximately thirty inches taller allowing for the panels naming the business to be slightly larger and more noticeable. The ordinance allows a thirty-two foot square sign

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and they would like to increase it to forty square feet. It is also the hope that the new design will stop the tenants from using sandwich boards along the roadside.

Member Cournoyer asked if there will be any issue with visibility. Mr. Shea explained that the sign will be on the existing base which is back fifty feet from the center of the road so there should not be an issue with visibility.

On a motion by Cournoyer, seconded by Dodge the board waived the site visit. (5-0)

There being no further discussion, Chairman Sawyer closed the public hearing for this item.

Deliberations Continued

4. ZBA 15-05 3165 FT, LLC, 14 Oak St., Map 244 / Lot 89; Zone: Residence B (with town water)

Variance – The applicant proposes the construction of a six unit apartment building. (Land Use Code, Section VI, 6.1, 6.3, Section VII, 7.2.1)

Prior to the deliberations Chairman Sawyer gave a summary of the last meeting stating that at the last meeting the board was deliberating and as a point of clarification they requested a survey from the applicant. The public portion of the public hearing has not been reconvened and the board will continue with their deliberations.

Attorney Callahan submitted a new plan by surveyor Richard Drew. The new plan has been updated and stamped and he has confirmed the boundary between lot 89 (3165 FT LLC) and lot 88 (Caron). Chairman Sawyer asked if the plan was a survey. Attorney Callahan replied that it is.

Member Dodge made a motion to deny the application with the thought if there is a second it can be heard. Based on that intent Member Belletete seconded the motion. Member Dodge agrees that whatever happens to the property it will improve it however he has concerns that six units is quite substantial for that property. Part of what must be considered is living space outside of the apartment and that would be a lot for this piece of property. He agrees with the Master Plan and bringing affordable housing into the downtown district however he does not feel they should overlook the ordinance to do that. He does not feel that denying the application and enforcing the ordinance will cause unnecessary hardship which is a standard. Member Belletete agreed that six units would be a strain on the parcel. Three or four units would be more acceptable freeing up parking spaces and lessening the traffic.

The board began reviewing the variance criteria. All members agreed that the first criteria was met. Member Webber did not feel criteria two had been met. During the discussion it was agreed that they did not meet the hardship criteria. Attorney Callahan interjected that he and his client have decided to withdraw the application with the idea of designing a new plan and resubmitting at a later date. Member Dodge suggested that consulting with the neighbors for the next proposal may prove beneficial.

The board accepted his request and Member Dodge asked that he submit something official in writing.

DECISION

1. ZBA 15-09 F.W. Greene Estate, Inc., Gilmore Pond Rd., Map 228 / Lots 47, 49, 50 and 55; Zone: Residence B/Rural

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Special Exception – The applicant proposes a special exception for the Ainsworth Pond Dam Removal and Stream Restoration project. (Land Use Code, Section XX, 20.6.2)

On a motion by Dodge, seconded by Belletete the special exception request for the Ainsworth Pond Dam Removal and Stream Restoration project was granted per the plan presented and testimony given. (5-0)

Decisions of the Zoning Board of Adjustment are subject to a 30-day appeal period for rehearing.

2. ZBA 15-10 Belletetes Inc., 80 Peterborough St., Map 245 / Lot 3; Zone: General Business

Variance – The applicant proposes a variance to allow a sign for the Monadnock Plaza to be enlarged. (Land Use Code, Section XVI, 16.9.2 and 16.9.6)

On a motion by Dodge, seconded by Cournoyer the variance request to allow a sign for the Monadnock Plaza to be enlarged to forty square feet was granted per the plan presented and testimony given. (5-0)

Decisions of the Zoning Board of Adjustment are subject to a 30-day appeal period for rehearing.

4. ZBA 15-05 3165 FT, LLC, 14 Oak St., Map 244 / Lot 89; Zone: Residence B (with town water)

Variance – The applicant proposes the construction of a six unit apartment building. (Land Use Code, Section VI, 6.1, 6.3, Section VII, 7.2.1)

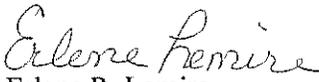
OTHER BUSINESS

None

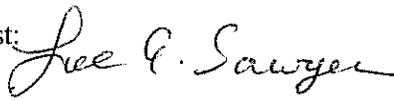
ADJOURNMENT

The meeting adjourned at 9:15 p.m.; reconvened on Thursday, August 6, 2015 at 4:00 for a site visit and adjourned at 4:50 p.m.

Submitted:


Erlene R. Lemire
Recording Secretary

Attest:


Lee A. Sawyer
Chairman
Jaffrey Zoning Board of Adjustment