

TOWN OF JAFFREY
Jaffrey, New Hampshire
BOARD OF ADJUSTMENT
Meeting Minutes
July 5, 2016

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

Absent:

Staff: Recording Secretary Lemire

MEETING MINUTES APPROVAL

On a motion by Belletete, seconded by Tieger the June 7, 2016 meeting minutes were approved as submitted. (5-0)

PUBLIC HEARING

Chairman Sawyer called the public hearing to order at 7:00 p.m. Notice of hearing for case No. ZBA 16-12 through ZBA 16-15 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. Member Cournoyer would vote.

Public Hearing - New Items

1. ZBA 16-12 Cook, Charlie & Sharon, 591 Fitzwilliam Rd., Map 208 / Lot 1; Zone: Rural (without town water).

Variance – The applicant requests a variance to permit the construction of an addition with less than the required setbacks. (Land Use Code, Zoning Ordinance Section VI).

Presentation: Charlie Cook

Appearance:

The Cook's would like to construct a 19 x 18.8 addition to the side of their home to be used as a family room. Per the sketch submitted the existing home built in 1986 is forty feet from the road; it is legal, non-conforming. If approved, the proposed addition will sit flush with the rear of the house and will be forty-five feet from the road and thirty feet from the side property line at the closest point. The closest building to the addition is three hundred feet and the addition will not be any closer to the neighbors than the house currently is.

Chairman Sawyer read into the record a letter from abutter James DePaul who spoke in favor of the request.

There being no further discussion, Chairman Sawyer continued the public hearing. The board will make a site visit on Friday, July 8 at 5:00 p.m.

2. ZBA 16-13 Mountainside Housing Assoc, LP (by SW Community Services), 70 Main St. (property of St. Patrick's School), Map 238 / Lot 154; Zone: Residence A (with town water / Main St. Overlay).

Variance – The applicant requests a variance to permit the construction of a three story building of approximately 7500 square feet intended to house elderly households. (Land Use Code, Wetlands Conservation District Ordinance Section XX, 20.3 and 20.7)

Presentation: Keith Thibeault, SWCS

TOWN OF JAFFREY
Jaffrey, New Hampshire
BOARD OF ADJUSTMENT
Meeting Minutes
July 5, 2016

Appearance:

Mr. Thibeault has been to the board twice before for this project; once for a variance and once for a special exception. This application is to request a variance to the wetland setback. Mr. Thibeault stated that between the proposed site and the abutting United Church there is a stream. There is suspicion that it may be seasonal, used to run-off water that flows underneath the road but it is considered a wetland and the proposed building will encroach within the seventy-five foot setback. Specifically, if you measure seventy-five feet from the stream into the paved parking lot it would cut the proposed building in half.

Mr. Thibeault reviewed the variance criteria. In summary he believes that given the proposed improvements (engineered storm water system, roof run-off is less polluting than run-off from a parking lot, post construction there will be 10,000 less square footage of asphalt, replaced largely by less polluting roofing and landscaping) the wetland will be better preserved and its ability to function will be enhanced should the variance be granted. Today the parking lot could accommodate at least sixty-five vehicles. The proposed plan calls for twenty-six parking spaces on this property and sixteen on the adjoining property for a total of forty-four vehicles. The ordinance is in place to protect valuable wetland areas. This would occur if the variance were granted. If granted substantial justice would be done because it would allow the creation of a community asset. Denying the variance would conflict with the purposes of the Main Street Overlay District while not allowing the owner to appropriately and responsibly develop the property for a residential use. The proposed residential use is identical to most of the surrounding properties. There is no evidence to suggest that surrounding property values would be diminished in any way. The property's special conditions are its size, road frontage and current level of development. It is an oddly shaped lot, has significant road frontage and is in excess of fourteen acres. There is also a significant, unique building on the site which was a school. These features combined make the property unique to the area. Denial would result in the inability to subdivide a large property as proposed while denying the owner the ability to create a situation where a much needed, well planned community asset could be developed.

Jaffrey resident Tim Gordon is opposed. He feels the developer knew the dimensions of the building when they chose the lot line for sub-dividing the parcel. To now say that they need relief from the wetlands does not seem right. He feels the proposal will burden the development of the remaining property.

Ms. Carolyn Garretson of the Conservation Commission asked if the wetland was part of any type of stream. Mr. Thibeault explained that there is a pipe under the road and it discharges at the corner of the property and that creates a stream that runs to the wetland. Member Webber stated that years ago when they put in the parking lot they filled in the wetlands. He believes this is the reason for the sink holes and questions the plan for constructing a building on top of wetlands. Member Tieger asked if they would be doing borings. Mr. Thibeault replied they haven't done any at this point but when they do they go down at least hundred feet.

Jaffrey resident Ruth Webber does not feel that there is any hardship inherent in the property that forces them to build on this one location on the fourteen-acre parcel. The parking lot is intruding onto the wetlands and it is a non-conforming use that happens to be grandfathered. When the school was there the parking lot was used 8-9 hours a day and it was not full. The proposed new building will be full and used every day/all day. She feels the issue of hardship needs to be addressed.

Jaffrey resident Randy Christmas stated the Town should have a licensed Engineer. When there is a question on water issues or drainage the Town, at the builder's expense, should have or the builder should provide a licensed Engineer for the drainage system. Mr. Thibeault replied that his Engineer has spoken with the Town's Engineer.

TOWN OF JAFFREY
Jaffrey, New Hampshire
BOARD OF ADJUSTMENT
Meeting Minutes
July 5, 2016

Jaffrey resident and member of the Conservation Commission Elizabeth Webster commented that perhaps there is the possibility of a spring under the parking area and maybe they should hire a Hydrologist.

There being no further discussion, Chairman Sawyer continued the public hearing. The board will make a site visit on Friday, July 8 at 5:30 p.m.

3. ZBA 16-14 Davis Village Properties, 448 Turnpike Rd., Map 256 / Lot 2; Zone: Rural (with town water)

Variances – The applicant requests variances to permit:

1. A studio/commercial retail space in the rural zoning District. (Land Use Code, Zoning Ordinance Section IV, 4.1)
2. The expansion of the existing building within the front setback and within seventy-five feet of the existing wetlands. (Land Use Code, Zoning Ordinance Section VI, Wetlands Conservation District Ordinance Section XX, 20.7)
3. Parking and drives (impervious cover) to be constructed within the wetlands conservation district. (Land Use Code, Wetlands Conservation District Ordinance, Section XX, 20.7)
4. An underground sewage disposal facility within one hundred feet of wetlands. (Land use Code, Wetlands Conservation District Ordinance Section XX, 20.11)

Special Exception – The applicant requests a special exception to permit a driveway within seventy-five feet of jurisdictional wetlands. (Land Use Code, Wetlands Conservation District Ordinance, Section XX, 20.6.1)

Presentation: Kirk Stenersen, Higher Design

Appearance:

The parcel consists of 2.1 acres in the rural with town water district and a three-bedroom house. The applicant is requesting four variances. One is to convert the house into a one-bedroom apartment with retail space in the front. Ideas for the retail space range from selling local products such as bakery, coffee, maple syrup, crafts or antiques to holding educational classes on crafts such as knitting, sewing or photography. The second variance, if granted, would allow him to expanding the existing building which would place it nine feet closer to the wetland at the closest point. The third is to allow overflow parking beyond the existing building that would also be within the wetland buffer and the fourth is to allow an underground sewage disposal facility within the wetlands. There is an existing septic system near the house. Two test pits have been done; one in the vicinity of the existing system and one near the proposed overflow parking. The topography and soils in the area near the overflow parking appear to be more favorable. Setbacks for a septic to a wetland is one-hundred feet; he estimates this would be eighty-five feet or possibly more.

A special exception is also needed for the project to permit a driveway within the seventy-five foot wetland buffer. History shows that the road from the Benjamin Prescott Inn used to travel across Rt. 124 between the two ponds on the subject property and connect onto Prescott Rd. The road was abandoned by the town in the 1960's and reconfigured to its present lay-out. Although there is proper sight distance there is a lot of fast moving traffic coming down a hill. As a safety measure the applicant would like to use the existing driveway allowing traffic to enter from Rt. 124 and exit using the proposed driveway onto Prescott Rd. Member Tieger asked if they intended to make it one-way. Mr. Stenersen said they hoped to have the option of entering both ways but would like traffic to exit via Prescott. He also spoke with the Town's Road Agent

TOWN OF JAFFREY
Jaffrey, New Hampshire
BOARD OF ADJUSTMENT
Meeting Minutes
July 5, 2016

about the proposed drive and there was no issue. Member Tieger asked if they would sell coffee or serve coffee. Mr. Stenersen replied they would sell; there would be no sit-down.

Member Cournoyer asked about putting the septic and parking together. Mr. Stenersen assured him that with proper ventilation and cover it would not be a problem. Member Belletete asked for the size of the proposed addition. Mr. Stenersen estimated it would be ten by thirty.

Conservation Commission member Carolyn Garretson stated that they have significant concerns with the wetland impact and the road that goes between the two ponds. Would that be an impervious cover? Mr. Stenersen replied that it would.

Jaffrey resident Randy Christmas took issue with the proximity of the proposed location of the septic to the wetland. He is not in favor of the project.

Abutter Ruth Graff of the Benjamin Prescott Inn spoke in favor of the project and feels using Prescott Rd would be a safe route.

The board will make a site visit on Friday, July 8 at 6:00 p.m.

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

4. ZBA 16-15 Gordon Services Property Maintenance, LLC, 250 North St., Map 237 / Lot 55; Zone: rural (without town water)

Variances – The applicant requests variances to permit:

1. The construction of a retaining wall within seventy-five feet of the wetland overlay district. (Land Use Code, Wetlands Conservation District Ordinance, Section XX, 20.7)
2. The construction of a sign with a structural base within seventy-five feet of the wetland overlay district. (Land Use Code, Wetlands Conservation District Ordinance, Section XX, 20.7)
3. A permanent nursery within seventy-five feet of the wetland overlay district. (Land Use Code, Wetlands Conservation District Ordinance, Section XX, 20.7)
4. An equipment storage area with trailers within seventy-five feet of the wetland overlay district. (Land Use Code, Wetlands Conservation District Ordinance, Section XX, 20.7)
5. The continued use of all upland areas on said lot (map 237/lot 55) (Land Use Code, Wetlands Conservation District Ordinance, Section XX, 20.7)
6. The use of preexisting septic system designed to service garage and office. (Land Use Code, Wetlands Conservation District Ordinance, Section XX, 20.11)

Special Exception – The applicant requests a special exception to permit the altering of the access way grade within the wetland overlay district by moderating grade for two hundred feet of way. (Land Use Code, Wetlands Conservation District Ordinance, Section XX, 20.6)

Presentation: Cody Gordon

TOWN OF JAFFREY
Jaffrey, New Hampshire
BOARD OF ADJUSTMENT
Meeting Minutes
July 5, 2016

Appearance:

Mr. Gordon gave an overview of the variances he is requesting. Items 1 and 2 are the retaining wall and the sign/post that are right off the road near the entrance and they are within the wetland buffer. The retaining wall will replace old tires and other debris that the applicant removed. The applicant spoke with the state regarding the placement of the sign and because he fronts a secondary road the only request is that it's placed where it will not interfere with the snow plows. Item 3 is the proposed nursery that is to the back right of the property. This will be an area where plants are stored until needed. Although the ground slopes up preventing run-off into the brook it is still within the wetland buffer. Item #4 are two box trailers with a temporary shed roof over them. The trailers are used for storage and the area under the roof is used for parking trucks with trailers carrying mowers and associated supplies/equipment. Item # 5 would consist of multiple areas on the property where motorized equipment and hazardous materials are used or mulch is stored; all of which is within the wetland buffer. Mr. Gordon is asking to continue to use as much of his land as he can. Item #6 involves the use of a preexisting septic system for the garage/office. His request is to acknowledge it and allow him to continue using it. Chairman Sawyer looked to the Building Inspector for comment. Inspector Deschenes stated that he has not found any record that it has been approved by the State. The garage was built in 1985/1986 with floor drains. He surmises the tank was installed in the mid to late 1980's to capture any fluids from the garage and has since been modified. If the timing is correct it would fall under the DES requirements. Member Tieger asked if there was a leach field. Mr. Gordon replied that he did not know. Member Webber stated that the board will need more information about the tank, for example where it is and how big is it?

The special exception request involves moderating the access way grade, which is also within the wetland overlay district, for two hundred feet of way. The entrance currently slopes back making it difficult for tractor trailers in the winter months to exit the property. This request is being made to make their egress safer.

Member Tieger asked the applicant if he had a copy of the letter from the Building Inspector or the Conservation Commission. Mr. Gordon replied that he did not and copies were made. Inspector Deschenes addressed his letter stating that the excavation permit had expired in the early 1990's and the planning board had determined the pit was depleted. In 1994 the Planning Board did issue a new excavation permit and a reclamation plan from Bob Heywood was submitted but was never completed, hence all the disturbances to the wetlands. An approval to continue the operation has not been found.

Also, during a recent inspection for the home construction other violations were noticed. On April 12, 2016 Mr. Gordon received a special exception to allow access ways and utilities within the wetland conservation district for the purpose of constructing a house. The plan submitted with the application is no longer accurate as a large area referenced by this plan has been bulldozed up to the edge of wetlands and over the seventy-five foot protected setback, a rock wall has been constructed and a large dirt pile has been placed a few feet from the wetland as well as a run-in shed that may be too close to the property line setback. The Planning Department and Code Enforcement request that approvals from the ZBA be conditioned on approvals specific to the protected Wetlands Conservation district.

Mr. Gordon replied that he made a paddock and with the rocks from the paddock he built the stone wall. Prior to there being a stone wall there was a lot of rubble and trash which he cleaned out. It was his understanding from the state that agriculture activities, as long as it did not impede the wetlands, was allowed within the wetlands setback. Mr. Gordon pointed out that the issues raised in Inspector Deschenes letter have nothing to do with the application before the board tonight.

TOWN OF JAFFREY
Jaffrey, New Hampshire
BOARD OF ADJUSTMENT
Meeting Minutes
July 5, 2016

Ms. Carolyn Garretson of the Conservation Commission stated that the ConComm was on-site today and were unable to understand an accurate picture. The Commission would like to visit the property again and in their letter requested designation of the town's wetland conservation district's overlay be delineated in the field and by survey. Ms. Garretson stated that during their visit they witnessed trucks parked very close to the stream and this is of great concern to them; the trucks should not be parked in the buffer area.

Mr. Christmas brought up the proposed nursery and the location. It is within the wetland setback and he believes there will be equipment brought in and out making natural vegetation nil and in turn making it easy for silt to run-off into the wetlands. He is not opposed to the project but does suggest there be silt fence that is maintained.

The board will make a site visit on Friday, July 8 at 6:30 p.m. The applicant was asked to identify, in the field, the wetland buffer zone for each variance being requested

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

Continued

No Action

OTHER BUSINESS

Letter from Mr. Randy Christmas was distributed to the board.

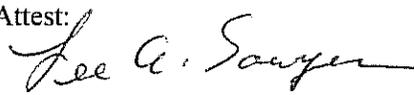
ADJOURNMENT

The meeting recessed at 9:22 p.m.

Submitted:


Erlene R. Lemire
Recording Secretary

Attest:


Lee A. Sawyer
Chairman
Jaffrey Zoning Board of Adjustment