

1 Draft Minutes
2 ZONING BOARD OF ADJUSTMENT PUBLIC MEETING
3 **NEW LOCATION—EARLY CHILDHOOD LEARNING**
4 **CENTER**
5 **77 RAMSDELL LANE**

6 Barrington, NH
7 April 19, 2017
8 7:00PM
9

10 **NOTE: THESE ARE SUMMARY ACTION MINUTES ONLY. A COMPLETE COPY OF**
11 **THE MEETING AUDIO IS AVAILABLE AT THE LAND USE DEPARTMENT.**
12

13 Members present

14 Karyn Forbes, Chair

15 Meri Schmalz

16 Dawn Hatch
17

18 Member Absent

19 Raymond Desmarais
20

21 Alternate Members Present

22 Cheryl Huckins

23 George Bailey
24

25 Alternate Member Absent

26 George Schmalz
27

28 **MINUTES REVIEW AND APPROVAL**

29 **1.** Approval of March 15, 2017 Regular Meeting Minutes.
30

31 *A motion was made by G. Bailey and seconded by M. Schmalz to approve the minutes. The motion carried*
32 *5-0.*
33

34 **ACTION ITEMS continued from March 15, 2017**

35 **2.** 104-15-GR-17-ZBA Variance (Owner: Kenneth Bolstridge) Request by applicant from Article 4, Section
36 4.1.1 Minimum Standards Table 2 for the side setback where 30' is required to allow proposed 24 x 24 garage
37 where the setback is 10' from the side at 639 Berry River Road on a .48 acre (Map 104, Lot 15) in the General
38 Residential (GR) Zoning District.
39

40 Kenneth Bolstridge explained he was not able to attend the meeting last month.
41

42 K. Forbes asked for confirmation on the relief he was looking for.
43

44 K. Bolstridge expressed he had thought they were looking for 15'.
45

46 K. Forbes Anyone in favor

47 No one spoke.

48

49 K. Forbes Anyone against.

50 No one spoke.

51

52 G. Bailey expressed he had done what was asked.

53

54 D. Hatch expressed she felt the driveway could come over more.

55

56 M. Schmalz motioned and C. Huckins seconded to grant the 15' setback. Motioned passed 4-1 Hatch
57 apposed.

58

59

60 **3. 250-109-NR/SDAO-17-ZBA-Variance/Special Exception (Owners: Richard & Gail Daigle)** Request by
61 applicant for a variance from Article 4.1.1 Minimum Standards to allow the subdivision of a 1.84 acre lot from
62 22.66 acres (Map 250, Lot 109) with 150' frontage where 200' frontage is required and request for a special
63 exception per Article 4.1.2 to access the new building lot from the side of the property via a shared driveway at 22
64 Lee Road in the Neighborhood Residential (NR) Zoning District. By: Randy Orvis, Geometres Blue Hills, LLC;
65 PO Box 277; Farmington, NH 03835.

66

67 Randy Orvis represented the applicant who wished to subdivide and create a back lot with 50' of frontage. They were
68 also asking to use a shared driveway.

69

70 Randy Orvis read the five criteria.

71 1. Special conditions exist such that literal enforcement of the ordinance will result in unnecessary hardship to
72 the applicant as defined under applicable law.

73 *An unnecessary hardship is one suffered as the result of the interference with the right to use property as the property*
74 *owner sees fit, even though no public or private rights will be injuriously affected (Vannah v Bedford, Carter v Nashua)*
75 *The property in question is 22.66 acres of mostly back land with minimum frontage. The existing home is built*
76 *approximately 840 feet from Lee Road.*

77

78 2. Granting the variance would be consistent with the spirit of the Ordinance.

79

80 *The spirit of the ordinance will be met as the density will be 1 home per 11 acres of land, and with both homes sharing*
81 *the common driveway, there will be no new curb cuts on Lee Road and because the existing home is set back 840 +-*
82 *feet, only the new proposed home will be visible in the combined 200 feet of frontage on Lee Road.*

83

84 3. Granting the variance will not result in diminution of surrounding property values.

85 *The Daigle's propose a small home with commensurate build quality to those that exist in the vicinity and would not*
86 *detract from surrounding property values.*

87

88 4. Granting the variance would do substantial justice.

89 *Granting the variance would allow the Daigle's to maintain a smaller home while remaining in the neighborhood*
90 *community.*

91

92 5. Granting the variance would not be contrary to the public interest.

93 *With the Special Exception requested, there would be no additional curb cuts on Lee Road.*

94

95 Randy Orvis Addressed the criteria for a Special Exception. Insert from application.

96 *The Special Exception would allow for no additional curb cuts.*

97
98 D. Hatch asked if the driveway was in the new lot.
99
100 R. Orvis stated yes.
101
102 G. Bailey asked how they would access the new lot.
103
104 R. Orvis explained they would access off the exiting driveway and turn left.
105
106 K. Forbes expressed she did not see a hardship. She read from the criteria in the RSA.
107 (1) The variance will not be contrary to the public interest;
108 (2) The spirit of the ordinance is observed;
109 (3) Substantial justice is done;
110 (4) The values of surrounding properties are not diminished; and
111 (5) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.
112 (A) For purposes of this subparagraph, “unnecessary hardship” means that distinguished from other properties
113 in the area:
114 (i) No fair and substantial relationship exists between the general public purposes of the ordinance provision
115 and the specific application of that provision to the property; and
116 (ii) The proposed use is a reasonable one.
117 (B) If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist if, an
118 unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish
119 it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance,
120 and a variance is therefore necessary to enable a reasonable use of it.
121
122 K. Forbes took public comment.
123
124 Donna Hinch 28 Lee Road asked how many acres they had.
125
126 R. Orvis expressed they had 22 acres.
127
128 Donna Hinch asked how far away from their property it would be.
129
130 R. Orvis explained the setbacks.
131
132 Pam Failings asked the minimum requirements.
133
134 Jeff Scott spoke in opposition. He expressed the rules should be followed.
135
136 K. Forbes explained the role of the ZBA. That in order to have a Zoning Ordinance you had to have a ZBA.
137
138 Pam Failing expressed from a conservation standpoint the Conservation Commission would support the layout.
139
140 K. Forbes closed the testimony.
141
142 G. Bailey expressed he would like to see them have both back lots now.
143
144 M. Schmalz liked the idea of the shared driveway.
145
146 D. Hatch expressed they have been told they could have both back lots.

147
148 K. Forbes expressed the layout would have the least impact.
149
150 C. Huckins expressed they would probably never have more than 3 lots.
151
152 M. Schmalz made motion to approve variance for 150' of frontage D. Hatch seconded.
153
154 K. Forbes expressed the motion was to approve the size of the lot without adequate frontage.
155
156 *Motion carried 4-1 G. Bailey abstained.*
157
158 Special Exception 4.1.2
159
160 K. Forbes expressed it was the interest of the public to have one driveway and create less impervious surface.
161
162 *A motion was made by C. Huckins and seconded by M. Schmalz to approve the Special Exception to 4.1.2 to allow for*
163 *one driveway. The motion carried 5-0*
164
165 **4. [251-64-GR/SDAO-17-ZBA \(Owners: Steven F. & Pamela M. Lenzi Revocable Trust\)](#)** Request by
166 applicant for a variance from Article 10 Wireless Communications 10.4 (3) and 10.4 (5) Dimensional
167 Requirements to construct a 150' tall wireless communications facility that will be surrounded by a
168 fence that will be located 60' from wetlands located on Bumford Road (Map 251, Lot 64) in the
169 General Residential (GR), LLC; 290 Congress Street, 7th Floor; Boston, Ma 02210.
170
171 Francis Parisi represented the applicant and explained the application.
172
173 F. Parisi explained that the ordinance stated the tower was not allowed to be taller than 150' in height,
174 which it complied with. The variance was to allow the tower to be more than 20' higher than the trees.
175
176 F. Parisi explained the variance was for 60' from the wetlands where 75' was required under the
177 ordinance for a cell tower fence. The usual setback from a wetland was 50'.
178
179 F. Parisi explained the Varsity Wireless Investors, LLC was not a phone company but a real estate
180 provider that provided space on towers for cell service providers. They had recently built several towers
181 in Southern NH.
182
183 F. Parisi explained that they had put up a balloon last weekend and had pictures to show the board.
184
185 F. Parisi expressed they were in Barrington because there was a need. 40% of the world has cut the cord
186 and had only wireless phones. E-911 requires wireless communication companies to identify location of
187 calls, which requires a better signal. They were trying to bridge a gap along route 125. The location they
188 were looking at was a sand pit on Bumford Road. The land was surrounded by wetlands to the North and
189 East. They were proposing to tuck the tower into the trees to make it less visible.
190
191 G. Bailey asked if they moved the 15' would it affect the performance.
192
193 F. Parisi expressed it would not affect the performance but it would be more visible, which is contrary to
194 the ordinance.
195

196 F. Parisi expressed they had delineated the prime wetlands at the request of the Conservation Commission
197 and did not need relief from the prime wetland setback.

198
199 F. Parisi expressed there were cabinets within the fenced in area that would not be visible from Route
200 125.

201
202 F. Parisi expressed there was numerous technologies they needed to accommodate. The tower would be a
203 mono-pole. They had certified that the 150' height was the minimum they needed. After sending up the
204 balloon they drove around and took pictures. While driving down Route 125 the tower was never in your
205 windshield sight line. The balloon was at 150'-160' the string was 150'. The location was over 1000'
206 from Route 125.

207
208 D. Hatch asked how many antennas.

209
210 F. Parisi expressed they would start with T-Mobile and then Verizon would come on. You would see 4-5
211 levels at full build out.

212
213 M Schmalz asked how many levels they would design for.

214
215 F. Parisi expressed at least 4.

216
217 F. Parisi explained he had submitted a 25 page document of the variance criteria. They could not be only
218 20' above the trees because it would be an impediment to the signal. The facilities are very heavily
219 regulated by the Federal Government. The Federal Government has said you cannot just say no. The
220 government is trying to encourage the development of infrastructure. They have to show they could not
221 live within the height constraints.

222
223 K. Forbes asked for him to go back to the wetlands question.

224
225 F. Parisi identified the location. They were attempting to create a visual buffer by placing the tower near
226 the trees. The location of the fence was 60' from regular wetlands. The Conservation Commission was
227 concerned they were within 100' of the prime wetlands. The applicant had added the delineation to a plan
228 presented today. They did not need relief from the 100' prime wetland.

229
230 K. Forbes asked the size of the foundation.

231
232 F. Parisi expressed the size was 20' square.

233
234 G. Bailey expressed he was not in favor of the 15' encroachment although he was in favor of the tower.

235
236 K. Forbes asked if there were questions from the public.

237
238 Dan Ayer expressed you would see the tower through the cut through from the street.

239
240 F. Parisi expressed that no one could explain was a cell tower was different than any other development in
241 regard to wetlands.

242
243 F. Parisi expressed no towers went down during hurricane Sandy.

244
245 G. Bailey expressed the height was 155' high.

246
247 F. Parisi expressed that the structure was 150' not including the lightening rod.
248
249 The resident at 83 Hayes Road asked if there was lighting on the Tower. She expressed that she could see
250 it from their property. They would not like to see it moved out from the trees. They asked why it couldn't
251 be moved back further.
252
253 F. Parisi expressed that it would be closer to the wetlands. He stated there would be no lights on the
254 tower. There would be no permanent lighting on the facility.
255
256 K. Forbes expressed there was very little they could do in regard to this. The tower had been described as
257 galvanized steel. She believed the camouflage would make it look worse.
258
259 M. Schmalz asked if when the trees filled in would be hidden more.
260
261 The resident at 83 Hayes Road expressed yes.
262
263 Barbara Robbins expressed she could see it from her window.
264
265 Marika Wilde expressed no one had spoken about radiation.
266
267 F. Parisi expressed these are like 100 watt radio stations, more radiation came off your computer station.
268 They are located on hospitals and apartment buildings.
269
270 Pam Failing asked if there was a time weighted average for the exposure.
271
272 Marlon Depaz explained that distance dissipates the exposer and the FCC regulated the towers.
273
274 K. Forbes asked why a cell tower would need more than the 50' buffer required by other commercial
275 development.
276
277 Pam Failing expressed she did not understand why it was different but it was necessary to protect the
278 buffer from disturbance. She expressed having a difference between the prime wetland and a regular
279 wetland was to protect the area from disturbance.
280
281 K. Forbes expressed the prime wetland and certification needed to be discussed with the Conservation
282 Commission.
283
284 M. Schmalz moved and C. Huckins seconded to approve the 150' height not counting the lightening rod.
285
286 K. Forbes expressed there was a conflict in the ordinance regarding the height.
287
288 *The motion move carried 5-0.*
289
290 G. Bailey moved to continue the setback request for the fence M. Schmaltz seconded the motion carried 4-
291 1.
292
293 **5. 103-38-GR-17-ZBA (Owner: George J. Gauthier)** Request by applicant for a variance from Article 4,
294 Section 4.1.1, Table 2 to allow both side setbacks of 14.7 where 30' is required to remove trailer and
295 temp room to construct a proposed 21 x 50 building on a .29 acre lot on Long Shores Drive (Map 103,

296 Lot 38) in the General Residential (GR) Zoning District. By: George J. Gauthier; PO Box 228;
297 Raymond, NH 03077.

298

299 George Gauthier expressed the prior variance he had been granted had expired before he was able to build
300 and he was requesting the same variance he had been granted before.

301

302 *G. Bailey motioned to approve the same variance for two years C. Huckins seconded. The motion carried 5-0*

303

304 *A motion was made by G. Bailey and seconded by M. Schmalz to adjourn at 9:15 p.m. The motion carried*
305 *u/a.*

306

307 Respectfully submitted,

308

309

310 Marcia J. Gasses

311 Town Planner & Land Use Administrator