

Meeting Minutes
ZONING BOARD OF ADJUSTMENT PUBLIC MEETING

Barrington Annex Building
(next to Elementary School)
(NEW LOCATION) 572 Calef Highway

Barrington, NH

March 18, 2015

7:00PM

Members Present

Karyn Forbes, Chair

George Bailey

Meri Schmalz-Alt

George Schmalz-Alt

Raymond Desmaris

Dawn Hatch

Member Absent

Gerard Gajewski

Meri Schmaltz to sit for Gerard Gajewski

MINUTES REVIEW AND APPROVAL

1. Approval of January 21, 2015 Regular Meeting Minutes.

A motion was made by G. Bailey and seconded by M. Schmalz to approve the January 21, 2015 meeting minutes. The motion carried unanimously

ACT ION ITEMS

2. **107-16-GR-15-ZBA (Owner: Nancy Lewis)** Request by applicant to request a variance from Article 11.2 (1) & Table 2 Dimensional Requirements for side setbacks to place a small addition onto the house which will act as airlock and mudroom for the existing house and a small generator pad located on a 1.4 acre site at 421 Isaacs Turn Road (Map 107, Lot 16) in the General Residential (GR) Zoning District. By: Daniel O'Lone, Berry Surveying & Engineering: 335 Second Crown Point Road; Barrington, NH 03825

Nancy Lewis represented herself. She expressed that the house had been built in 1969 when the current zoning restriction did not exist. The intent of the project was to place a 9' X10' mudroom onto the house which would act as an airlock and mudroom for the existing house as well as a small generator pad. The addition would be placed at an existing entry door. The generator pad would be located as close as possible to the electrical meter for ease of installation.

K Forbes expressed the addition would be 24' from the side property line, 88' from the road and was more than 75' from the water. The generator pad would be about 13' from the side property line.

G. Bailey asked why the applicant had chosen the proposed location for the generator pad.

Nancy Lewis explained that the chosen location was closest to the propane tanks.

K. Forbes opened and closed public comment. No one spoke.

K. Forbes explained the request was for relief from the side setback requirement. The criteria presented included special conditions existed, it was a substandard size lot at 1.34 acres, it was consistent with the spirit of the ordinance as the addition was away from the water, there was no diminution of property values and it would do substantial justice.

A motion was made by G. Bailey and seconded by R. Desmaris to approve the variance request. The motion carried unanimously

3. [239-2&235-1-TC-15-ZBA \(Owner: John & Linda Svenson & 1962 Real Estate, LLC\)](#) Request by applicant for a Special Exception from Article 4 Dimensional Requirements, 4.1.2 Lot Frontage to continue using the existing driveway/entrance for access instead of 40' proposed lot frontages of the three proposed lots that will be proposed to the planning board for a lot line adjustment/subdivision located on 2.8 acre and 16 acre lots at 9 Christmas Lane and 625 Franklin Pierce Highway (Maps/Lots 239-2 & 235-1) in the Town Center (TC) Zoning District. By: Joel D. Runnals, NHLLS, Norway Plains Associates, LLC; PO Box 249; Rochester, NH 03866-3948

Attorney Franklin Jones represented Holy Rosary which owns 1962 Real Estate, LLC

R. Desmaris recused himself.

Attorney Jones introduced Brian Hughes, Joel Runnals, John Svenson, and Garth Svenson

Attorney Jones described the property involved, which included the former Hayes property (239-2) and the Svenson property (235-1). The purpose was to cooperatively create 5 lots from 2 lots owned by different owners. There was no construction being proposed at this time. The applicants were here as a preliminary move prior to going to the Planning Board for subdivision approval. The dimensional requirements required the frontage be used for access under the Ordinance. The request was to allow the current access to continue to be used. At the time of development the three necks would allow for a 60' right of way. The proposed lots met the dimensional requirement of 40' of frontage. The new access would be designed to today's standard. The proposal would have no negative impact on values and was consistent with intent of the ordinance. Three accesses points would be abandoned on Route 9. NHDOT had met with the applicant onsite and supported the proposal.

K. Forbes asked the current legal status of the necks.

Attorney Jones expressed the necks were currently part of one lot. At the time of development the necks of the three lots would create a road and the three access points on Route 9 would be abandoned.

D. Hatch if they would be proposing a loop.

Attorney Jones expressed that loop remains to be determined. Frank Jones expressed they were looking for a waiver to allow access from the current location until such time as the lots were developed. Even if the

Planning Board changed the lots somewhat the access would remain the same until such time as the development would occur.

K. Forbes questioned whether they had been to the Planning Board for a conceptual review.

Attorney Jones expressed that they had been to the Board to discuss the PUD Ordinance and how the Ordinance did not work for this particular piece of land. The only way to get development back off Route 9 was to set aside land for a future road to be built at the time development was to occur on the lots. When the development occurred the lot frontage would be used for access because at that time a Town spec road would have been built. The current access would only be used for the existing homes and businesses until such time as the new road is built. The current access would not be allowed as access for the new lots.

D. Hatch suggested that a condition be attached that the future access to the lots would be over the necks as proposed.

G. Bailey expressed they could also add a sunset clause.

K. Forbes expressed that conditions could be attached to the Special Exception.

G. Bailey questioned the name of the driveway. He had found a different name on the Town GIS map.

Attorney Jones explained.

Joel Runnals expressed there was an error on the Town's GIS map, which was going to be corrected by the Town's mapping contractor. There would need to be a permanent road contract between all of the Svenson's and 1962 Realty governing that the area with the three necks was the sole access, so that there was no question that the three necks were the sole access.

Attorney Jones explained there would be permanent road agreements put in place as required by the regulations.

K. Forbes asked why they did not just do the subdivision and build the road.

Attorney Jones expressed they were looking to find a partner to develop the back portion as residential, consistent with the Town Center concept. The applicant currently did not have someone to develop the back portion of the property.

G. Bailey pointed out that there currently was parking located on one of the proposed lots, which would need to be reviewed by the Planning Board.

M. Gasses expressed that the current Christmas Dove site would need to come in for site plan review as a condition of approval if a subdivision was to occur. The Planning Board could require the applicant build the road or at least design the road as part of their approval.

Attorney Jones expressed they would need a number of things including a dedicated road agreement and an easement for the parking that currently exists. He expressed that they needed to start somewhere in order to get something other than strip development along Route 9 like currently was there, you needed to get back off Route 9 to create a Town Center.

K. Forbes asked when Holy Rosary planned to build.

Frank Jones expressed that decisions needed to be made by Holy Rosary's Board of Directors and the exact plans for the site were not yet clear. Holy Rosary would have to develop the site in the near future for baking purposes because under the law they were not able to acquire and hold real estate.

K. Forbes asked how long it would be before Holy Rosary would build.

Brian Hughes, President of Holy Rosary Credit Union believed that this proposal needed to move forward first before they could move forward with getting the HRCU located there. Holy Rosary had closed on the purchase of lot 239-2 in January.

K. Forbes asked for anyone in favor.

No one spoke.

K. Forbes asked for anyone opposed.

Bernie Bennett expressed the current accesses were on his land and much of the traffic crossed quickly. If the access was to be abandoned in the future then he would not have a problem with the proposal. He expressed concern with the speed of traffic entering and exiting currently and had expressed that the prior owner had tried to have the Svenson's discontinue its use.

Attorney Jones expressed he did not know when the driveway was put in. The buildings had been there a long time; Christmas Dove had been there in excess of 20 years. He expressed that the State of NH made some mistakes over the years and Route had been originally laid out in the 1600's. The State had moved the road inadvertently to the south more than it actually should have been. He expressed that Mr. Bennett's concerns were legitimate and what they were proposing was going to improve the situation by closing off the current access. It would be a condition that any development would require them to terminate the existing curb cuts.

John Svenson explained that the Christmas Dove was built in 1973 and he had a written agreement to use the access forever from Dwight Haley provided they did not change the use. The use had decreased over the years.

Bernie Bennett had letters from a now deceased attorney on attempts to close the exit.

K. Forbes explained that the issue he was raising was a civil matter.

K. Forbes closed testimony.

D. Hatch expressed she would be willing to grant the Special Exception with the condition that the access would be abandoned when subdivision/site plan approval was granted. She wanted it worded that the three necks would become a road and nothing else.

G. Bailey wanted to see a condition that if nothing was done within a certain period of time the approval was voided.

D. Hatch expressed that once Holy Rosary builds the road would have to be built.

K. Forbes clarified that once Holy Rosary builds the road would have to be built, and the other curb cuts eliminated.

M. Gasses asked for clarification, explaining the site plan approval for Christmas Dove would need to be revised as a condition of subdivision approval. There were several parking spaces for the Christmas Dove which would be located on 2 other lots as shown on the proposed subdivision and she did not want the Planning Board to look at that site approval as triggering creation of the road.

K. Forbes expressed they would need site approval at the time of subdivision.

M. Gasses stated yes, but it would not be a site review that would not trigger building of the road.

K. Forbes expressed that an approval would be conditioned upon the time lots 239 or 235 acquire site plan approval with a 5 year sunset.

A motion was made by G. Bailey and seconded by M. Schmalz to approve the request for a Special Exception conditioned upon the applicants abandoning the three current access points to New Hampshire Route 9 at the time the applicants or their successors obtain site plan approval for tax map 239 lot 2 or tax map 235 lot 1, also conditioned upon subdivision approval and site plan approval for the same Tax Map Lots within a five year time period, or the Special Exception terminates also, conditioned upon the applicants receiving approval substantially consistent with proposed private driveway configuration on plan C0000, dated February 2015 and received by the Land Use Office on February 25, 2015.

K. Forbes expressed that the proposal was consistent with protecting the safety, health and welfare of the public by eliminating three access points and combining the proposed necks into one 60 foot right of way.

The motion made by G. Bailey and seconded by M. Schmalz carried unanimously

A motion was made by G. Bailey and seconded by D. Hatch to adjourn at 8:10 p.m. The motion carried unanimously

Respectfully submitted,

Marcia J. Gasses
Town Planner & Land Use Administrator