

Town of Deerfield

Zoning Board of Appeals

September 16, 2004

Minutes

- I. Hearing convened at 7:00 p.m., Main Meeting Room, Municipal Offices, So. Deerfield.
Present: F. Olszewski (Chair), R. Bohonowicz, R. Calisewski, S. Barrett
Absent: G. Friary, L. Grybko, Sr., Roger Sadoski
- II. Chair Olszewski opens the public hearing on an application by Kelli Willingham and John VanEps for a special permit to open and run a single-room Bed and Breakfast at their home located at 312 Lower Road, Deerfield, MA 01373 (Assessors Map 29, Parcel 4).

F. Olszewski invites the petitioners to speak first. K. Willingham states that she would like to open and run a one-room bed and breakfast out of her primary residence. R. Calisewski states that he has seen the room and that the room is located over their garage, which is on the East Side of Lower Road. R. Bohonowicz asks K. Willingham what her intentions are with regards to hours of operation, days of the week and seasonality. Her response was that occasional weekends are what she was thinking. This will not be a full time business. She wants to open it up occasionally to friends of friends. She wants to have a small business, not a primary business, in order to make use of the space that she has available. She and her husband, John VanEps, work from home and are there all of the time. S. Barrett asked if there were any issues to consider at this location. R. Calisewski responds that he was there for another issue and states that there are not any septic issues, parking issues or health issues. R. Bohonowicz asked if this is a residential/agricultural area? Yes, was confirmed. R. Bohonowicz summarizes that we are looking at a request for a special permit for a bed and breakfast in a residential/agricultural area if we move forward. He proceeded to ask K. Willingham if there are any intentions of this becoming a boarding room or anything of that type of situation? K. Willingham responds with "absolutely not".

Chair Olszewski asks if there are any other questions for the petitioner. Since there were none, the hearing was closed to render a decision.

Chair Olszewski states that he sees no reason not to grant the petitioner a permit. There was not anyone there to speak against the issue.

R. Calisewski made a motion to grant the special permit for the bed and breakfast. S. Barrett seconded. R. Calisewski added that the permit is subject to board of health inspection. Motion passed unanimously (4-0-0).

- III. Hearing convened at 7:30 p.m., Main Meeting Room, Municipal Offices, So. Deerfield.
Present: F. Olszewski (Chair), R. Bohonowicz, R. Calisewski, S. Barrett, Roger Sadoski (arrived later)
Absent: G. Friary, L. Grybko, Sr.
- IV. Chair Olszewski opens the public hearing on an application by Frank and Christine Karas for a variance for a single building lot on a parcel of land consisting of approximately 11.5 acres of land located off North Hillside Road, South Deerfield, MA 01373 (Assessors Map 12, Parcel 23).

R. Bohonowicz clarifies Zoning Board procedures. When there are five Zoning Board members present it is required that 4 out of 5 must vote in favor to grant request. At the beginning of tonight's hearing, there were only four Zoning Board members present which would require that all be in favor to grant request. The petitioner has the right to continue with four members so long as he understands these procedures.

Frank and Christine Karas are applying for a variance on this particular piece of land for numerous reasons. They have three children (2 in college and 1 starting to go back). They are trying to support all three children in college. This piece of property happens to be one of the earlier pieces that they purchased after they purchased their property on Hillside Road, which was their initial farmstead. They leased a lot of property at that time that surrounded their home. This piece of property came up at the time. It was during a time of a lot of development pressure in Deerfield and they were concerned that they might lose some of their land that they had which they rented and it was their primary source of income. It is a piece of property that is close to their farm. It does not abut their farm directly and since that time they bought a piece of Stokarski's land at the end of their road that abuts their property and then they bought a piece over on Jackson Road which abuts the back side of their property and then another 6 acres that abuts the side of their property.

F. Olszewski states that Mr. and Mrs. Karas do not have enough frontage. At this time, Roger Sadosky arrives at the hearing. Mrs. Karas states that they have right of way on this property. F. Olszewski asked if they could use that right of way for the piece of property. Frank states that yes, that he can use the right of way. F. Olszewski asked what about whoever buys the land? Who owns the right of way? Frank responds that he and Mrs. Karas do and Mr. Sobieski. Mr. Sobieski bought the land from Joe Ripka. It is 45 acres that's in APR and Mr. Sobieski and Karas' have the right of way. R. Calisewski asked if it is the right of way by deed. Frank responds Yes, it is right of way by deed. Roger states that some of the right of way has to be someone else's property if Karas does not have frontage. Mrs. Karas responds that they have frontage the size of the roadway that goes down the side of the property. (Referring to the deed, she adds that it is close to 26'). F. Olszewski states that they should have had a copy of the text map showing where the property is so the members could visualize. Mrs. Karas obtains a copy of such text map from a member of the audience. Mrs. Karas explains that according to the deed, it runs different widths down the roadway. F. Olszewski asked who owns lot #27. Rod Warnick confirms that he owns lot #27. S. Barrett states that Mrs. Karas does not own the right of way. Someone else owns the right of way to the Karas property.

Mr. Sobieski has right of way. There is a small opening for right of way for Karas. It is not clear on plot plan because it is not to scale on the plot plan. Mr. Sobieski's impression was that he actually owned the road but he doesn't know for sure.

Mrs. Karas continues that the reason that this is one of the pieces of property that they want to sell is because this land has no restrictions on it. The rest of their property was put into restriction in order to help them buy the Stokarski piece. The rest of the land – through the Land Trust – was put under restriction to try to keep rural character. Frank adds that if the variance were granted, it would help him to stay in farming for a while longer. It is getting hard to keep up with all of the expenses.

F. Olszewski asked who owns lot #25. Rodney & Deborah Warnick own lot #25 and Walter & Stella Kownacki own lot #26.

Mr. Karas continued by saying that they are not really developers. They are not looking to put in a housing development. They are just trying to get a single building lot. F. Olszewski asked how wide the building lot is going to be. Mr. Karas stated that all he is asking for is one building lot on the full 11.5 acres. It would be specified that it will be only one building lot forever.

Mrs. Karas stated that they are looking for someone that is interested who might have (say) a horse or farming it but then have a home there.

Mr. Karas mentions his 70 acres that he has kept open for the Town of Deerfield for snowmobiling, cross-country skiing, walking, etc.

Mrs. Karas reads a letter that she wrote to the Zoning Board on August 16, 2004. The letter states that the Karas' would like to sell a parcel consisting of one building lot with the remainder of the land to remain as open farmland. They intend to continue farming the remainder of their property but to sell this parcel as it does not abut their farm. Their reason for selling this parcel is due to hardship.

F. Olszewski asked if there were any questions. There was a brief exchange of questions.

Abutting neighbors want a stipulation that only one house could be built. Problems with perk testing issues were raised. Someone else asked if the Zoning Board has ever granted a variance of this sort with this little frontage in the past. R. Bohonowicz states that he didn't think so (to the best of his knowledge).

Rod Warnick asked if there is another parcel that could gain right of way to this parcel or an old town road. The Board was not sure. The discussion continued about the placement of a house on this parcel of land.

Hearing closed to the public.

Concerns of the abutters are discussed. R. Bohonowicz states that he prefers that the land be sold for farming. The issues include but are not limited to:

- Property lines,
- Ownership of the right of way,
- Placement of the house,
- Lack of frontage,
- Location of the driveway.

R. Calisewski recommends that the hearing is postponed pending more details or until some of the issues are resolved. The audience of neighbors were asked if the concerns are resolved, would they still be against the variance. The neighbors are willing to hear the stipulations.

R. Bohonowicz tells Mr. Karas what is needed:

- A real plot plan showing the abutting neighbors,
- A legal rendering of who has the right of way,
- It must be determined where on the property the house will be located. This determination should be agreed upon by all that are affected by its location.

R. Bohonowicz made a motion to continue to September 30, 2004. R. Calisewski seconded. Motion unanimous. If, in the meantime, Frank and Christine Karas need more time to prepare, an extension letter should be written to the Zoning Board.

Hearing adjourned.

Respectfully submitted,

Patricia Kroll

Clerk to the Zoning Board of Appeals