

Francetown Zoning Board
Proposed Minutes
August 12, 2009

Members Present: Silas Little (Chair), Sue Jonas, Lois Levitt and Charles Pyle

Mr. Little opens the meeting at 7:33 p.m. and announces that the Board has received a new application to move the proposed cell tower from Pettee property on New Boston Road to a new location on Dennison Pond Road. Anderson Krieger has requested that the case be considered at the September meeting. Mr. Pyle and Mr. Little note that the Planning Board has scheduled a site walk for 9:00 a.m. on August 29 at the proposed Dennison Pond Road site; rain date is August 30. A balloon test will also be conducted starting at 6:00 a.m.

Mr. Little has also been notified by Mr. Springer, requesting a 30 day continuance for the SBA/AT&T Wireless application on Crotched Mountain. Board agrees for continuance until the September meeting. Mr. Little has received a letter from Jennifer Vadney regarding the SBA site. In fairness to the applicant he states that he will address this letter at the next public meeting.

Continuance of SBA Network Services & AT&T Wireless application for Variances and Special exception to September 10, at 7:30 p.m.

Application for a variance from setbacks to place a septic system on property located at 102 Pleasant Pond Road (Map 19, Lot 15) has been received. Mr. Little asks if the Board wishes to make this the third case for September 10. All agree and application will be placed on agenda.

Application by William McAuley for Area Variance

Mr. Little opens the hearing by reading the application for an area variance under Article III, Section 3.10 of the Francetown Zoning Ordinance by William McAuley, 37 NH Turnpike S, Map 13, Lot 36. Mr. McAuley proposes construction of a detached 14' x 20' frame storage barn. He requests a variance from side setbacks. Mr. Little asked Mr. McAuley if he wishes to continue with a four member Board; Mr. McAuley says yes. Mr. Little then asks if the Board would like to conduct a site walk at this time. Break for site walk, attending: Little, Pyle, Leavitt, Jonas and McAuley

Site Walk: Board views the proposed site from the Rte 136 b side. Mr. McAuley indicates position of proposed structure on property, location of septic system, large maple next to house and property line along side with Hoopers' (abutter).

Board reconvenes. Mr. Little continues with the application by noting that it includes a letter signed by the abutters stating that they do not object to the proposal. Notices were posted July 23 at the Post Office and Town Offices and mailed via certified mail (also on July 23, 2009). A septic plan indicated location of the, elevation plans for the barn and pictures of the property were also submitted and are circulated to the Board. Mr. Little concludes his opening remarks by reading Article III, section 3.10 of the Francetown Zoning Ordinance.

Mr. Little asks if Mr. McAuley has anything to add and he notes that the proposed barn will be no closer to the edge of the property than his current house – about 1'. His intention is to be 50' back from the edge of Rte 136. Only relief being sought is for setback on property that abuts the

Hoopers. Proposed barn will be next to septic system. Mr. Little asks about a foundation. Chris Stewart, Francestown Sand & Gravel, has advised Mr. McAuley that he can bring in “ready pads” that will allow equipment to cross over septic system. Other building materials can be brought in without disturbing septic.

Mr. Pyle remarks that the elevation plan shows the windows and doors crossed off. Mr. McAuley used a pre-done set of plans. Only door will be on the center facing the yard. Mr. Pyle adds that prior ZBA cases for variances in the Village have been denied. Mr. McAuley replies that he had a variance for his property across the street as have others in the Village; Mr. Little adds that there are new rules regarding an area variance and questions whether some of these prior cases occurred under the old rules. He also notes the written approval of the abutters.

Mrs. Leavitt asks about the temporary structure on the property, barn will replace that structure and be perpendicular to the house.

Mr. Little asks if anyone would like to address the application: either in favor or against. Mrs. Carbee states that after seeing the posting of the application for a building permit, she wanted to be sure Mr. McAuley followed the appropriate process. Brief discussion followed on the setback from Rte 136. Proposed structure will be setback 50’ from the interior boundary of rear setback.

Mr. Little asks for any other comments and hearing none asks if the Board wishes to close the public hearing portion. Pyle so moves, Jonas seconds, all agree. Mr. Little reviews the criteria for an area variance. He believes that the applicant has met the first criteria “proposed use would not diminish surrounding property values” based on the application and abutters’ statement.

The next criterion is unnecessary hardship criteria and Mr. Little notes that the location of the septic system limits where the proposed barn may be placed on the property. Doesn’t make sense to require the applicant to move the septic system. There are special conditions of property and no other feasible location. He believes that the hardship criteria have been met.

Final three criteria are public interest, substantial justice and the spirit of the ordinance. Letter from abutters and location of similar structures on neighboring property support the applicant meeting these criteria. Location of structure will about the same distance to his side setback as a structure on the Hooper’s property. Mr. Little does not believe there has been a demonstrable violation of public interest in placing the barn at the proposed location provided the 50” setback is met from the property line along Rte 136. Substantial justice has been met.

Mr. Little concludes with an overview of the application and states that he would be in favor of granting the variance provided that the following conditions are added: 1) no vehicle access to the structure, 2) curb cut access from RTE 136 is temporary and gate will be put back in place after construction.

Mr. Pyle agrees with new rules for an area variance and the reasonable use of property by the applicant. He is concerned whether the Board is creating as new criteria of side setbacks. Mr. Little states that he is not looking at creating any new criteria, but that the location of the septic and conditions of property dictate location of proposed barn. In addition barn is being placed to avoid run-off from roof to septic.

Mrs. Leavitt states that lot is too small for the proposed use and that consideration should be given to the land.

Mr. Little moves that the Board grant the variance, the applicant having met the five criteria, on the condition that there will be no vehicle access to the structure, that it will be setback 50' from pavement on Route 136 and only temporary access from the Rte 136 curb cut. Board is not endorsing access to barn. Mr. Pyle asks about the side setback and suggests that the motion should be as shown on plan. Discussion on conditions for approval follow.

Mr. Little makes a second, amended motion to grant the variance with the following conditions:

- 1) Building to appear as shown on the plan
- 2) Building will not be accessed from Rte 136
- 3) Location of the building will be not less 1' from abutter's property and 50' from edge of pavement along Rte 136
- 4) Curb cut on Rte 136 will be used as a temporary access only

Pyle seconds, Little asks for further comments. Vote: in Favor of Application: Little, Jonas and Pyle, Against: Leavitt. Variance is granted; Mr. Little notes 30 day period for a request for rehearing.

Mr. Little has received a not from the Planning Board Chair asking if Planning and Zoning Boards should meet to discuss zoning issues. He notes that current cases involve mostly setback issues. Asks what the Boards would like to do. Mr. Pyle says that slopes issues might be addressed by such a meeting, but agrees that there really isn't anything to discuss. He suggests that the ZBA be inviting to any such meeting Mr. Little will advise Mr., Lindgren.

Next meeting is Sept. 10 at 7:30 p.m.; Mrs. Leavitt will not be able to attend.

Meeting adjourned at approximately 8:40 p.m.