

Unofficial as of 2/15/06

**HOOKSETT
ZONING BOARD OF ADJUSTMENT
MINUTES
February 14, 2006**

HOOKSETT MUNICIPAL BUILDING

CALL MEETING TO ORDER

The acting chairman, Alan Rozwadowski called the meeting to order at 7 pm

INTRODUCE MEMBERS OF THE BOARD

Chairperson, Tracy Murphy Roche, Alan Rozwadowski, Ron Savoie, Dan Belanger, Dick Johnston, Chris Pearson, David Boutin

CONTINUED PUBLIC HEARINGS

MELISSA DUNHAM

54 Main Street, Map 11, Lot 40

Special Exception from Article 26, Section C4 to allow for a 28X28 addition, which exceeds the 50%, gross floor area.

Melissa Dunham requested a special exception for a 28 x 28 addition for her home, which is more than 50% of the existing home This is needed to provide for her aunt who has medical issues and her son who has cerebral disorders and must be monitored.

T. Murphy Roche asked about the storage container and other items in the yard.

Melissa Dunham stated that once the addition is built, the storage will be removed and the shed will be moved out back.

T. Murphy Roche asked if a permit was pulled for the existing deck.

M. Dunham stated a permit was pulled at the time it was built.

A. Rozwadowski stated a site walk was done.

M. Dunham read from application (see file)

Public: None

Closed Public

R. Savoie will vote and C. Pearson stepped down.

R. Savoie motioned to grant the Special Exception from Article 26, Section C4 to allow a 28 x 28 addition which is more than 50% of the existing structure.. Seconded by D. Johnston.

Vote unanimously in favor.

DENNIS DEMERS

Laurel Road & Spruce Ct, Map 21, Lot 15

Special Exception from Article 18, Section E.1.a to allow for interior roadways to be constructed that will impact two areas of jurisdictional wetlands.

Steve Keach presented: This is the second time this is being introduced. A site walk was done.

This application is for a special exception relative to the wetland conservation ordinance. Two of the impacts will have bridge structures. Two are for the construction of residential driveways.

Initially, there was a favorable recommendation from the Conservation Commission and a memo from the Dufresne Henry supporting the application. We reduced the total impact from 11,200 to 6785 sf with a difference of 4415 sf.

Due to amphibian life, there was recommended by environmental biologist to provide a crossing for the wildlife.

C. Pearson: Is there public water and sewer?

S. Keach: This is septic and well. The sewer ends at Heritage and water at Grey Stone Terrace.

C. Pearson: Who will maintain the open space.

S. Keach: Before receiving Planning Board approvals, there have to be agreements by the owners that they take responsibility. It is a policing action. Under RSA 674:21-cluster zoning: The benefit of the statute is enforcement can go beyond the owners as well as the town itself.

Public:

None

Close public

*Alan Rozwadowski motioned to grant the special exception to Article 18, Section E.1.a to allow for the construction of interior roadways that will impact two areas of jurisdictional wetland because they have done the job of minimizing the impact. Seconded by D. Belanger
Voted unanimously in favor.*

NEW PUBLIC HEARING

JAMES RUSSELL

26 Goonan Road, Map 37, Lot 15

Request for Appeal of Decision of December 13, 2006

Alan Rozwadowski reviewed the package and did not see any new or substantial evidence presented to the board and further does not believe the board made a procedural error.

Tracy Murphy Roche concurred.

Dan Belanger sees nothing new in the appeal request.

*A. Rozwadowski motioned to deny the request for an appeal. C. Pearson seconded the motion.
Vote unanimously in favor.*

SCOTT TARBELL

21 Granite Street, Map 9, Lot 2

Variance from Article 5 Section E.1 to allow for a farmers porch to be added that does not meet the front setback.

Scott Tarbell requested a variance to replace a porch which was previously removed and does not meet the front setbacks.

Alan Rozwadowski asked if the owner could put on a 6-foot wide porch and meet the setbacks.

Scott Tarbell said that was possible but it would be very shallow.

Alan Rozwadowski asked if the stairs were included.

Scott Tarbell stated they are not and that would increase the setback.

Alan Rozwadowski asked if the stairs could be moved to the side.

Scott Tarbell stated the stairs could be moved.

C. Pearson asked if there were established footings.

Scott Tarbell said there were only rocks there.

Scott Tarbell read from the application (see file)

Dan Belanger: If there was a non-conforming use there before the zba laws in effect, is he grandfathered for the 8 feet. So if he replaces it in the same footprint?

C. Pearson: Any non-conforming cannot be changed to another non-conforming.

Public:

Scott Tarbell presented letters from neighbors:

Pauline Rolfe see file

Nadeau see file

Close Public

R. Savoie: When they rebuilt the road in the 80's, did they take any of the road?

Scott Tarbell: No they did not.

D. Belanger motioned to grant the variance to Article 5, Section E.1 to allow for the addition of a farmer's porch that does not meet the front setbacks, with the condition that the stairs be constructed so that they don't further impair the setback. Seconded by Alan Rozwadowski.

Voted unanimously in favor.

SOUTHERN NH UNIVERSITY

2500 North River Road, Map 33, Lot 67

Variance from Article 18, Section D.1 to allow filling of isolated wetland pockets for development.

Jeff Kevan representing SNHU: They have an application requesting a variance to fill two isolated wetland pockets for a total of 1600 sf. They are attempting to construct a new dining hall facility. The college had a master plan, which talked about promoting a walking campus that promoted a greenway that would connect the entire campus. This is the first step in executing that master plan. Ultimately the parking facility will be relocated.

Map 33 lot 67 – this parcel consolidated a large track of approximately 200 acres.

Two isolated pocket of wetlands, which have low value.

The larger pocket has debris and a higher value wetland in the back that runs out back and comes from the road to the dormitory and has higher value for wildlife. We plan to preserve the high value wetland and stay away from it.

The main reasoning is they had a master plan prepared (copies are available) to create a greenway through campus and promote a walking campus rather than using cars. There will be only 54 parking spaces in this location.

D. Belanger: This has no impact on the proposed location of the Southern Parkway?

J. Kevan: My understanding is the parkway is located someplace else.

R. Savoie: I walked that land and it goes right between your two dormitories and skirts the baseball field and comes out by Underhill. That master plan interferes with the parkway plan.

D. Belanger asked that the parkway be shown on the plan before this is approved.

J. Kevan has been to Conservation Commission. No input has been received

D. Belanger stated that this does not impact the parkway.

D. Belanger asked if there is a letter from DES.

J. Kevan: Not at this time. We have asked the town for their preference with mitigation.

Alan Rozwadowski: With the 200 acres available, there isn't any other place you can locate this without impacting wetlands.

J. Kevan: This is the most central location and minimizes impact of land. If you move it 400 ft off the street, it pushes it further out there. These are low-grade wetlands, and keeps it close to campus.

D. Boutin: One the plan in the packet, on the northeasterly portion of the site it shows a wetland mitigation.

J. Kevan: That is an option. That was the alternative, which was to create wetlands in another area.

With discussion with C. Watson, the Conservation Commission, and DES that was not their preference. They wanted a conservation easement on another parcel of land.

D. Boutin: This plan, as part of the public record, calls for 2100 sf of mitigation and if that is not going to happen, it should be removed from the plan. Also the high-grade wetland, given the additional land area, which has the potential for development and the university's growth; I'm concern with protected that wetland area.

J. Kevan: I can't use that as mitigation to the state but am willing to put a restriction on that high value wetland as well.

This dining facility is across from the old dining facility and the old facility will be changed into another use.

D. Belanger: I would like to see input from staff, Conservation Conservation, and DES.

C. Pearson: We need verification that this is low-grade wetland.

J. Kevan will provide information from soil studies.

Alan Rozwadowski would like to see where the dining would be relocated if necessary.

J. Kevan: If I move this back, we will need to put in more parking.

Need to consider if you are going to move it, you will cross at the height of the high-grade wetland and take a large amount of trees. There are two houses that will be removed.

R. Savoie: How much more area is going to be cleared?

J. Kevan: We are going back 250 to 300 feet.

C. Pearson: Have you considered turning the building?

J. Kevan: The building was positioned this way by the architect so that you are not looking at a large mass. It is mainly from an aesthetic standpoint.

J. Kevan will get input from staff and look at alternatives as well.

Public:

Carol Lessard, 35 Donati: I am a new resident and would like request clarification on the parkway.

J. Kevan: This has nothing to do with the parkway and the parkway would swing out around the campus.

C. Lessard: please point out Donati Drive. About how many acres divide this site.

J. Kevan: About 150 acres.

C. Lessard: And how deep in?

J. Kevan: About 250 feet in.

C. Lessard: Our family recently moved to Hooksett and we value the disappearing woods, having moved away from Manchester, I lived close to the Grenier Fields and I did live next to the Manchester Airport and in the blink of an eye, things get very big very fast. Like Mr. Boutin, I'm concerned with the future and its impact. I'm concerned about the West Alice impact in that area and complicate this with this development, where do the animals go.

R. Savoie: The parkway has been in discussion stage for 25 years and probably will be discussed for another 25 years. The college has expanded slowly and has taken the old buildings and has tried to make it aesthetically pleasing and is not doing it in a hurry. I think your fear in that area is limited.

J. Kevan: The college is not looking for huge growth. They have 1800 students and are looking for 2300. That is why we want to keep this centralized.

C. Lessard: I would also like to state my concern with conservation studies not done. I think it is feasible to find out what you're working with before you propose plans. My experience living near the airport, business circumvents the conservation requirements therefore I am very guarded.

J. Kevan: We have sat with DES but we have not made a plan because we are trying to make fit that meets everyone's needs.

Close Public

D. Belanger motioned to continue the hearing to next month so that the necessary information can be provided. Seconded by Alan Rozwadowski. Voted unanimously in the affirmative.

DTR HOOKSETT PROPERTIES

1631 Hooksett Road, Map 14, Lot 32

Appeal from an Administrative Decision regarding limitation of 12 dwelling units per building.

Tracy Murphy Roche stepped down (D. Boutin will vote)

Steve Keach: This is for senior housing that was approved in May of this year. Senior housing ordinance requires a special exception, which was granted. We returned to the board due to a question from the Planning Board.

The applications that pertain to DTR begin with an appeal of Administrative decision made by M. Bonsteel. The second application, in the event you do not grant the appeal, is a variance from the same section.

This is a senior housing project which is slightly less than an 8-acre parcel of land.

It is ½ mile north of the northerly entrance to Granite Hill and is east of Pleasant View Road. It is south of the old University campus. The proposal is to construct a 3-story building, which would be exclusively occupied by the elderly. This is intended to emulate a grand hotel from the North Country. There would be little parking around the building and would provide housing at the moderate level for seniors unlike other projects.

On May 10,2005 this board granted a special exception permitting a construction of one, 60 unit building to be used for elderly housing. Prior to that it was subject to review and scrutiny.

Steve Keach read from memo (see file)

Under your glossary of terms, you have no reason to look for a definition unless it is used in an article that governs what you want to do. The MDR lists multi-family and elderly as two different uses. Older and handicap is section 7. It does not use that term, why would you go looking for it.

D. Belanger: If it is not specifically listed, then it is prohibited. You have 60 units, therefore it is multi-family.

S. Keach: It is in article 22 definitions:

for the purpose of this ordinance certain terms are defined. Unless that word exists in the text of what is governed, there is no need to go to find that term. In this case, you don't find dwelling, multi-family in that regulation.

It also deals with knowledge of how your ordinance was constructed.

It was there before senior housing was even a concept.

C. Pearson: Can you say article 7 doesn't allow multifamily because it doesn't specify.

S. Keach: It doesn't provide for what kind of housing. In the past, you have approved projects in town under article 7.

D. Belanger: Which one had more than 12 units.

S. Keach: Holly Berry

D. Belanger: When was that put in and was that before the ordinance was put in?

D. Boutin: I have a letter from counsel that takes a 180-degree position from the applicant.

D. Belanger recommends that the letter not be read into the record under right to know.

The letter is stamped confidential.

R. Savoie: What is the age limitation?

S. Keach: Age 55 with no federal funding. It is a 64-foot height including the garage.

S. Keach: Would you find that it might be an advantage under the variance application and deliberate separately or concurrently.

Alan Rozwadowski: I would like to hear them separately.

D. Belanger motioned to deny the appeal of Administrative decision. Seconded by David Boutin. Vote 4 in favor, 1 opposed. Motion passed.

Presentation of Variance

S. Keach (read from file)

C. Pearson: Any changes from the first time we saw this.

S. Keach: The building footprint got a little smaller.

D. Belanger questioned whether this is a use variance and not an area variance.

S. Keach: I disagree because article 23 deals with a numerical portion. Multi-family is permitted use.

The point of contention is Article 5 of the Zoning Ordinance, is permitted by right in the district. I didn't need a special exception. Staff advised me I needed a special exception.

It is a hardship because when I told Michelle Bonsteel I would file two applications, it was agreed by your staff. 12 is a number and therefore a dimensional requirement.

D. Belanger: I have never heard of number as dimensional. If it were an area of land I would agree.

S. Keach: You have a limitation of 12 dwelling units per structure, which is an area of limitation. I can argue under simplex if you like.

D. Belanger: I would like advice from counsel on whether this is an area or use variance before we continue.

D. Belanger motioned to seek legal counsel to determine if this is an area variance or a use variance and determine if this falls under the growth management ordinance. Seconded by D. Boutin. Voted unanimously in the affirmative.

Continue this hearing until next meeting March 14th.

Alexander Buchannon and represent DTR properties

Given the issues that Mr. Keach has raised, there is a great public use being determined and I encourage the board to share the attorney's opinion so that it may be debated and discussed. I think it's to benefit your citizens to share that with us.

BEAVER BROOK DEVELOPMENT LLC

Jacob Ave & Londonderry Tpk, Map 48 Lot 26 & Map 49, Lots 49&58

Variance from Article 18, Section G.2.a to disturb the land situated within a 25-foot wetland setback.
Special Exception from Article 18 Section E.1.a to allow for wetland crossings.

Steve Keach: This involves two applications, a special exception for wetland impacts and a second for setbacks:

1. Wetland Impact: The parcel is at the south end of town

S. Keach read application (see file)

This is the site of an approved 34-unit subdivision. Some construction of the road from Londonderry Turnpike began about a year ago.

The proposal is to do 89 cluster lots.

The entire property was redelineated. There is a small area of wetland impact. On sheet 35 it is depicted. Impact area 1 is 7000 sf and is necessary for the construction of the road. There is a larger area that flows to the north and there is a curve in the road to avoid that area.

There is a little appendage that we were unable to avoid due to geometric constraints.

This area will have public water but will not have public sewage.

The wetland impact flows south to north. The land slopes to the north.

The zoning ordinance permits the buffer to be part of the lot. There are some homes on small parcels on Jacob Avenue. The properties to the north are vacant because they are wet. The west is commercial. To the south there are nice homes. Those lots, because of the availability of utilities, are smaller than those lots. They are very nice houses.

These houses will be similar in size and composition.

D. Belanger: What improvements to Jacob Ave are planned.

S. Keach: Mr. Bussiere has negotiated easements with property owners at the intersection of Smyth Road and the intersection will be straightened out.

I anticipate widening of that road. It gets progressively narrower as you head south. The road will be dug up to put water and then replaced as necessary.

D. Belanger: A requirement is that it doesn't create a nuisance and this road would.

S. Keach: That is why we want to do that.

C. Pearson: In 1999, did the plan show attaching to Jacob Ave.?

S. Keach: It did not. That plan, which was approved by the board, is being abandoned at this point.

Jacob Avenue is a dead end and the other plan had a dead end and this eliminates two dead ends.

Public:

Sharon Heardlite on Highview Terrace: What is the impact to us.

S. Keach: There is a paper stub that will not be used. There is a 100-foot buffer that will be maintained.

The second access through North Point Drive is being abandoned.

Close Public.

Site walk scheduled for Feb. 25th at Jacob Ave entrance at 8:00 am

Second application for a variance

The provisions Article 18 require a non-disturbance buffer (sheet 31)

This is the area where the existing gravel road that goes into the site is. We're proposing a closed drainage system because it is a curved road. At this point it will be treatment swale.

Although all the work is in upland area, the work is construction of a treatment swale prior to discharge and requires a variance because work will be done within the buffer. We've designed the road in upland only but to get rid of storm water discharge we have to work within 25 feet of the buffer. Mr. Gladstone has already disturbed this, but the ordinance still requires a variance.

There are other options other than swale but this is preferred.

Public:

Ron Cote: My property abuts to the north; my concern is the plans for the north piece, what are your plans? Some surveyors were there and left flags

S. Keach: That is open space. It wasn't us surveying.

Close public

The board chose to wait until after the site walk to make a decision on this variance.

*C. Pearson motion to continue to the March 14th. Seconded by Alan Rozwadowski.
Voted unanimously in the affirmative.*

APPROVAL OF MINUTES OF – January 10, 2006

*D. Johnston motion to approve the minutes of January 10, 2006. Second by D. Belanger.
Voted unanimously in the affirmative.*

ADJOURN

The Chairman declared the meeting adjourned.

Respectfully submitted,

Lee Ann Moynihan