

Official
As of 12/12/06

HOOKSETT
ZONING BOARD OF ADJUSTMENT
Minutes
November 14, 2006

Chris Pearson called the meeting to order at 7:02 pm.

Attendance: Chris Pearson, Dick Johnston, Roger Duhaime, Ron Savoie, Larry Abruzzesa, James Levesque and James Gorton (non-voting Council Rep.)
Excused: Tracy Murphy-Roche
Also present, Michelle Bonsteel

Agenda reschedule – Due to time limitations it was the decision of the board to continue all hearings not heard tonight to December 5th, 2006.

CONTINUED PUBLIC HEARINGS

MTS ASSOCIATES

West River Road Map 17 Lot 37

Variance from Article 19 Section 8.D to allow a sales & service facility in the Groundwater Resource Conservation District.

NEW: Request for rehearing of Administrative Appeal denied on 09/12/06

Attorney Greg Michaels representing MTS

Prior matters are referred to in the minutes.

The major concern of this board was the evaporator, which is to be used to wash the golf carts.

TF Moran called users of the evaporator regarding the use of that equipment.

Under Simplex, there are other users in this zone, which are pointed out in a letter dated Nov. 3rd. Under Simplex the board is required to review what is already there. If the desired relief is obtained and the variance granted, we will withdraw the appeal of administrative decision.

We believe, based on the use of this system, there will be no impact to the environment. Mr. Dixon pointed out the differences in the use of this evaporator at JP Noonan and its use at this site. (See letter on file)

My client will own his own property and no property owner wants to contaminate his own property.

Mr. Vanson's letter was submitted (see file)

A Samco brochure was given to the Chair for review.

This is a golf cart maintenance operation. It is not gasoline sales or a maintenance facility. It is consistent with other uses in the area.

R. Savoie: At the last meeting, I raised the issue of the evaporator and I am satisfied with the information we've received. They have addressed all of the boards concerns. We wanted and now have a maintenance schedule. You have done exactly what the board was looking for. I do not have a problem with anything you have presented.

Open to Public

None

Closed Public

C. Pearson: I agree with Ron, I think this applicant has done everything the board has asked of it.

R. Duhaime: Can we make it a conditional approval based on the maintenance schedule?

C. Pearson: It can have whatever conditions you would like.

R. Savoie motioned to grant the request for variance from Article 19 Section 8.D to allow a sales & service facility in the Groundwater Resource Conservation District pursuant to the information from Santec outlined in the letter.

Motioned seconded by R. Duhaime

Voted unanimously in the affirmative.

G. Michaels requested tabling the rehearing at the end of the agenda.

R. Savoie so motioned, seconded by R. Duhaime.

Voted unanimously in the affirmative.

PAUL MARCHESE

5 Kennedy Drive, Map 11 Lot 76

Special Exception from Article 26 Section C.4 to enclose a 15.5x15.5 deck onto a structure that sits on a non-conforming lot.

M. Bonsteel: He wants the ability to enclose the deck without coming back to the zoning board. You are approving the exiting deck and the future enclosure.

P. Marchese: Last time we were approved, it wasn't noticed in the paper, therefore we renoticed to meet the requirement. The footprint and the size will not change. I'm just here for the variance for the enclosure, which will be one story off the back of the house.

M. Bonsteel stated that the approval for the deck was granted at the last meeting and this is the approval for the enclosure of that deck which will be done sometime in the future.

D. Johnston motioned to grant the

Special Exception from Article 26 Section C.4 to enclose a 15.5x15.5 deck onto a structure that sits on a non-conforming lot.

Seconded by R. Savoie

Voted unanimously in the affirmative.

CLIFFORD JONES

1 Bert Street Map 6 Lot 95

Special Exception from Article 26 Section C.4 to enclose an existing deck on a non-conforming lot Also in the future add a second floor and enlarge garage.

Clifford Jones submitted a letter (see file)

M. Bonsteel: Mr. Jones is only looking for an enclosure for the hot tub and will come back if he plans to do an addition.

*Last sentence will be stricken from the agenda.

Open public

None

Close public

L. Abruzzesa motioned to grant Special Exception from Article 26 Section C.4 to enclose an existing deck.

Seconded by R. Duhaime
Voted unanimously in the affirmative.

BRIAN SOUCY

1 Mountain View Rd, Map 12 Lot 14-3-3

Variance from Article 27, Section C.4 to increase the size of the accessory unit more than 30% of the primary structure.

B. Soucy: I am seeking a variance to increase the size of the accessory unit more than 30% of the primary structure.

C. Pearson: Last time we met we asked about when permits were pulled and additional drawings.

B. Soucy read from application and criteria (see file)

M. Bonsteel: We have not given the final permit for the accessory until this variance is decided. He is under a cease and desists order. The kitchen makes it an apartment.

B. Soucy: Originally we weren't putting a kitchen and now we are.

M. Bonsteel: The original permit was for a big open room over the garage. What was discovered were two bedrooms, outlets and walls. In discussion, it was uncovered that this was an apartment, which had evolved, and he didn't realize it would be an issue. If he fell within 30% he wouldn't need the variance. He must provide access from the primary structure to the accessory unit. He must not exceed his bedroom count due to septic issues. He plans to remove some closet so decrease the number of bedrooms.

C. Pearson: Was the original intension for a great room?

B. Soucy: No, I just didn't include them in the drawing originally. It is now three rooms, two bedrooms and a bath. I will have four garages.

C. Pearson: Is he truly over 30%? What is the sf of the existing home?

B. Soucy: It is on the tax card. We have added to bring it to 3200 sf. The accessory is 1280 sf.

C. Pearson: Have things been done correctly?

M. Bonsteel: Everything is on hold as of right now. He has a permit to build the garage addition with a single room. There is no permit to do the partitions within the structure.

B. Soucy: My three direct abutters have written letters in favor of this and have no objections.

Open Public
None
Close Public

R. Savoie: As everyone has talked about the 30%, have you tried to make the space smaller by reconfiguration?

B. Soucy: No, because originally it wasn't going to have a kitchen and therefore not required. Now that it is built, we can't make it smaller. All the walls are up.

R. Savoie motioned to approve the variance to Article 27 section C4 to increase the size of the accessory unit more than 30% but not to exceed 40%. Seconded by D. Johnston.

Voted unanimously in the affirmative.

NEW PUBLIC HEARING

HOMES BY DENIS

4 Rae Brook Road, Map 47 Lot 32-2

Variance from Article 3, Section H to construct a driveway greater than the 10% allowed by town regulations. (driveway has already been constructed)

Denis Laliberte:

I'm requesting a variance to construct a driveway greater than 10% allowed by the town. There is a photo submitted and a plot plan that shows the footprint of the house. The setback is pushed back on the lot.

When the lot was first constructed, the way it was first shown and approved, the slope would have been too great. We went through all the inspections after making the changes and found it was greater than the allowance by the town.

The grade is 12 or 13 at the base and the worst part about 17. The original grade was impossible. We blasted into the ground to set it in as low as possible. We did everything possible with what we had to work with and that's what we came up with.

Dale Hemeon would not sign off for issuance of a CO.

M. Bonsteel: We have not signed off on that road. The Planning Board signed off the prior driveway design. In this development, a lot of the lots are difficult because of the topography. The first few lots on the northerly side has ledge. This lot is the worst.

D. Laliberte: I was not aware of the 10% ordinance. Tried to stick as closely to the plan as possible. If we had put the house any further in the ground, we would have had issues with water.

D. Johnston: How old is the driveway ordinance?

M. Bonsteel: It is ancient. It is an ongoing problem. On Post Road, there are lots that are questionable. When you have a represented of the applicant, an engineer say there is a 6% grade when it's over and it's not representative of what really is going to happen in the real world. We had one on Hackett Hill and several on Post Road to smooth them out and work them out. It comes down to better planning on these subdivisions. Now that the town engineer takes a more active role, things should improve.

Sign off is post pavement.

R. Savoie: Looking at the map, I would think the engineer or planning board would see... I'm looking at an eleven-foot drop. Doesn't anyone read these things?

M. Bonsteel: We look at these at TRC and we are given testimony by the developer that these things will work. In this case, it won't. This plan was approved last year.

R. Duhaime: What is Dale's recommendation?

D. Laliberte: I thought Dale was going to forward a letter that said we did the best we could. I don't know why he has not done it.

C. Pearson: Is 10% consistent with most towns?

M. Bonsteel: Yes it is. It is a general code that most municipalities adopt.

The rationale for the 10% is runoff from rain, snow and melts.

The ability for EMS to respond, particularly if it's a long driveway and the ability to get the apparatus in or out.

D. Laliberte: The whole lot is 92 feet. The house is 37 feet off the road's edge.

There is a culvert and it will run into the yard before the road.

L. Abruzzese: We don't have a report from Dale to address his concerns. Has the road been accepted by the town?

D. Laliberte: I was told by the developer that the town accepted it but it may not be.

L. Abruzzese: Has fire signed off?

M. Bonsteel: Yes they have.

Homeowner: This was not my first choice for the driveway; I would prefer to come straight in but I believe this is the best solution.

Open public

Dan Belanger: 13 Corriveau Drive:

Don Hebert was a client of mine for many years and he's an honest man and I would vouch that this was not done intentionally.

Close public

L. Abruzzese: The problem is if we deny this request, the contractor has no way to rectify this.

D. Laliberte: This was done to rectify a worse problem. This was more costly for me.

D. Laliberte: Read from application (see file)

R. Duhaime: There is a slope easement on the map.

D. Laliberte: It is a temporary slope easement for construction only

R. Savoie motioned to grant the variance from Article 3, Section H to construct a driveway greater than the 10% allowed by town regulations.

Seconded by D. Johnston.

Voted unanimously in the affirmative.

ANN LAMBERT

18 Morrill Road, Map 39 Lot 12

Variance from Article 5 Section C.1.B to permit two-lot subdivision, each lot having 154.01 feet frontage where 175 is required.

Emile Bussiere representing Ann Lambert: We are here for a variance to divide her lot into two lots. This land has a structure on it that is declared hazardous and must be destroyed. This property is being resurrected and has been the subject of litigation. We have resolved this and found it to belong to Ann Lambert.

The property was once the residence of old tires and junk items.

The effort is now to resurrect the property and make it a decent piece of property and improve the neighborhood. We are on the road to making this property productive. It is not currently the nicest property in town. We thought we were in our rights with frontage to divide, but we were in error.

An enlarge tax map was displayed.

The point of bringing the map is to show that if you look at the neighborhood, there won't be any changes to lot sizes in this area. If you look at the lots that exist today, many don't have the footage that we propose to have. We have city water but no sewage. One thing that counter balances the shortage of 7 feet is one lot would be twice the required square footage of the ordinance.

There would be an opportunity to space things out. On the map, you see Forest Drive, which has 150 feet and so forth. I don't know how technical the board has been. The closest sewer is in Autumn Run.

Read criteria (see file)

D. Johnston: The buildings to be removed, what are they?

E. Bussiere: It was a dwelling and is now falling apart.

C. Pearson: What is the intention of the Lamberts?

E. Bussiere: The likelihood is a sale; however no attempt for a sale has been made as of now.

Open Public

Chris Torres, 6 Autumn Run: This is the first I heard that there is no town sewer to this property. This was an existing property and I think they owned more land and they already subdivided and sold some. They can take the house down and rebuild. The only place for the septic is on the hill. We are down hill from them. It is going to go into the ground water. Once it reaches my lot, it will drain into the city sewer. I didn't know they didn't have city sewer. They bring in a map without topography. We have a yard that pitches like the driveways you were talking about earlier. When we purchased our home, we were told this property was unbuildable. Here we are, that's a beautiful building lot, and he's saying it's a derelict lot. It's a beautiful lot for one house. When we bought, Morrill Road was an active road. They claim it will enhance the neighborhood. I disagree. Anyone in Hooksett, if you were to try and sell your house, it would sit on the market for months. The only selling point to our property is that there's a buffer. I can't replace my woods. I've already taken them down for drainage. One house lot is fine, but 2, I'm against.

R. Savoie: When you bought the property, who said it was buffer?

C. Torres: JR said it was none sub dividable.

R. Savoie: Did you notice a 70-foot drop behind your house. You're hitting on issues that the developer should never have told you. That's not his business.

C. Torres: Under the existing law, it is non-sub dividable, that's why they need a variance, and that's why I'm here tonight.

R. Savoie: Your looking up a 60-foot hill. You must have known you'd have issues.

C. Torres: Yes and I put money and drainage to make our home livable and now it is usable. Now their drainage flow will affect our drainage.

R. Savoie: Don't you think that one house will affect your drainage.

C. Torres: I don't. You're asking me a question that there's no right answer. I'm not a mind reader. I'm here to voice my concerns. It's not going to improve the value of the surrounding house and your talking about two leach fields that will drain to our property.

L. Abruzzesa: If one house or two houses are put there, what is the difference in the run off. As a property owner, are they requirement to control the run off of their property?

M. Bonsteel: They can't contribute any additional runoff.

When it gets to the Planning Board, they will determine how mitigation will be accomplished from the two-lot subdivision, if you grant the variance. If you do not grant the variance, it doesn't go to the Planning Board.

C. Torres: As abutters, how do we prove that they have added or taken away water flow from the water table.

M. Bonsteel: If it goes to the PB, there can't be point discharge directly to another property.

Ground water, which has to do with overall development in the town, becomes a quantitative problem. It isn't always easy to discern where it's coming from.

L. Abruzzesa: If we deny this subdivision, and they put a massive house on this lot, we don't know how the drainage will be controlled?

M. Bonsteel: If they don't subdivide, they won't have to go to Planning. As long as it's in the setback, they can build as big a house as they want.

R. Duhaime: When you start talking engineering, if this was a commercial site, you'd talk about impervious surface, etc. This is residential, if you want to build a monster, you can do it. If it goes to the Planning Board, however, it will be considered. If they install a point discharge and there is erosion, I can go out and do something about it.

R. Savoie: Looking at the topo map, you have a 60-foot rise to Autumn Run.

To meet the set backs and build a house, there's a 20-foot drop from Morrill Road and the 4K area. That's the only place to site a house technically without getting into construction hassles. If they put it way back, they'd be looking at a slope.

If we subdivide, it must go to the Planning Board and there's more scrutiny.

Benita Lebow, 2 Autumn Run: We've been on our property 20 years. A few years ago, we saw ribbons go up in the back. We asked the town what was happening and they told us there wasn't enough frontage to divide. We too have put in a French drain to control water. Even though the other properties are not meeting the frontage, as an abutter and owner we have the right to question this. I hope the town of Hooksett has an equalization of all its citizens. We are also taxpayers and I hope we would be equal. What is the reason for this? When we looked at building, we liked the situation of Hooksett and the larger lots. Having the required frontage is in keeping with the larger lots. I would not like to see this divided. This was our understanding of the philosophy in Hooksett.

Kathy Lambert, 22 Morrill Rd: I would like to see only one house.

It's nice and quiet and there are plenty of trees. I have water in my yard and running into my yard. I have a little river in front of my house. It's nice and quiet. Cars fly by so fast now. I have over 3 acres and its quiet and all I needed.

Chris Torres:

I would rather take my chances with a large single family home and the water problems with that because anyone who buys that lot wants there privacy as well or they wouldn't buy such a big lot.

E. Bussiere: If a sewer connection was made, it could be sub dividable. Every homeowner is responsible to contain his water. The responsibility for controlling the water is on everyone.

So far as the septic location, everyone knows that must be designed and approved and no one will approve of a system that will shed sewer on anyone's property.

The board would have more control over the property if they allow the division. The objections I have heard comes down to people don't want things to change, I have mine and I don't want things to change.

C. Pearson: What is the reason to divide? To make it more sellable or more profitable?

E. Bussiere: Is it a reasonable use of the property? The lot is twice as big as the law requires. If you feel it is an unreasonable use, you should deny.

M. Sorel, 54 Cross Rd.: My wife and I own a piece of property on Mammoth Road which has 40 ft of frontage and we get all the runoff from Misery Hill. We dealt with it. The septic hasn't failed. It was preexisting. This subdivision was approved in 1998 and it has municipal water and all have septic and have 150 – 160 feet of frontage. There were water issues addressed and resolved at that time.

Chris Torres: Back in 1998, I'm an electrician; I'm not against growth. When they did that subdivision, they weren't as big. I'm not against growth, I agree it would improve. These lots were the appeal of living in Hooksett and the development. We sit on an acre lot. Our neighbor was approached for an easement to connect to the sewer and no one on Autumn Run wants to be an easement because they can come in at any time and tear up your property. They don't have sewer there and I'm against it.

Close Public

R. Duhaime: If you keep subdividing, you get more and more homes on the same street. My question is when they put in subdivisions; there are requirements to improve the road. This would address the cumulative effect.

M. Bonsteel: You must keep to the criteria and decide if they met the 5 issues on the criteria. I think you must start with question 3.

R. Duhaime: Question 2, what is efficient use, its benefit to the public interest?

E. Bussiere: Two homes, sitting on 1-½ acres, in an established area, is a plus to the city because it makes this property a lot more productive. The question is it reasonable, can you really conclude that 20 feet makes a difference. This board was created to give relief to these rigid things.

L. Abruzzesa: I have a question on #3. Tell me how the property interferes with the reasonable use.

E. Bussiere: It is all the same issues. In this case, the predominant facts, this is America, and at one time we had the right to do what we wanted with Real Estate. We are proposing reasonable use. If you question people to determine if it's reasonable and they had no interest, unanimously they would feel it was reasonable. The abutters want this to remain unchanged for their own use.

L. Abruzzesa: How is this depriving this property owner from reasonable use.

E. Bussiere: This is a reasonable use. If you find this unreasonable, then it's the end of the ball game. You can't conclude that this is unreasonable. This is a question of degrees. Is it significant? 20 feet is not a significant factor. Your board exists to provide the necessary relief.

L. Abruzzesa: As it exists now, can it be used reasonably?

E. Bussiere: Isn't it the other way around. Is it unreasonable to deny use if its use is reasonable.

M. Bonsteel: No one is disallowing the use of this property.

My advice to the board is to take a site walk and see what the neighbors concerns are and you can make a reasonable decision. You have the right to ask the applicant to quantify his claim that this will not impact the surrounding property in the form of appraisers with one or two pieces of property and you can quantify if it's a reasonable return with an appraisal on one house or two properties. We spend a lot of time on non-conforming lots and you're creating two of them.

C. Pearson: I'm usually torn on these issues.

I don't like to deny applicants use, but I believe these ordinances for road frontage make it a more desirable for Hooksett. It's something that I tend to lean towards.

To Larry's point, I think there is an existing use of this property that would be an improvement to the area and I don't think the homeowner is denied that right. I would be a proponent to visiting the site.

***D. Johnston motion to do a site walk. Seconded by R. Savoie.
4 to 1 opposed (L. Abruzzesa)***

Site walk scheduled for Saturday, Nov. 18 at 8:00 am at the intersection of Forest and Morrill.
Continued to Dec. 12th.

PAUL BOUCHARD

117 Mammoth Road, Map 39 Lot 24

Special Exception from Article 26 Section C.4 to add a second 12x24 garage stall onto an existing one-stall garage whereas the land is non-conforming at 21,580 sq ft where 43,560 sq ft is required. Variance from Article 5 Section E.2 to add a 12x24 garage stall with an 8.9 side setback where a minimum side yard of one side 30 ft and the other side 20 feet, as required. (The other existing side yard is 18.5 ft)

Paul Bouchard: This proposal is to make the present one stall garage into a two-stall garage and I do not meet the setbacks.

A licensed surveyor prepared the plot plan. The house was built 40 years ago (1971). It's a 12 x 24 foot addition of a second garage.

C. Pearson: This is a non-conforming lot and non-conforming setbacks on both sides.

Site walk scheduled for Sat. Nov. 18th at 8:30 am

Continued to Dec. 12th.

DONNA GRAVEL

12 Martins Ferry Road, Map 30 Lot 28

Special Exception from Article 26 Lot C.4 to add a 12X16 Sunroom on an existing structure that is less than 50% of the gross floor area of a legally non conforming use.

Mark Brousseau representing Better Living Sunrooms: The issue is side setbacks. This doesn't encroach anymore. It will require a structural engineer.

C. Pearson: When they don't further non-conform, what is the intention of the special exception?

M. Bonsteel: This is what I want to change, if the change doesn't increase the non-conformity, that it wouldn't require a variance. We need to look at these things in our code.

Site walk scheduled for Sat. Nov. 18 at 9:30 am

Continued to Dec. 12th

PHIL DENBOW

8 Nancy Lane, Map 25 Lot 19-25

Variance from Article 18 Section G.2 a&b to install an in-ground pool that encroaches into the wetland and buffer setbacks.

The proposal is to build a pool, which encroaches on the setbacks.

P. Denbow: If you look at the pictures, it's all stacked out. Anything that we're going to be touching is area already excavated. We're not touching any trees. It will only infringe on the 40-foot buffer but will not extend into the 25 foot do not disturb area.

M. Bonsteel: Did you file with DES?

P. Denbow: No, I wasn't aware to the requirement.

C. Pearson: The way I read the ordinance, it's less than 24,000 sf therefore I don't believe they need to be in front of us for a variance.

L. Abruzzesa motioned to grant the variance.

Seconded D. Johnston

Voted unanimously in the affirmative.

THE DOLBEN COMPANY/ 3A DEVELOPMENT – continued to Dec. 5th, 2006

Hooksett Road-University Heights Map 14 Lot 1-12

Special Exception from Article 18 Section E to allow filling in wetlands for the development of a residential development on lot 1-12 of University Heights.

RICHARD BOISVERT – continued to Dec. 5th, 2006

1554 Hooksett Road Map 18 Lot 2

Variance from Article 3 Section p to allow a filling station less than 1,000 feet away from another filling station. Variance from Article 18 Section D.8 to allow for a gas station in the groundwater resource conservation district.

APPROVAL OF MINUTES OF – October 10, 2006

L. Abruzzesa motioned to accept the minutes as presented. Seconded by R. Duhaime

Voted unanimously in the affirmative.

ADJOURN

The Chair declared the meeting adjourned.

Respectfully submitted,

Lee Ann Moynihan