

**HOOKSETT ZONING BOARD OF ADJUSTMENT
MINUTES
TUESDAY, MAY 13, 2008
HOOKSETT MUNICIPAL BUILDING**

CALL TO ORDER

Acting Chair Ron Savoie called the meeting to order at 7:06 PM.

INTRODUCTION OF THE BOARD

Acting Chair Ron Savoie, Roger Duhaime, Richard Bairam, James Levesque, and James Gorton, Town Council Rep.

Vice Chair, Chris Pearson arrived at 8:00 PM.

CONTINUED PUBLIC HEARING

RON LUCCI

Merrimack Street, Map 9, lots 67 and 68

Medium Density Residential

Variance from Article 5, Sections:

C. Required Lot Area

D. Percentage of Lot Coverage

E. Yards Required

For the purpose of subdividing Map 9, lot 68 into two single-family lots and to subdivide Map 9, lot 67 into three lots each having water frontage on the Merrimack River.

P. Holden, Holden Engineering: A site walk of the property on Merrimack Street was done on April 28th, 2008. A letter of support was received from the Planning Board. The proposal is to subdivide the property on Merrimack Street, which has two buildings into two lots to be sold separately. In the neighborhood, there is a situation with parking due to the closeness of the houses to the road. Currently, cars are parked across the street on Mr. Lucci's property. He would like to subdivide the property across the street as well and create a non-building lot for parking. The building with the barn would be sold to the neighbor to provide parking as well.

R. Savoie read the letter from the Planning Board into the record. (See file)

R. Duhaime: People are already using this property for parking.

Open Public

No comment

Close Public

***R. Duhaime motioned to approve the variance from Article 5, Section C, lot area, D, percentage of lot frontage, and E, yard requirement, for the purpose of subdividing Map 9, lot 68 into two single-family lots and to subdivide Map 9, lot 67 into three lots each having water frontage on the Merrimack River. Seconded by R. Bairam.
Vote unanimously in favor***

RAYMOND AND JANE DUBOIS

130 Farmer Road, Map 26, lot 44

Medium Density Residential

Variance from Article 5, Section E.1. and Article 27, Section C.4. to allow for construction of a 26'x30' attached two-stall garage with an in-law apartment, which does not meet the front setback requirement by approximately 3' and the accessory apartment exceeds the 30% requirement (maximum is 288 sf/proposed is 780 sf)

J. Duffy: The board requested a certified plot plan be submitted for the property located at 130 Farmer Road to verify the lot frontage. A plan was located in the town's building files and distributed to the board. There was a question on the front setback and the estimate was 44 feet from the centerline and we need to know what the setback is from the edge of the road.

R. Pelletier, builder: I believe it is 17 feet.

J. Duffy: Two variance are needed; one for the setback and one for the larger accessory unit than allowed

Open Public

None

Close Public

R. Duhaime motioned to approve the variance from Article 5, Section E, 1 to allow for construction of a 26'x30' attached two-stall garage with an in-law apartment, which does not meet the front setback requirement by approximately three (3) feet. Seconded by R. Bairam.

Vote unanimously in favor

R. Duhaime motioned to approve the variance from Article 27, Section C.4 for an accessory apartment, which exceeds the 30% requirement. Seconded by R. Bairam.

Vote unanimously in favor

HOMES FOR LIFE/JOAN ELLIOTT/STEPHEN AUSTIN

Hackett Hill Road/South Bow Road, Map 12, lot 13

Low Density Residential

Special Exception from Article 18, Section E. for construction of access roads; driveways, water impoundments and drainage ways at proposed subdivision "Austin Woods"

James Levesque recused himself as an abutter.

James Coughlin: We had a meeting last month, at which time comments from both the board and the public were received. A meeting was held with Conservation Commission, but no correspondence has been received. This is being proposed as a cluster subdivision.

Wetland crossings were discussed at the April meeting. Since that time, we revised that plan. We had wetland buffer impact areas, which would require a variance. We have moved the road to get rid of those buffers. The wetland impact is 28,000 sf and it was 28,500 sf. The buffer impact is 80,000 sf and it was 150,000 sf. The other comment from the board was a consolidation plan with the owner (Labonville). We have met with the State regarding the permit for the abutting property. It was suggested that we move the roadway from the buffer. We are applying for impact permits to consolidate the trails. There is now no stone causeway, which reduced the impact in areas for wetland but increases wetland impacts. There remains a constant of six (6) wetland impact areas. We are looking to set a date for a site walk.

J. Duffy: When the applicant came to the last meeting, they looked for crossings to the wetlands and the buffers. Has that changed? Are you still doing that? The new wetland buffer impact to the wetland crossing is 80,000 sf..

According to the wetland ordinance, if the wetland is over an acre, you can't impact the buffer. If you are going through the buffer, you still need a variance. This should be discussed with the Conservation Commission. Secondly, the area on top of this subdivision, owned by Mr. Labonville, had a Special Exception from this board for a different wetland impact, which is different from what is on this plan. This particular development cannot go forward without including the Labonville land. I spoke with Collis Adams at the State, and if the abutters were notified of a 5-lot subdivision and now it will be modified by the State, it must be resubmitted and the abutters renotified that these are being included.

This can be done as one application and have both landowners signed off.

J. Coughlin: We plan to revise the application. We will renote the abutters.

Michael Lambert, Env. Scientist: I met with the State and the abutters must be notified. There were a few different options on how to proceed, and we wanted to proceed at whatever level of avoidance the State wanted. I reviewed with the State how to dovetail this plan. A new application would be filed and abutters notified. We will incorporate the existing permit in the new permit and the mitigation will reflect that footage along with the reset of the project.

R. Savoie: Don't we have to notice abutters prior to a site walk, so they may participate?

J. Duffy: I was in contact with the applicant's engineer and I thought they understood that needed to be done, but I received no response.

Engineer for the applicant stated that the Labonville abutters were included in the original notice.

J. Duffy: We need to research what the abutters' letter stated. We do not know what they were notified of.

J. Duffy distributed a copy of the new cluster ordinance, which is being voted on today and questions whether this plan meets the intent of that ordinance.

R. Savoie recommended scheduling a joint meeting with the Conservation Commission June 10th to review this plan. A site walk could be scheduled at that time.

J. Coughlin will research the abutters list and notice letters.

R. Savoie motioned to continue to June 10th with the Conservation Commission. Seconded by R. Duhaime.

Vote unanimously in favor

J. Hills, abutter asked if they as abutters would receive copies of the new plans.

J. Duffy stated that all abutters would be renotified.

SANDRA NOLET

30 Morrill Road, Map 40, lots 2 and 3

Medium Density Residential

Variance from Article 5, Section C.1.b. to allow for a new lot that does not have adequate frontage.

C. Pearson arrived and resumed the chair.

R. Bairam: This will make a non-conforming lot, which requires 175 feet of frontage.

J. Duffy: The requirement in this district with either water or sewer is one (1) acre. These lots will have 1.18 acre and 5.5 acre respectively. The requirement is 1 acre when served by either water or sewer. This will require Planning Board approval. The variance is requested for Lot 3.

***R. Duhaime motioned to continue to June.
No second, motion failed.***

J. Duffy explained the dotted line on the tax map indicate that originally there were two lots, which were later consolidated. The applicant believed she had two (2) lots and wanted to do a lot line adjustment to make the other lot larger. In researching this property, we found a consolidation of the two (2) was done, although the tax map showed them as two lots. Now she wants a different configuration, and she will need subdivision approval. The tax maps were never updated although the Assessing Department combined the lots. The deed from 1983, when the Nolets purchased the property, doesn't say how much land is included. We do not know why the tax maps were never updated in 1990 or what the purpose of the consolidation is. The assessing record has it as lot 2 for 6.9 acres. There is a note on the assessing card that "Lot 3 was a non conforming lot" therefore it did exist at one time.

C. Pearson: This application was continued from April because the board needed clarification on the actual frontage. That has been provided. This is non-conforming frontage on a large parcel.

***J. Levesque motioned to approve the variance from Article 5. to allow for 96 feet frontage where 175 is needed with 5.5 acres served by Water and Septic. Seconded by R. Bairam
Vote 3:1 motioned passed (C. Pearson recused)***

NEW PUBLIC HEARINGS

LAURENCE & SOPHIE WRIGHT

5 Monroe Drive, Map 31, Lot 48

Medium Density Residential

Variance from Article 5, Section E.2 to allow for construction of a two-bedroom addition, which does not meet the side setback requirements of 15 feet.

Mark Wright, son of applicant: The purpose of this application is to construct an addition to a home where they have resided for 34 years. The addition is 24' x 15' on the southeast corner of the house. The addition is for a second bathroom and increasing the square footage of the existing bedroom to add two walk in closets. The reason for this is to accommodate a grandmother who will be moving in. This addition will encroach on the side setback by 5 feet leaving a 10-foot buffer between the abutting properties.

M. Wright read from application. (See file)

Open Public Hearing

No comment

Close Public Hearing

***R. Savoie motioned to approve the variance from Article 5, Section E.2 to allow for construction of a two-bedroom addition, which will encroach on the 15-foot side setback requirement by 5 feet. Seconded by R. Bairam.
Vote unanimously in favor***

REVIEW OF CORRESPONDENCE

Rehearing on Pennichuck

J. Duffy: In reference to D. Hess's letter, pg 4 #15, "Article 24, requires that before the board of adjustment reaches a decision on a special exception application, the applicant's plan must have been 'transmitted...to the Planning Board for review and comment.' There is no evidence in the record that the Planning Board provided any review and comment on the applicant's proposal plan."

In reviewing the records, the applicant applied to the Planning Board in July of 2007 and went to TRC as well. The Town's engineer reviewed the plan. At that first Planning Board meeting, the question was raised whether a special exception was needed for a utility. It was decided, after consultation with our attorney, that a Special Exception was needed. They should have gone to the Planning Board in March of 2008 for comments after coming before the ZBA. This fell through the cracks because they didn't go to Planning Board for Special Exception review between March and April of 2008, however the Planning Board and Technical Review were aware of the application.

C. Pearson: I was aware of that point. The comment regarding site walk was incorrect. We did two (2) site walks on this property. Roger Duhaime, Jim Levesque, Ron Savoie, Richard Bairam attended the first site walk and Roger Duhaime, Tracy Murphy Roche, Chris Pearson, Dick Johnston attended the second site walk. Pennichuck also worked with the neighbors to improve the plan. I don't want this one (1) point to come back and bite us although I'm not happy with this letter. When the design was changed after meeting with the neighborhood, the Planning Board was not notified for comments.

R. Savoie recommended this plan go back to the Planning Board before the next meeting in June.

J. Duffy: This will have to go back for rehearing. They are before the Planning Board now. We would have to grant the motion for rehearing based on that one (1) issue.

C. Pearson: This board would accept only new information.

R. Savoie motioned for rehearing with discussion limited to new information only. R. Bairam seconded.

R. Savoie withdrew motion, and R. Bairam withdrew his second.

R. Duhaime felt this is abuse of the board's time.

C. Pearson: This is an administrative error and must be corrected to maintain the integrity of the decision.

R. Bairam motioned to grant a rehearing on June 10. Seconded by R. Savoie. 4:1 motion carries.

Rehearing Application OmniPoint

The initial board request was for an escrow account to be established for \$10,000. They are requesting an engineer be chosen and a scope of work be provided prior to money being paid.

C. Pearson: I feel \$10,000 escrow is fair and all unused money will be returned to the applicant.

R. Savoie motioned to deny the request to waive the \$10,000 escrow. R. Bairam seconded. Vote unanimously in favor

APPROVAL OF MINUTES OF APRIL 08, 2008

*R. Bairam motioned to approve the minutes as presented. Seconded by C. Pearson.
Vote unanimously in favor*

J. Levesque, R. Duhaime, and R. Savoie abstained

ADJOURNMENT

The meeting was adjourned at 8:59 PM.

Respectfully submitted,

Lee Ann Moynihan