

ZONING BOARD OF ADJUSTMENT
268B MAMMOTH ROAD
LONDONDERRY, NH 03053

DATE: APRIL 15, 2009

CASE NO.: 4/15/2009-2

APPLICANT: JAMES AND TARA FURLONG
6 ESSEX COURT
LONDONDERRY, NH 03053

LOCATION: 6 ESSEX COURT, 12-80-15, AR-I

BOARD MEMBERS PRESENT: VICKI KEENAN, CHAIR
BARBARA DILORENZO, VOTING MEMBER
JIM SMITH, VOTING ALTERNATE
MATTHEW NEUMAN, VOTING ALTERNATE
NEIL DUNN, ACTING CLERK

ALSO PRESENT: RICHARD CANUEL, SENIOR BUILDING
INSPECTOR/ZONING OFFICER

REQUEST: AREA VARIANCE TO ALLOW LOCATION OF A SWIMMING POOL
WITHIN THE 15 FOOT REAR SETBACK REQUIRED BY SECTION
2.3.1.3.3.

PRESENTATION: Case No. 4/15/2009-2 was read into the record with no previous cases
listed.
Acting Clerk Neil Dunn also read Exhibit "A," a letter from the
Conservation Commission, into the record.

VICKI KEENAN: If you could state your name and address for the record and then present
your application, that would be great.

JIM FURLONG: Sure, Vicki. My name's Jim Furlong. My wife and I, Tara, have lived in
Londonderry for thirteen (13) years. We have four (4) children, ages four (4) through ten (10)
and have asked that I come before you tonight. We live at 6 Essex Court. What else did you ask
for?

VICKI KEENAN: And then if you could present your case and walk through your application.

JIM FURLONG: Okay. Sure.

VICKI KEENAN: Okay.

46
47 JIM FURLONG: So, I handed Richard...I believe you have a copy of the plot plan in front of
48 you?
49
50 VICKI KEENAN: We do.
51
52 JIM FURLONG: You do? Okay, excellent. So, we're asking for your permission to install a
53 pool and guidance on how far back from our porch we should install it, so we do have a porch
54 and have consulted with Family Pools and our objective is to put it as far back from the porch as
55 possible to eliminate any people from jumping off the porch into the pool. So, we're coming in
56 front of you tonight to ask how far behind the porch we can install the sixteen (16) foot wide
57 pool.
58
59 VICKI KEENAN: Could you walk through your application? Do you have a copy of it with
60 you?
61
62 JIM FURLONG: No, I submitted the application but I can answer the questions if...
63
64 VICKI KEENAN: Do you have a copy, Jaye, that we can give him?
65
66 JAYE TROTTIER: Yup.
67
68 VICKI KEENAN: What we'd like you to do is walk through each of the points of law if you
69 could and just speak to each point.
70
71 JIM FURLONG: That would be great.
72
73 VICKI KEENAN: Okay, thank you.
74
75 JIM FURLONG: Okay.
76
77 JAYE TROTTIER: Here you go.
78
79 JIM FURLONG: Thank you.
80
81 VICKI KEENAN: Start with item (4.A).
82
83 JIM FURLONG: Okay, the proposed use would not diminish surrounding property values
84 because the objective is to put a inground swimming pool for the neighborhood. There's two (2)
85 other...
86
87 JIM SMITH: Could I make a point of clarification? Should we also be looking at the
88 Conservation Overlay District variance possibility or...?
89

90 RICHARD CANUEL: Well, yeah, that's an issue. See, that's not the applicant's request. If the
91 applicant had been requesting to locate the pool within that Conservation Overlay District, that
92 application would have had to have gone to the Conservation Commission first for their
93 comment.
94

95 JIM FURLONG: Right.
96

97 RICHARD CANUEL: The reason Deb Lievens sent that letter into us, simply because the
98 applicant had indicated his second choice for location of the pool to be within the Conservation
99 District but that's not what this particular application is requesting. It's requesting the location
100 of the pool at the rear portion of the property outside of that Conservation Overlay, so...
101

102 NEIL DUNN: But isn't the first choice, if I may, while we're getting clarification, also, the corner
103 of it goes through the Conservation Overlay?
104

105 MATT NEUMAN: That's what it looks like.
106

107 VICKI KEENAN: Yeah. I agree.
108

109 JIM FURLONG: If you look at the drawing there, we're not asking to use any of the
110 conservation land. We're just asking for your guidance on where we can install the pool and
111 how close to our porch on our property. But it did ask for a second choice, I believe, but our
112 first choice and preference is on our property, near our porch and for you to come back to me
113 and say, 'here's where I would advise that you put the pool.'
114

115 MATT NEUMAN: Well, I don't think that's really what we're here to do.
116

117 JIM FURLONG: Well, there's a fifteen (15) foot setback, as far as I understand...
118

119 MATT NEUMAN: Yeah.
120

121 JIM FURLONG: ...so we're asking for the variance to the fifteen (15) foot...
122

123 MATT NEUMAN: We really can't offer you advice as to where you should be putting it.
124

125 JIM FURLONG: I'm asking for a variance to the setback. So, as I understand, Richard, there's a
126 fifteen (15) foot...
127

128 VICKI KEENAN: How far into the setback, I think is what we're asking.
129

130 JIM SMITH: Okay, I'm still...the way I'm interpreting, it appears like the location that you're
131 looking at, at least partially is into the Conservation Overlay District. Is that correct?
132

133 RICHARD CANUEL: Yeah, that's what it looks like...
134

135 VICKI KEENAN: It looks like it.
136
137 MATT NEUMAN: Yeah.
138
139 RICHARD CANUEL: ...the drawing that I have here is that portion of that pool is shown in
140 the Conservation Overlay District but that's not the applicant's request, so I wouldn't say that
141 that's...
142
143 JIM SMITH: So even if you grant...
144
145 RICHARD CANUEL: ...an appropriate location shown on that plan, so...
146
147 JIM SMITH: Even if you get this variance, you would still have the problem with the overlay
148 district.
149
150 BARBARA DILORENZO: Or is that the second choice?
151
152 JIM SMITH: No, no. On both of them.
153
154 [overlapping comments].
155
156 BARBARA DILORENZO: That's the first one? Okay.
157
158 JIM SMITH: So this would not give you the permission to put it in without clearing up the
159 Conservation Overlay District impact.
160
161 RICHARD CANUEL: That's right.
162
163 VICKI KEENAN: The way the first choice is drawn on the lot diagram, it shows that a portion
164 of the pool actually also falls into the overlay district setback.
165
166 BARBARA DILORENZO: Yeah, quite a bit of it.
167
168 RICHARD CANUEL: I think I can just clarify...
169
170 JIM FURLONG: Sure.
171
172 [Zoning Officer Richard Canuel momentarily confers with the applicant].
173
174 JIM SMITH: I just wanted to make sure you understood it.
175
176 JIM FURLONG: No, now I definitely follow. I've never put a pool in, obviously. It'd be a big
177 decision and a big investment. So, we would shift it to the left, so it would be on our property.
178 It would not be going...we're obviously not able to cross that line on the right side.
179

180 VICKI KEENAN: So how far into the setback, the rear setback, is your intent for the pool? The
181 fifteen (15) foot setback?
182
183 JIM FURLONG: Richard, offer your guidance here. I'm asking...I have a porch.
184
185 VICKI KEENAN: Mm-hmm.
186
187 JIM FURLONG: And I can put the pool in right behind the porch, to the left, on our property.
188 And so I'm asking the Board how far back can I go to install a pool on my own property? And
189 if you're saying to me, Matthew, that you can put a pool anywhere on your property, even if it
190 abuts right on the edge...
191
192 MATT NEUMAN: No, that's not what I'm saying. I'm saying that I don't think we can tell you
193 where you can put it. I mean, you have to say where you wanna put it and then we can tell you
194 whether or not you can do that.
195
196 JIM SMITH: Typically, somebody gives us a dimension. Within two (2) feet, three (3) feet, five
197 (5) feet or some concrete dimension to that setback. How far are you going to go into it?
198
199 JIM FURLONG: Oh, okay. So I can't ask an open ended question, say you tell me...
200
201 JIM SMITH: No.
202
203 JIM FURLONG: So I could say I'm proposing that I'd like to put it within two (2) feet.
204
205 JIM SMITH: Yeah.
206
207 JIM FURLONG: And then you would negotiate, you would discuss and say yes or no.
208
209 VICKI KEENAN: That's right.
210
211 JIM FURLONG: Okay. Are there any suggestions that I should ask for, Richard, in terms of
212 feet?
213
214 RICHARD CANUEL: What is the width of the pool?
215
216 JIM FURLONG: Sixteen (16) feet.
217
218 RICHARD CANUEL: That's something that wasn't...
219
220 JIM FURLONG: Yup.
221
222 BARBARA DILORENZO: And that deck...that's a deck I see that's drawn here, not a porch?
223 Or is it a porch?
224

225 VICKI KEENAN: It's both, it looks like.
226
227 JIM FURLONG: That's right, I have a porch. Yes.
228
229 BARBARA DILORENZO: Okay, so, how big is that porch?
230
231 JIM FURLONG: It...how wide or how long?
232
233 BARBARA DILORENZO: What is the width?
234
235 JIM FURLONG: Oh, the width. It's twelve (12)...I believe it's twelve (12) feet. Ten (10) to
236 twelve (12) feet.
237
238 JIM SMITH: The way this drawing is on this screen, it's kinda hard to determine, is it about
239 forty (40) feet to the rear lot line, Richard? From the corner of the building?
240
241 RICHARD CANUEL: From the corner of the house itself, not from the deck or the porch, it's
242 about forty two (42).
243
244 JIM FURLONG: Forty two (42).
245
246 JIM SMITH: Okay.
247
248 RICHARD CANUEL: At the closest point.
249
250 JIM SMITH: So that's what you got to work with.
251
252 JIM FURLONG: Right.
253
254 JIM SMITH: So, if you got twelve (12) feet for the deck, now you're down to thirty (30) feet.
255
256 JIM FURLONG: Right.
257
258 JIM SMITH: If you got sixteen (16), so now you're down to fourteen (14) feet from the property
259 line.
260
261 JIM FURLONG: Right.
262
263 JIM SMITH: So that gives us an idea of where you're trying to...
264
265 JIM FURLONG: Okay.
266
267 VICKI KEENAN: So it's about two (2) feet if the pool...
268
269 JIM FURLONG: Now I follow you. Alright.

270
271 JIM SMITH: Now, if you're gonna have the deck...is this an above ground or inground pool?
272
273 JIM FURLONG: Inground.
274
275 JIM SMITH: Okay, so you probably wanna have...a walkway around the pool of a couple feet,
276 so now you're talking probably another three (3) feet.
277
278 JIM FURLONG: Yes.
279
280 JIM SMITH: So, that gives you...I think gives you a direction on what you should be asking
281 for.
282
283 JIM FURLONG: Okay. No, I appreciate the guidance. So, my next step would be what, Vicki?
284
285 VICKI KEENAN: That's a good question, Richard, do we postpone or continue the discussion
286 to next month's meeting or if you wanted to take a few minutes to try and think about it...
287
288 RICHARD CANUEL: I don't think we really need to do that...yeah, I think we can...
289
290 VICKI KEENAN: We can pause the meeting for a moment.
291
292 JIM FURLONG: That would be outstanding.
293
294 VICKI KEENAN: Give you a few minutes to try and think it through and then we can try and
295 continue on if that's okay.
296
297 JIM FURLONG: I would greatly appreciate it.
298
299 VICKI KEENAN: Okay.
300
301 JIM FURLONG: I've never done this and...
302
303 RICHARD CANUEL: We can try to get the applicant here to understand how to narrow down
304 his request.
305
306 VICKI KEENAN: Alright, why don't we...
307
308 JIM FURLONG: Okay.
309
310 VICKI KEENAN: Why don't we take a break for a few minutes. Does that sound good? Okay.
311
312 [Zoning Officer Richard Canuel confers with the applicant]
313
314 VICKI KEENAN: Alright, we'll bring the meeting back in session. Okay.

315
316 JIM FURLONG: Yes, I've gained some additional wisdom through some mentorship. So, we
317 are asking for two (2) feet from my property line.
318
319 VICKI KEENAN: So, two (2) feet within that rear setback.
320
321 JIM FURLONG: That's correct.
322
323 VICKI KEENAN: Okay.
324
325 MATT NEUMAN: Now, is that...are we talking the pool, are we talking the walkway around
326 it?
327
328 RICHARD CANUEL: That would be the overall structure, the pool and the extension of the
329 walkway.
330
331 JIM FURLONG: Yeah, good question.
332
333 NEIL DUNN: It would be two (2) feet into the setback?
334
335 RICHARD CANUEL: No.
336
337 JIM SMITH: No, no, no.
338
339 RICHARD CANUEL: It would be two (2) feet from the property line.
340
341 MATT NEUMAN: From the property line.
342
343 JIM FURLONG: From...on my property, right.
344
345 JIM SMITH: You could an argument that the flat walkway isn't really a structure, though.
346
347 VICKI KEENAN: It would be thirteen (13)...
348
349 RICHARD CANUEL: Well, being an inground pool, you know, it's concrete patio attached
350 to...yeah...you know, our setback requirements to the nearest part of the structure, so...that's, I
351 guess you can make a valid argument of whether you consider that the pool structure or not.
352
353 JIM SMITH: Yeah, it would be easier to say five (5) feet and just call it the edge of the pool
354 itself. The structure of the pool.
355
356 RICHARD CANUEL: Or the edge of the pool, yeah.
357
358 JIM FURLONG: Yeah.
359

360 RICHARD CANUEL: The pool structure.
361
362 JIM SMITH: The walkway, typically, is just poured flat concrete.
363
364 JIM FURLONG: Right.
365
366 JIM SMITH: I think that's a fair interpretation.
367
368 RICHARD CANUEL: That's reasonable, sure, yeah.
369
370 JIM SMITH: Okay, so we settle on five (5) feet then?
371
372 BARBARA DILORENZO: Five (5) feet?
373
374 RICHARD CANUEL: Five (5) foot setback to the pool structure.
375
376 JIM SMITH: With that understanding.
377
378 VICKI KEENAN: Right.
379
380 MATT NEUMAN: What's the length of the pool?
381
382 JIM FURLONG: We have a few different options but it could go forty eight (48) feet. But
383 between forty two (42) and forty eight (48).
384
385 VICKI KEENAN: So we're not talking about ten (10) feet into the setback.
386
387 JIM SMITH: Right.
388
389 VICKI KEENAN: Would you like to walk through your application now? Unless there's any
390 further questions from the Board.
391
392 JIM SMITH: Okay, the only other question is...
393
394 VICKI KEENAN: Okay.
395
396 JIM SMITH: ...the land directly behind it, what is that?
397
398 RICHARD CANUEL: It's all conservation land.
399
400 JIM SMITH: It's all conservation land.
401
402 RICHARD CANUEL: Yup. That's all part of the open space as part of that subdivision.
403
404 JIM SMITH: Okay.

405
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448

JIM FURLONG: Quite a bit. Eighteen (18) acres?

RICHARD CANUEL: Yes.

BARBARA DILORENZO: And may I ask, to the left of your home, you know, I see by this plan, there's a driveway there but what else is there?

JIM FURLONG: To the left of our house. There's a driveway and then we have a neighbor that lives to the left. We've put in some trees in between. Is that what you're asking?

BARBARA DILORENZO: No, it appears to be part of your property.

JIM SMITH: Oh, the red box is the secondary location of the pool.

BARBARA DILORENZO: Right here. This is what I'm talking about, Jim, is right here. This is part of his land, correct?

JIM SMITH: Yeah.

BARBARA DILORENZO: Yeah. So, I'm asking him what's here.

JIM SMITH: Yeah, that's a possibility.

BARBARA DILORENZO: I mean, that's another option.

RICHARD CANUEL: Yes.

BARBARA DILORENZO: And then he wouldn't be near anything.

VICKI KEENAN: Had you thought about putting the pool within the lot to the left of your home?

JIM FURLONG: There's a...oh, I see what you're asking, the Town sewer is to the left, so, yes, we did think of that but the Town sewer is on the left and behind that is a swing set area for the children. So we're trying to avoid the Town sewer, any of the hardships of the conservation land and be as further back...as far back from the porch as possible on our own property. So, as you can see, it's pretty limited. But, on behalf of my four (4) kids, they asked me to come here tonight, so that's where I am.

MATT NEUMAN: Now, when you mention the swing set area, I mean, how big an area is that? I mean, is it possible, I know it wouldn't be ideal for you but, to move the swing set and to put the pool where that is?

449 JIM FURLONG: The swing set's right near the Town sewer, so you have the sewer cap, which I
450 was surprised where Jean Gagnon put it, it's right behind the driveway. 'Cause I understood,
451 usually, they're hidden or they're further back but anyway, the swing set is right next to that
452 cap for the Town sewer so even if we did move it, I don't think we could go near that area.
453
454 JIM SMITH: That's one of these...?
455
456 RICHARD CANUEL: Yes.
457
458 JIM SMITH: So, that's where there is a tank?
459
460 RICHARD CANUEL: Excuse me?
461
462 JIM SMITH: Is this one of these setups where they have a tank? Yeah?
463
464 RICHARD CANUEL: Yup. Pretty much every one of those lots is set up like that.
465
466 JIM SMITH: So, it's a pump.
467
468 RICHARD CANUEL: Yeah.
469
470 JIM SMITH: Okay.
471
472 VICKI KEENAN: To the left.
473
474 JIM FURLONG: Oh, is that what...? So it pumps uphill?
475
476 RICHARD CANUEL: Yes.
477
478 JIM SMITH: Okay. So, rather than being a gravity run from the building to the street...
479
480 JIM FURLONG: Right.
481
482 JIM SMITH: ...it goes into a tank, then it's pumped from the tank up to the street, so that's why
483 he has that additional tank in the location.
484
485 VICKI KEENAN: Okay.
486
487 BARBARA DILORENZO: So he can't do much with that for what he's doing now.
488
489 NEIL DUNN: But that tank, the pump up tank is, he said, in front of the driveway or
490 something? So, I guess I'm missing something here. We were talking about to the left. The
491 driveway...
492
493 JIM FURLONG: I can show you.

494
495 VICKI KEENAN: That would be great, if you could show us where the tank is located.
496
497 JIM FURLONG: Okay. Permission to move forward.
498
499 VICKI KEENAN: Yes, please.
500
501 JIM FURLONG: So, if you're looking at our house here, the driveway goes here, our tank is
502 right there, to the left. So the driveway is adjacent to the house...
503
504 NEIL DUNN: Is it called out on that...?
505
506 JIM FURLONG: No, I was surprised. It was not...it wasn't called out. So, they're asking could
507 the pool go over here on the left and the driveway that's there is adjacent to the house and then
508 the Town sewer is right there.
509
510 JIM SMITH: Yeah...
511
512 JIM FURLONG: Like you said, Jim, it pumps uphill.
513
514 JIM SMITH: Right.
515
516 JIM FURLONG: So...that's why were...[inaudible].
517
518 JIM SMITH: Yeah. Okay. I think the other thing that's kind of complicating this. This is one of
519 these PRD's, so we have a small size lot, it's point six three (.63) acres.
520
521 JIM FURLONG: Right.
522
523 VICKI KEENAN: Mm-hmm.
524
525 JIM SMITH: So we have a limited amount of land to work with.
526
527 VICKI KEENAN: Okay. Well, why don't we have you walk through the application, if that's
528 okay.
529
530 JIM FURLONG: Okay.
531
532 VICKI KEENAN: Alright.
533
534 JIM FURLONG: So, the first question is, the proposed use would not diminish surrounding
535 property values because there's two (2) other inground pools in our neighborhood and the
536 neighbors are rooting for us to pass this, so I think that it would enhance the neighborhood.
537 And it's also, it's a wonderful lot, it's private, so it would be behind our house so that, actually,
538 the neighbors couldn't even see. One neighbor would be able to potentially see a corner of the

539 pool but it's one of the few private lots, for those of you familiar with...are you all familiar with
540 the neighborhood, this area? I know a couple of you I saw. Yes. Do you want me to keep
541 going?

542
543 VICKI KEENAN: Yes, please. Thank you.
544

545 JIM FURLONG: Okay. Granting the variance would not be contrary to public interest because
546 the inground pool would not alter the character of the neighborhood. (C.1), an area variance is
547 needed to enable the applicant's proposed use of the property, given the following special
548 conditions of the property. The 6 Essex Court lot, there is a hardship lot due to the overlay
549 district setback and to your point, there's limited area where the pool could be installed. The
550 benefit sought by the applicant cannot be achieved by some other method reasonably feasible
551 for the applicant to pursue, other than an area variance because of our lot size and setback
552 restrictions. I thought it was a half acre, but you said it's point six three (.63)?
553

554 JIM SMITH: That's what it said on the...
555

556 JIM FURLONG: The acreage? Okay. So, (D), granting the variance would do substantial
557 justice because it would...my family would enjoy the inground pool, as would our neighbors.
558 The use is not contrary to the spirit of the ordinance. The pool would promote the general
559 welfare of our neighborhood and of our family values.
560

561 VICKI KEENAN: Thank you.
562

563 JIM FURLONG: Thank you, Vicki.
564

565 VICKI KEENAN: Are there any further questions from the Board? Seeing none, and seeing no
566 one in the audience, there are, I'm assuming, no objections or comments in favor, so we'll just
567 bring it back to...
568

569 NEIL DUNN: Can we wait a minute, though?
570

571 VICKI KEENAN: Sure.
572

573 NEIL DUNN: There's a lot right next to him and I know we said that part of it's the
574 conservation but there's 12-80 and then...my computer's very slow, so I apologize. I'm trying to
575 get back to it, I was trying to look it up better and find out what it was. Directly behind...I
576 guess if we're looking at his lot, when you look to the right, there's a lot and that's where the
577 Conservation Overlay is coming in to the picture. And that's one lot number. My computer's
578 locking up or is going slowly here.
579

580 NEIL DUNN: Can I show you something, Neil?
581

582 NEIL DUNN: Yeah, anything would help. It looked to me on here that it was two (2) different
583 pieces of property.

584

585 RICHARD CANUEL: Yeah, there is. See, that's this parcel to the rear right here. This is part
586 of the required green space for that subdivision. This lot line right here is the PRD perimeter lot
587 line. So, you got that one hundred and fifty (150) foot PRD setback which measures from this
588 line, inward, which of course comes into this lot. This is the edge of that conservation area.
589 Then that Conservation Overlay District is measured a hundred (100) feet from that, so that's
590 where you get that sort of curvature line right there to give you that hundred (100) foot setback.

591

592 NEIL DUNN: So, he's also gonna be into the PRD overlay of that one fifty (150), probably here.

593

594 RICHARD CANUEL: If he...well, actually, he's outside of that. That's where that PRD comes
595 in that you see that right there. So, if the sets that pool down in here, he's outside of the PRD
596 setback as well as outside of that conservation overlay setback.

597

598 NEIL DUNN: So this is the new proposed area?

599

600 RICHARD CANUEL: Well, that's...

601

602 NEIL DUNN: Oh, no, that...

603

604 RICHARD CANUEL: That was my scribbling there. That would be the ideal, optimum
605 location there because of the...

606

607 NEIL DUNN: But the drainage...

608

609 RICHARD CANUEL: Yeah, you got the driveway there and you got the sewer discharge tank
610 right there as well, so...

611

612 NEIL DUNN: So that wouldn't work.

613

614 RICHARD CANUEL: No, it wouldn't work in that area at all. No. So that's what you're seeing
615 there, that's this lot which is lot 12-80, I believe it is.

616

617 NEIL DUNN: Okay, thank you. I guess I'm just trying to get a...

618

619 VICKI KEENAN: So, just for the whole Board, Richard, it's just the setback. He's not in the
620 boundary of the PRD.

621

622 JIM SMITH: No.

623

624 VICKI KEENAN: Right.

625

626 RICHARD CANUEL: No.

627

628 VICKI KEENAN: Okay.

629

630 RICHARD CANUEL: And I think that the Board probably needs to make that clear when...if
631 they decide to grant the variance and make that clear in their decision, that the pool shall be
632 located outside of the conservation overlay as well as outside that one hundred and fifty (150)
633 foot PRD setback. So there's no confusion.

634

635 JIM SMITH: You know when you argue this, when you look at the (C.2), it says the benefit
636 cannot be sought by the applicant...be some other reasonable method. Then the argument is
637 "our lot size and setback requirements..." Those requirements and size were there when you
638 bought the piece of property and it's not something that was imposed since you bought it.

639

640 JIM FURLONG: Sure.

641

642 JIM SMITH: And I think one of the problems I have with that argument is when somebody
643 buys a piece of property, they should be looking at all the rules and understanding exactly what
644 they're buying and what they can and cannot do.

645

646 JIM FURLONG: Mm-hmm.

647

648 JIM SMITH: So I think it's a weak argument at best.

649

650 NEIL DUNN: Richard, maybe you can also...right behind him, he's not too far from wetlands.

651

652 RICHARD CANUEL: That's true.

653

654 NEIL DUNN: And I guess part of my thought process here is if we're encroaching on that back
655 line, do we have any history on the wetlands? Do we have to worry about if we approve this
656 and then the wetland expands or we have an extra wet period of time...?

657

658 RICHARD CANUEL: Well, it is plotted on there. That's why that Conservation Overlay
659 District is shown there on the...

660

661 NEIL DUNN: So, that's what the overlay district is doing?

662

663 RICHARD CANUEL: That's correct.

664

665 NEIL DUNN: It's saying, 'hey, if it was a really wet season, then this could be pushing up here
666 and causing problems,' so as long as he's staying out of that, then that's probably less of a
667 concern for me?

668

669 RICHARD CANUEL: Yes.

670

671 NEIL DUNN: Okay, thank you.

672

673 JIM SMITH: Let's see, which one...?

674
675 BARBARA DILORENZO: Your pool's going to be sixteen (16) feet wide and maybe forty two
676 (42) feet long, is that correct?
677
678 JIM FURLONG: Yes.
679
680 VICKI KEENAN: Mm-hmm.
681
682 JIM SMITH: Okay, Neil? On the presentations in the computer, if you go down to the fourth
683 map...and you'll see a lot of blue lines on it...
684
685 NEIL DUNN: Mm-hmm.
686
687 JIM SMITH: I think that's giving you the extent of the Conservation Overlay District and that's
688 set up with a certain...to include a buffer zone from where you can use the land to where the
689 actual wetlands are being impacted. So as long as he's outside that line, they're providing the
690 buffer which the requirement is being asked for.
691
692 NEIL DUNN: Right, okay. Yeah, and I guess that's what I've always wondered about that
693 overlay and that makes sense that it's covering any kind of an extra wet season or something,
694 so, that helped clarify that. Yeah, that's good. Thank you, Jim.
695
696 VICKI KEENAN: That's a good question. Would you all like to walk through the five (5)
697 points and talk about each one? Pass or fail? So, point (A), the 'diminish surrounding property
698 values.'
699
700 NEIL DUNN: We're you going into deliberations? We're you closing? Or did we already do
701 that?
702
703 VICKI KEENAN: Yeah, we already closed.
704
705 DELIBERATIONS:
706
707 VICKI KEENAN: We're with the Board.
708
709 NEIL DUNN: Okay.
710
711 VICKI KEENAN: Anybody have any comment on (A).
712
713 MATT NEUMAN: I don't think it would diminish it.
714
715 BARBARA DILORENZO: No.
716
717 VICKI KEENAN: No, I agree.
718

719 NEIL DUNN: That looks good.
720
721 VICKI KEENAN: Okay, how about (B), contrary to the public interest?
722
723 BARBARA DILORENZO: I say no.
724
725 VICKI KEENAN: I was okay...
726
727 JIM SMITH: No, it's typical of what we get in the residential district.
728
729 VICKI KEENAN: Yup. Okay.
730
731 NEIL DUNN: Well, I guess...let's go back to the...I have a lot of drawings here. It gets back to
732 what Jim's point, though, was, on a PRD, when we have these small lots...so I guess if you
733 staying out there, we're staying out of the conservation and PRD. Yeah, no, I guess I'm alright
734 with that. It's not really against the public interest. Okay, I'm good with (B).
735
736 VICKI KEENAN: Okay, (C.1). Special conditions of the property? I feel like the conservation
737 overlay and the location of the sewerage are special conditions for this property.
738
739 BARBARA DILORENZO: Mm-hmm.
740
741 MATT NEUMAN: I mean, as Jim pointed out, though, it was there from the beginning.
742
743 VICKI KEENAN: Yeah, mm-hmm.
744
745 MATT NEUMAN: It hasn't changed.
746
747 NEIL DUNN: And if you look at the rest of the lots in that whole cul de sac and the next cul de
748 sac over, they all have the same issue. They're all trapezoidal, they all are small lots, they...I
749 have a little trouble with the special conditions because it's, you know, typically, we're looking
750 in a neighborhood and if that was the only lot like that, then it would be special. I mean, a lot of
751 times, that's how it's looked at. But if you looked around that whole cul de sac and if you look
752 at the next cul de sac next to it, off Abington, you go on Abington to get to this one, I believe...
753
754 VICKI KEENAN: Mm-hmm.
755
756 NEIL DUNN: They all look pretty much the same and they all back up to that conservation
757 land, so...
758
759 VICKI KEENAN: Well, Jim, just the fourth map, the blue that you mentioned?
760
761 JIM SMITH: Mm-hmm.
762
763 VICKI KEENAN: That's the conservation area, correct?

764
765 JIM SMITH: Yeah.
766
767 VICKI KEENAN: So, it looks like they are really only what, maybe two (2) or three (3) lots on
768 that cul de sac that actually are impacted by that? Am I reading that right, Richard?
769
770 RICHARD CANUEL: Yes.
771
772 VICKI KEENAN: So, the rest of them are really not impacted by the conservation overlay.
773
774 MATT NEUMAN: No, not from the conservation but I think what Neil's saying, as far as the
775 dimensions of it and...
776
777 VICKI KEENAN: Yeah, absolutely.
778
779 MATT NEUMAN: With the setbacks.
780
781 VICKI KEENAN: Yeah.
782
783 NEIL DUNN: Yeah, because he's staying out of the conservation overlay. So, it gets back more
784 to the lot size and configuration because it was a PRD, that it was a smaller lot and...
785
786 VICKI KEENAN: But wouldn't you say that the overlay shrinks his lot or impacts his lot more
787 than other lots?
788
789 JIM SMITH: Yes.
790
791 VICKI KEENAN: Okay. (C.2), cannot be achieved by some other reasonable method?
792
793 BARBARA DILORENZO: The only thing you could say is if he took the porch down...I hate to
794 say that, that would give him...
795
796 [laughter, overlapping comments]
797
798 BARBARA DILORENZO: You know what I mean?
799
800 VICKI KEENAN: Yeah.
801
802 BARBARA DILORENZO: Who's gonna do that? You know?
803
804 VICKI KEENAN: Yeah. Yeah. I think this, for me, this was a pass.
805
806 BARBARA DILORENZO: Or even if you went with an above ground sixteen (16) foot, it's still
807 gonna be the same...
808

809 MATT NEUMAN: A hot tub, maybe.
810
811 BARBARA DILORENZO: A hot tub, yeah.
812
813 MATT NEUMAN: Have you thought about a hot tub?
814
815 VICKI KEENAN: A small lap pool.
816
817 JIM FURLONG: My wife has, yes.
818
819 MATT NEUMAN: I'm sure your kids wouldn't like it.
820
821 JIM FURLONG: Yeah.
822
823 BARBARA DILORENZO: A little lap pool. Yeah, a lap pool.
824
825 VICKI KEENAN: Alright, so this passes for me. Does this pass for everybody else? How
826 about (D), granting the variance would do substantial justice?
827
828 JIM SMITH: Yeah, because it allows him to do what other people in the neighborhood have
829 had, are able to do, so...
830
831 VICKI KEENAN: I agree and I think that there is a...for (C.1), it passes for me. I think there is a
832 special condition of the property because of the conservation overlay. I understand about your
833 point about the lot size...
834
835 JIM SMITH: Yeah.
836
837 VICKI KEENAN: ...but his lot is made even smaller, a small lot's made even smaller because of
838 the conservation overlay. (E), this is not contrary to the spirit of the ordinance?
839
840 JIM SMITH: Typically what people have in residential areas are swimming pools.
841
842 VICKI KEENAN: Mm-hmm. I agree. This passes for me, too. Okay. Is there any other
843 discussion by the Board? Would anyone like to make a motion?
844
845 JIM SMITH: I make a motion to grant this variance to allow the swimming pool within five (5)
846 feet of the rear property line, case number 4/15/2009-2.
847
848 VICKI KEENAN: Is there a second?
849
850 MATT NEUMAN: [inaudible] restrictions on [inaudible]...
851
852 VICKI KEENAN: Oh, that's right. Do you want to...there were restrictions about the...
853

854 MATT NEUMAN: ...overlay...
855
856 JIM SMITH: Well, we can't. In other words...
857
858 MATT NEUMAN: Well...
859
860 JIM SMITH: ...when he gets his building application, he's gonna have to show where it's
861 gonna be located.
862
863 VICKI KEENAN: I think Richard advised, though, that maybe we add the restrictions about the
864 PRD and the conservation overlay.
865
866 RICHARD CANUEL: It would be wise to do that, just to...
867
868 VICKI KEENAN: Yeah.
869
870 RICHARD CANUEL: ...make sure that you're covered...
871
872 MATT NEUMAN: It's not gonna hurt.
873
874 JIM SMITH: Okay.
875
876 VICKI KEENAN: Alright, do you want to amend your motion/
877
878 JIM SMITH: Right, and maintaining the location of the pool outside of the conservation and
879 PRD setbacks.
880
881 VICKI KEENAN: Okay, so there's a motion by Jim to approve the area variance with two
882 conditions: the first is that the pool not be within the conservation overlay and that it not be
883 within the PRD setbacks, at ten (10) feet within the rear setback.
884
885 JIM SMITH: No, five (5) feet.
886
887 VICKI KEENAN: Oh, to five (5) feet within the rear setback.
888
889 JIM SMITH: Within five (5) feet of the rear lot line.
890
891 VICKI KEENAN: Rear lot line. Sorry. Excuse me. Okay, is there a second?
892
893 NEIL DUNN: I'll second it.
894
895 VICKI KEENAN: Okay, there's a second by Neil. Any further discussion about the motion?
896 Okay, all those in favor, signify by saying 'aye'.
897
898 JIM SMITH: Aye.

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MATT NEUMAN: Aye.

VICKI KEENAN: Aye.

BARBARA DILORENZO: Aye.

NEIL DUNN: Aye.

VICKI KEENAN: Opposed? Abstentions?

[no reply for either]

RESULT: THE MOTION TO GRANT THE AREA VARIANCE WITH RESTRICTIONS WAS APPROVED, 5-0-0.

RESPECTFULLY SUBMITTED,

NEIL DUNN, ACTING CLERK

TYPED AND TRANSCRIBED BY JAYE A TROTTIER, SECRETARY

APPROVED MAY 20, 2009 WITH A MOTION MADE BY NEIL DUNN, SECONDED BY MATT NEUMAN AND APPROVED 4-0-1 (LARRY O'SULLIVAN ABSTAINED AS HE HAD NOT ATTENDED THE MEETING).