

DRAFT MINUTES

NEW DURHAM ZONING BOARD OF ADJUSTMENT

MAY 19, 2010

Chair Larry Prelli called the meeting to order at 7:02 PM.

Roll Call: Larry Prelli (Chair), Bill McGrew, Mike Hoffman, Helen Wellman, Wendy Anderson

Others Present: David Allen,

Revised Variance Law: David Allen reviewed changes made by the 2009 New Hampshire Legislature in the law regarding variances.

Laurion: The Board considered an application by Rita Laurion for a Variance to Article IV.B.8 to allow creation of a woodlot on Birch Hill Road (Map 239-019) that would be reached by an access right of way that is 20-30 feet wide instead of the required 50' wide; and a Variance to Article IV.B.6 to allow creation of a 90 acre building lot with 150' of road frontage rather than the required 400'.

Chair Larry Prelli asked if the applicants, any members of the public, or any board members had concerns about any board member having a conflict of interest or an appearance of a conflict of interest in this case. No concerns were expressed.

The Board established the following facts in the case:

1. The current lot is legally non-conforming. It has about 200' of frontage on Birch Hill Road instead of the currently required 400' for 20 acres or more;
2. The lot was originally created in the 1950's before the Town had a Zoning Ordinance;
3. The applicant wishes to subdivide the lot into two lots one of which shall be established as a 23 acre "woodlot" under Article IV.B.8 with no frontage on Birch Hill Road
4. A woodlot that does not abut a road requires a 50' wide access right of way. The access way on this lot is only 20-30' in some places.
5. The proposed woodlot will have approximately 1600' of frontage on Chalk

Pond. Designating it as a woodlot will effectively prevent development along that section of the pond.

6. The remainder 90 acre lot will have the same 200' of frontage on Birch Hill Road as the current lot, and would be required by Article IV.B.6 to have 400'.
7. The proposed subdivision creates no new conditions that detract from the public interest or the spirit of the ordinance.

Larry Prelli moved to grant a variance from Article IV.B.8 to Rita Laurion to establish a 23 acre woodlot off Birch Hill Road with an access right of way less than 50' wide. Mike Hoffman seconded. Approved unanimously with no abstentions.

Larry Prelli moved to grant a variance from Article IV.B.6 to allow establishment of the 90 acre remainder lot on Birch Hill Road with frontage of approximately 200' instead of the required 400'. Bill McGrew seconded. Approved unanimously with no abstentions.

Vello: The Board considered an Application from William and Donna Vello for a Variance to Article XV.F.2b and Article III.A.3 to remove an existing house at 54 South Shore Road (Map 120-025) that is 18' x 38' and to build a new house that is 25' x 38' at a location 23' from the shoreline instead of the required 75' in order to replace an "antiquated and rundown" house with a new one; and to build a new septic system within 73' of the shoreline instead of the required 125'.

Chair Larry Prelli asked if the applicants, any members of the public, or any board members had concerns about any board member having a conflict of interest or an appearance of a conflict of interest in this case. No concerns were expressed.

In discussion the Board established the following facts in the case:

1. The deck of the proposed new house will be 23' from the waterline instead the current 9';
2. The front of the proposed new house will be 32' from the waterline instead of the current 18';
3. The proposed new septic tank will be 73' from the waterline instead of the current 56';
4. The proposed new leach field will be over 250' from the waterline instead of the current 67'
5. The proposed new house will have 472 square feet within the state's 50' protected setback instead of the existing 596 square feet;
6. The proposed new house will have xxxx square feet within the town's 75' protected setback instead of the existing xxx square feet.

7. The new house will be set back just over 20' from the road, which is the required minimum. The Town's right of way on South Shore Road is very narrow at this point, making a variance from the road setback undesirable;
8. The proposed reconstructed house improves the conformance of the house on the lot and creates no new conditions that detract from the public interest or the spirit of the ordinance.
9. The proposed replacement leach field is almost 200' further from the waterline than the current leachfield which is a significant increase in protection of the lake;

Wendy Anderson acknowledged the improvements in the conformance of the proposed plan and suggested that the house could be redesigned in such a way that it would be an even greater improvement.

Larry Prelli moved to grant a variance to Article IX.D.2 to allow the tear down and reconstruction of the house of William and Donna Vello in a new location that is partially located within the Town's 75' building setback and is 14' further away from the waterline than the current location; and a variance to IX.D.3 to allow the replacement of a septic tank that is within the Town's 125' septic setback with a new tank that is 17' further away from the waterline than the current location.

Helen Wellman seconded. Wendy Anderson abstained. Approved 4-0.

Donahoe: The Board considered an application for a Variance to Article IV.C submitted by Pat Donahoe to build a canopy for two gasoline pumps at 364 Route 11 (Map 261-004) that will be 4' from the roadway right of way rather than the required 20'.

Chair Larry Prelli asked if the applicants, any members of the public, or any board members had concerns about any board member having a conflict of interest or an appearance of a conflict of interest in this case. No concerns were expressed.

In discussion the Board established the following facts in the case:

1. Mr. Donahoe proposes to reopen the Flight Deck gasoline station as a convenience store and gas station.
2. He proposes to build a canopy over the existing gas pumps to protect customers from inclement weather as they fill their gas tanks.
3. The proposed canopy will be 24' x 30' and sit 19' above the ground and will be set back from the Route 11 right of way 4' at its closest point instead of the required 20'.

4. Almost all gas stations have a canopy over their gas pumps. Not having one would reduce the attractiveness of this business to potential customers during bad weather;
5. The gasoline pumps are already installed. The cost of moving them would be very expensive.
6. The State of New Hampshire holds a right of way for Route 11 that is 200' wide at the proposed location of the canopy;
7. The closest point of the canopy will be more than 30' from the edge of the Route 11 shoulder and more than 40' from the road itself.
8. The proposed canopy will have no negative impact on highway safety and no negative impact on the appearance of the surrounding area because there are no other developed properties nearby.

Larry Prelli moved to grant a variance to Article xxx to allow construction of a canopy over the existing Flight Deck gasoline pumps that is 4' from the Route 11 right of way rather than the required 20'.

Howland: The Board considered an application from John & Jean Howland for a Variance to Article IV.B to move an existing house at 2 Marsh Hill Road (Map 018-013) to a location 8' from the abutting property line instead of the required 15' in order to build a standard foundation under the house.

Chair Larry Prelli asked if the applicants, any members of the public, or any board members had concerns about any board member having a conflict of interest or an appearance of a conflict of interest in this case. No concerns were expressed.

In discussion the Board established the following facts of the case:

1. The existing house is located 8' from the property line.
2. The applicant proposes to move the house 3-5' closer to the road and keep it the same 8' from the property line.
3. The back of the house is set into a hill in a manner that does not allow for adequate stormwater management. Moving it out of the hill will allow for improved stormwater management and protect the house from damage.
4. The location of the septic system does not allow moving the house any further away from the property line.
5. The existing back foundation of the house will be left in place as a retaining wall to hold the hill in place. A new foundation will be constructed 3-5' forward of the old foundation, allowing space for stormwater management between the hill and the house.

Larry Prelli moved to grant a variance to Article IV.B to allow John and Jean Howland to keep their house 8' from the abutting property line instead of the required 15' when they move their house at 2 Marsh Hill Road 3-5' closer to the road in order to improve stormwater management and protect the house from water damage. Bill McGrew seconded. Approved unanimously with no abstentions.

Election of officers: Larry Prelli was unanimously elected Chair. Bill McGrew was unanimously elected Vice-Chair.

The meeting was adjourned at 10:07 PM.

Respectfully submitted,

David Allen
Land Use Administrative Assistant

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