

**Town of Sandown
Zoning Board of Adjustment
Minutes 5/28/15**

Meeting Date: May 28, 2015

Type of Meeting: Public Hearing

Method of Notification: Public Posting - Sandown Town Hall, Sandown Post Office,
Sandown Website, *Eagle Tribune*

Meeting Location: Sandown Town Hall

Members present: Chairman - Steve Meisner, Vice Chairman - Christopher True,
Dave Ardolino, Brian St. Amand, Curt Sweet, Chris
Longchamps – Alternate, Tom Tombarello –
Selectmen’s Liaison

Members absent: Donna Green – Alternate

Opening: Mr. True opened the meeting at 7:12 p.m.

Case #01 – M5 L7-6, 7-6-1, 7-6-2 – Continued public hearing for the property located at 58 Tenney Road and identified on Map 5 Lots 7-6, 7-6-1, 7-6-2. An application submitted by Robert Loranger and Michael Maroney Trustee requesting a variance from Article II, Part B, Section 3B to permit two lots each having 100’ of frontage where 200’ is required.

Tim Lavelle presented the application and gave a summary for the board members that were not present at the last meeting.

Mr. Lavelle noted there was some discussion at the last meeting about a potential setback between the side property line and the abutters. He noted the applicant had no problem offering to do a 30’ setback and he presented new plans indicated where that setback would be. They could discuss and see if that was of interest to the board.

Mr. Meisner explained the process to the public.

Mr. True questioned if the three lots still existed today even though Maria Lane was never built? Mr. Lavelle noted they did and would have to go back to the planning board to adjust the plans to two lots.

Mr. True questioned if either of the two lots would be subdividable. Mr. Lavelle noted they would not be without the road. Mr. True noted what he doesn’t want to happen in the future is that they do decide they want the third lot and come back to put in an additional house lot. Does the landowner have any intention of subdividing in the future? Mr. Lavelle noted the homeowner in the back is gaining land and there is no intention of subdividing. The placement of the homes will likely make the original project unable to work. Mr. True questioned if they could make it a condition of approval that they

46 couldn't further subdivide the property. Mr. Meisner didn't think they could legally put a
47 restriction like that on the property.

48
49 Mr. St. Amand questioned where the building envelope would be. Mr. Lavelle located it
50 on the plans and noted their intended location was so far off the property line that they
51 had no problem with the voluntary 30' setback. The property owner had intended to put
52 the home far off the property line for privacy.

53
54 Mr. Longchamps questioned if the other homes in the neighborhood met the 200' of
55 frontage. Mr. Lavelle did not think there were any other variances in the area. He thought
56 the lots that back up to the property had 290' of frontage because Chester has larger
57 frontage requirements.

58
59 Mr. Meisner questioned where the other homes were and if there were any trees that
60 would prevent them from seeing the home. Mr. Lavelle noted it's an open field and they
61 would see that house.

62
63 Mr. Meisner noted the intent of the frontage requirement was to prevent overcrowding.

64
65 Mr. Lavelle read the answer to the final question that was missing at the last meeting:

66
67 (A) Owning to the special conditions of the property, set forth above, that distinguish it
68 from other properties in the area:

- 69 i. No fair and substantial relationship exists between the general public
70 purposes of the ordinance and the specific application of that
71 provision to the property because: The frontage requirement prevents
72 overcrowding there will be none.
73 ii. The proposed use is a reasonable one because: It would allow for the
74 construction of one new dwelling without the construction of new
75 infrastructure to be town maintained.

76
77 Mr. Meisner opened the meeting to the public.

78
79 *Doug Martin – 5 Tenney Road*

80 He is an abutter of the property. He doesn't see any hardship by lessening what they are
81 looking for by putting in undersized lots. It's not similar to the other properties in the
82 neighborhood. All other properties meet all the zoning regulations. He doesn't see any
83 reason for them to change from the Maria Lane plans. The valuation of the property,
84 instead of being on a cul-de-sac will have an effect on the underwriting capabilities of
85 that property. He does feel it will do damage to the rest of the homes in the
86 neighborhood.

87
88 Mr. Lavelle noted his clients don't believe it would diminish the value of their property.
89 Mr. Genest is going from 3.7 acres to 5.3 acres. He's getting a larger lot. The other lot
90 will be 3 acres vs. 1.6 acres.

92 Mr. Meisner noted that Mr. Martin has some valuable points. He was on the zoning board
93 for many years and has dealt with this issue in the past. Frontage was created to lessen
94 congestion. Even if Maria Lane goes in, from what he can see, a home will be built in
95 that location regardless.

96
97 Mr. Meisner closed the hearing to the public and the applicant.
98

99 Mr. True noted he doesn't like telling someone they can't do what they want on their own
100 property. They fought hard for Maria Lane. He does feel it's important to maintain the
101 proper frontage. The question is, do we want to allow one more house or two more
102 houses. He doesn't see any issues with site lines. He is favoring allowing the two lots.
103

104 Mr. Longchamps noted that they don't know where the home is going to be built. It could
105 be put right on the road as long as they meet setbacks, which it looks like they have the
106 property to do so. Mr. Meisner noted that they could restrict the home to be placed on the
107 back section of the lot.
108

109 Curt Sweet joined the meeting. He will not be voting but is allowed to have input.
110

111 Mr. Meisner noted in order to keep with the harmony of the zoning regulations, the board
112 has the opportunity to add restrictions stating they couldn't put the home within a certain
113 distance of the road.
114

115 Mr. Meisner informed Mr. Lavelle of the proposed 500' setback. Mr. Lavelle didn't feel
116 they would have an issue with that. They had no intention of putting the home in that
117 location anyway. Mr. Genest did want to put in a garage so as long as it doesn't impact
118 that he had no issue with the 500' setback.
119

120 Mr. Meisner noted he did look at the criteria questions and answers and found them
121 acceptable.
122

123 **MOTION:** Mr. True made a motion to grant a variance from Article II, Part B, Section
124 3B for the property located at 58 Tenney Road and identified on Map 5 Lots 7-6, 7-6-1,
125 7-6-2 submitted by Robert Loranger and Michael Maroney Trustee to permit two lots
126 each having 100' of frontage where 200' is required.
127

128 *The following conditions apply:*

129 Lot 7-6-2 will have a setback from Tenney road of 500' and will also including the
130 voluntary 30' setbacks as indicated on the plans submitted on 5/28/15.
131

132 Mr. St. Amand seconded the motion. Members voted unanimously in favor. The motion
133 passed.
134

135 Mr. Meisner noted for the applicant that according to RSA 677:2 there was a 30-day
136 appeals timeframe.
137

Mr. Sweet stepped in as a voting member and Mr. Meisner noted he would run the meeting, but not be a voting member so that Mr. Sweet could be a voting member.

Case #02 – M27 L18 – Public hearing for the property located at 49 Trues Parkway and identified on Map 27 Lot 18. An application submitted by William Dow requesting a variance from Article II, Part B, Section 3, C, 1 to permit the use of a lot having less than 20,000 sq. ft. for year-round use.

Vernon Dingman presented the application.

It is a pre-existing non-conforming lot creating in the 60s. Currently it is seasonal, but has all the criteria of year-round use. It has heating, plumbing, water and septic. At some point it got classified as a seasonal, even though it is being used as year-round. They want to bring the home in compliance. The zoning criteria that requires 20,000 sq. ft. is based on four-bedroom loading. There are no equations to address sub-four bedroom lots. In a direct ratio with loading factors it would meet the loading for two bedrooms. The reality of the lot, they feel does conform to zoning if they had the equation for two-bedrooms. All other setbacks are conforming. With the submission, they would install the new septic system. It is currently approved by the state and town.

Mr. Ardolino questioned if they would be building a new home. Mr. Dingman noted he wouldn't be, just upgrading the septic system. The septic that is there isn't failing, it is functional.

Mr. Dingman thought that it was the only home on the street that wasn't converted from seasonal to year-round.

Mr. Meisner noted that if the variance was granted, they would come in with an application for a special exception. The reason they can't come in for the special exception is because they don't meet the 20,000 receiving layer. They should address all the concerns of the special exception before granting the variance.

Mr. True questioned when Mr. Dow purchased the home. Mr. Dingman noted it has always been in the family.

The board questioned the lot sizes for the homes surrounding this one.

Mr. St. Amand noted they aren't required to put in the septic system, but we could make it a condition of approval.

Mr. Dingman read the criteria questions and answers.

1. The variance will not be contrary to the public interest because: This lot is the norm to most of the lots in this whole area of Angle Pond.

183 2. *The spirit of the ordinance is observed because:* The approved septic system is one of
184 the latest technologies and will provide a better health standard for the area.

185
186 3. *Substantial justice is done because:* It will allow the use of a pre-existing non-
187 conforming lot that is willing to make all of proper health improvements for the lot and
188 area around the lot.

189
190 4. *The values of surrounding properties will not be diminished because:* Because the
191 surrounding lots are of similar setup and size. They are year-round homes and will be
192 enhanced by adding this lot as a year-round home.

193
194 5. *Literal enforcement of the provisions of the ordinance would result in an unnecessary*
195 *hardship because: USE (A) or (B).*

196
197 *The “Special Conditions” of this property that distinguish it from other properties in the*
198 *area are as follows: Pre-Existing non-conforming 1966 creation prior to this zoning.*

199
200 (A) *Owing to the special conditions of the property, set forth above, that distinguish it*
201 *from other properties in the area:*

202
203 (i) *No fair and substantial relationship exists between the general public*
204 *purposes of the ordinance and the specific application of that provision to*
205 *the property because: All abutting lots are year-round and it follows in the*
206 *public’s interest to allow this lot to be year-round use also.*

207
208 (ii) *The proposed use is a reasonable one because:* Because the owner has
209 made every effort to make this lot as conforming as possible.

210
211 OR

212
213 *If the criteria in subparagraph (A) are NOT established, an unnecessary hardship will be*
214 *deemed to exist, if and only if:*

215
216 (B) *Owing to the special conditions, set forth above, the property cannot be reasonably*
217 *used in strict conformance with the ordinance, and a variance is therefore necessary*
218 *to enable a reasonable use of it because: It is pre-existing, non-conforming prior to*
219 *the establishment of this ordinance.*

220
221 Mr. Meisner opened the meeting to the public. There was no public in attendance.

222
223 Mr. Meisner noted the applicant is willing to put in a stipulation that they install the
224 septic system. Giving them this variance doesn’t grant them the seasonal conversion.
225 They still need to apply for a special exception.

226

Mr. True noted he doesn't agree with the substantial justice answer. It has been a seasonal home for as long as Sandown has had them. He doesn't feel the town is taking anything away from the landowner by keeping it a seasonal building.

Mr. True added he doesn't agree with the answer to special conditions of the property. The purpose of our zoning is to prevent overcrowding. It is also to protect the land and the water for residents. Any additional stress will threaten the public health and welfare that the property sits on. That additional stress is where he sees the general public's right to have their health and welfare protected.

He realizes they aren't making the conversion right now, but that is in his mind. They have a seasonal home, and still have a seasonal home. He doesn't see any hardship.

Mr. Meisner reviewed his opinions. He agrees with the applicant's answers to number 1, 2, 3 and 4. In terms of the values of surrounding properties, he thinks the state needs to revisit that. We are all residents of the town. The lakes are different than the rest of the town. It's hard to look at the lake and judge against other areas in town; 5. There is no other house on that circle that is seasonal. There are other seasonal properties in town, similar to this. No two properties are exactly alike.

Mr. Longchamps felt that precedence has been set with other properties. Mr. Meisner noted that no two properties are alike and aren't exactly the same. You cannot compare one property to another.

Mr. Sweet agrees with the answers to 1-4. He noted 5 is tricky, but he is satisfied with how they answered the question. He can only base it on what they are being told. He doesn't know if all the homes are year-round. He is familiar with the area. His concern is that if we don't allow anything there will be no improvements to what is in there currently for septic. So in some ways, we would be doing an improvement for the area and the lake by allowing it to go through and requiring a septic upgrade.

Mr. Meisner noted he has been on the board since 2001, since then, and mostly because of the 20,000 sq. ft. receiving layer, there haven't been any homes converted that didn't meet the 20,000 sq. ft. requirement. That isn't to say the variance wouldn't be granted.

Mr. Tombarello questioned who governs the homes to see if they are actually seasonal? How would we know if he was living there? We can have an impact on the taxes, his taxes would probably increase. He likes that the septic system is going to be upgraded. As a Selectmen, he would want all of that to be taken into consideration.

Mr. Longchamps understands the technical part, being 20,000 sq. ft. loading based on a four-bedroom home and this is only a two-bedroom home. The property meets the state requirements and all other setbacks. He doesn't have an issue with it.

Mr. Meisner noted the 20,000 sq. ft. requirement came down from the state, not the town. Mr. Dingman added even at the state level, everything is based on a four-bedroom loading.

Mr. Dingman wanted to address the concern that it would be additional loading on the lake. That reason is why they have gone the extra mile to get a state approved septic system which will dramatically improve the quality of that area.

MOTION: Mr. True made a motion to grant the variance from Article II, Part B, Section 3.C.1 to permit the use of a lot having less than 20,000 sq. ft for year-round use for the property located at 49 Trues Parkway and identified on Map 27 Lot 18.

Condition of Approval: The septic system as submitted must be installed.

Mr. Sweet seconded the motion. Mr. Sweet, Mr. Longchamps, Mr. Ardolino, Mr. St. Amand voted in favor. Mr. True opposed. The motion passed.

Mr. Meisner noted for the applicant that according to RSA 677:2 there was a 30-day appeals timeframe.

Case #03 – M22 L24 – Public hearing for the property located at 31 Elizabeth Road and identified on Map 22 Lot 24. An application submitted by 1378 Realty LLC requesting a special exception to permit an accessory apartment.

Tim Lavelle was representing the applicant.

Mr. Lavelle noted the property had a trailer on it that was condemned. They are proposing to remove the trailer and put in a new three-bedroom home and use the large existing garage and put in an apartment. They have a proposed layout for the apartment. It may change based on the building.

The applicant is not planning on living in the home. He is proposing to market and sell it with an in-law. They understand the conditions are that a new owner would know it needed to be owner occupied.

Mr. Meisner noted he would run the meeting but not vote. There was a full board present.

Mr. True questioned if the garage was still standing. Mr. Lavelle noted it was. It looks rough, but is still structurally sound. It will be cleaned up. The applicant will fix it up, put a new roof on it and side it the same as the home.

Mr. Sweet questioned if the apartment would be its own structure. Mr. Lavelle note it would go in the existing garage. They will still use a section of the structure as a garage.

Mr. Lavelle reviewed the criteria.

1. The building will have the appearance of a single family dwelling with detached garage.
2. The property exists as a single family
3. The proposed dwelling foot print is 1,264 sq. ft., the proposed apartment is 720 sq. ft.
4. The main dwelling will remain occupied by the owner
5. Off street parking will exceed four spaces
6. The structure will not be converted to condos
7. A new septic system will be installed; floor plan is provided; plan provided
8. Separate controls for heat and electric will be provided for each unit
9. Construction will not begin without permits
10. No one will occupy accessory apartment prior to occupancy permit
11. Future owner will comply with these conditions

Mr. Meisner opened the meeting to the public.

Mr. Tombarello noted for the board that the property was condemned. It was a tough decision to move a family out of their home, but he is glad to see the home gone and being rebuilt. It is a good move for the property and neighborhood.

Mr. Sweet noted he didn't have an opportunity to go by the property and wasn't comfortable voting when he hadn't seen the property. He would like to withdraw from voting and have Mr. Meisner vote in his place. The applicant and the members didn't have any objections to Mr. Meisner taking his place.

Mr. St. Amand question if the board has ever had a proposal from a contractor that isn't going to live on the property. Mr. Meisner noted he has had this in the past where they came with an application for an apartment for a home that hasn't been built yet. The only issue he sees is that the location and size for the home has not been specified.

Mr. Sweet noted that was also his concern that they don't have true plans for the home they are building and it would be hard for him to make a decision.

Mr. St. Amand had concerns on the intent of it the zoning regulations. He feels it is different when the owner of a home wants to put in an apartment vs. a builder coming in to get approval so they can sell the home for more money.

Mr. Meisner noted it is only their responsibility to make sure the criteria has been met.

MOTION: Mr. True made a motion to grant the special exception to permit an accessory apartment for the property located at 31 Elizabeth Road and identified on Map 22 Lot 24. Mr. Longchamps seconded the motion. The board voted unanimously in favor. The motion passed.

Review of Application

Donald Bova - 132 Wells Village Road, M13, L8

Chris True and Chris Longchamps reviewed the abutters list and confirmed it was correct. The board found the application was complete.

MOTION: Mr. Meisner made a motion to accept the application submitted by Donald Bova requesting a special exception to allow an accessory apartment for the property located at 132 Wells Village Road and identified on M13, L8. Mr. True seconded the motion. The board voted unanimously in favor. The motion passed.

Mr. Meisner noted for the applicant that according to RSA 677:2 there was a 30-day appeals timeframe.

Review of 4/30/15 Minutes

L61 change to True

MOTION: Mr. True made a motion to accept the 4/30/15 minutes as amended. Mr. Ardolino seconded the motion. Members voted in favor. Mr. Meisner abstained. The motion passed.

Correspondence

Brochure from Unifil

MOTION: Mr. Ardolino made a motion to adjourn. Mr. St. Amand seconded the motion. All members voted in favor. The motion passed. Meeting adjourned at approximately 9:40 p.m.

Respectfully Submitted,



Andrea Cairns