

**Town of Sandown
Zoning Board of Adjustment
Minutes 7/27/17**

Meeting Date: July 27, 2017
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, Chris Longchamps – Alternate
Members absent: Brian St. Amand, Curt Sweet, Steve Brown –Selectmen’s
Liaison

Mr. Meisner explained the process for the public.

M 26 L37, 21 Round Hill Road – An application submitted by Anne Marie Fletcher requesting a variance from Article II, Part A, Section 13 to permit an addition on an undersized lot.

Anne Marie Fletcher and Robert Downing presented the application.

Mr. Meisner noted for the applicant there was only a four person board. They had the opportunity to postpone to the following month to see if they could get a full board. They would need to get three votes in favor. The applicant chose to move forward.

Ms. Fletcher noted were looking to add onto the home and make a master suite upstairs with two walk-in closets, a master bedroom and a family room below.

Ms. Fletcher noted the addition would go in-between the home and the garage.

The home was three bedrooms, but they have gutted it. They have replaced all the electrical, plumbing and heating. The original bedrooms were very small, so they reconfigured the home. The septic system is rated for three-bedrooms; it was installed in 1987 and is an oversized three-bedroom septic.

Mr. Ardolino confirmed the dimensions of the home. Mr. Downing noted it is 37’x23’. The proposed addition is 23’x19’, 437 sq. ft.

Ms. Fletcher noted that one of the state septic permits and the tax card indicates the home is five bedrooms, but she corrected that.

The Board received a letter from Tom Stachulski, 4 Beach Road. Mr. True read it into the record. Mr. Stachulski had concerns with the location of the septic causing drainage issues; water from the basement is pumped across the street onto the neighborhood beach; the addition would block the view from his home to the pond; the lot is extremely

47 small and already has a large home on it. The addition may cause drainage issues and
48 ultimately affect their septic system.

49

50 Mr. Downing noted that Mr. Stachulski is raising the grade of his own property 4' above
51 Ms. Fletcher's. Mr. Stachulski moved boulders onto their leach field, which they made
52 him move. He has since put up hay bales to stop the water, because water is flowing from
53 Mr. Stachulski's property to Ms. Fletcher's property. They did not believe Mr. Stachulski
54 could see the water from his home; his garage faces the pond, but there are no windows
55 on that side of the home.

56

57 Mr. Downing noted there is an existing sump pump in the basement, but it has not kicked
58 on since they have owned the property. There are no issues with water in their basement.
59 They own the lot across the street where their well is located. Their septic system is 75'
60 from their well and the abutter's wells.

61

62 Mr. Downing added that they meet all building setbacks. The addition would be in-
63 between two other structures.

64

65 Ms. Fletcher noted that she informed neighbors that they were applying for a variance.
66 They asked them to sign a statement indicating they had no issues. Jeff Thompson, 26
67 Round Hill Road and Richard Johnston and Amy Zanello, 28 Round Hill Road signed the
68 statement.

69

70 Mr. Meisner noted they may be required to apply for a shoreland permit given the
71 proximity to the pond. Ms. Fletcher would look into that.

72

73 There was no additional input from the public.

74

75 Mr. True noted he is concerned with the continued building on undersized lots; especially
76 in that neighborhood. They are small, barely passable roads, especially in winter. The
77 pond is an important public resource and we cannot continue to put stress on it.
78 Increasing the size of the house puts additional stress on the land and possibly adds more
79 traffic.

80

81 Mr. Meisner had the Board review the five criteria.

82

83 Mr. Meisner noted they met all the building setbacks and the well radius to the septic,
84 which is important.

85

86 Mr. Longchamps confirmed they were not changing the use of the home, it would remain
87 three bedrooms. Ms. Fletcher noted that was correct.

88

89 The Board discussed the issue Mr. Stachulski brought forward about losing the view to
90 the pond from his home. Ms. Fletcher reiterated, there is a garage between the pond and
91 his home and there are no windows on that side of the garage.

92

93 *Robert Bohnwagner, 3 Round Hill Road*

94 Mr. Bohnwagner also lives in the neighborhood. He noted they have more of a view than
95 Mr. Stachulski, and does not believe Mr. Stachulski has much of a view, if any. They are
96 happy to see the home upgraded.

97

98 **MOTION:** Mr. True made a motion to grant the variance submitted by Anne Marie
99 Fletcher requesting a variance from Article II, Part A, Section 13 to permit an addition on
100 an undersized lot with the condition that proper NHDES Shoreland Permits are obtained,
101 if necessary. Mr. Ardolino seconded the motion.

102 Vote 4-0. Motion carried.

103

104 Mr. Meisner noted there is a 30 day appeal period.

105

106 **M9 L10-7, 11 Powderhouse Road – An application submitted by Monagham**
107 **Sandown Realty Trust requesting a variance from Article II, Part B, Section 3B to**
108 **permit the creation of three lots off of a cul-de-sac having less than the required**
109 **200’ of frontage.**

110

111 Tim Lavelle presented the application.

112

113 Mr. Lavelle noted the existing lot is 5.8 acres with one home. They are proposing to
114 create two new lots with undersized frontage to avoid extending the roadway. One lot
115 will be 1.63 acres with 140.92’ of frontage; the other will be 1.64 acres with 40’ of
116 frontage; the lot where the home exists will be 2.54 acres with 40’ of frontage. They
117 would propose a shared driveway for the existing lot and 1.64 acre lot so there would
118 only be one new driveway entrance on the road. The frontage is narrow, but the building
119 areas are quite wide.

120

121 All three lots would be served by well and septic. Most of the lots on Powderhouse Road
122 are an acre or less. When that subdivision was done in 1976, the lot size requirement was
123 smaller than it is today.

124

125 Mr. True questioned where the homes would be expressing concern over being able to
126 see the homes from the road. Mr. Lavelle noted you may see the home on the 1.64 acres
127 lot, but the other, you likely would not see.

128

129 Mr. True noted there seemed to be a large hill and questioned how they would get a
130 driveway through it. Mr. Lavelle noted they would need to excavate, but the Planning
131 Board would help determine how they could meet the required grade for driveways.

132

133 Mr. Lavelle read the five criteria into the record.

134

135 Mr. Meisner questioned if the abutting homes would be able to see the new homes. Mr.
136 Lavelle noted it was unlikely, but he couldn’t say for certain. Mr. Meisner noted the 200’
137 frontage requirement is to prevent overcrowding. They should be concerned that abutting
138 homes will retain the same level of privacy they have currently.

139

140 Mr. True noted that he would not be as concerned if the homes were going to be deeper
141 into the property.

142

143 Mr. Meisner noted they could set a larger front setback for the new properties.

144

145 Jim Lavelle, the owner of the property, indicated he would have no objection to a 75'
146 front setback on the lots. He spoke with his abutters and they don't have any concerns.

147

148 Mr. Meisner opened the hearing to the public.

149

150 *Mike Costanzo, 7 Powderhouse Road*

151 Mr. Costanzo noted he was not opposed to the project, but did have concerns with the
152 location of the proposed home on the lot adjacent to him. The location he feels would be
153 best suited is in line with his bedroom and kitchen. He also has a garden very close to his
154 property line. The boundary does have woods, but they are not thick.

155

156 Mr. Meisner noted the board has the opportunity to increase the side setback and add a no
157 cut zone.

158

159 Mr. Jim Lavelle noted he would be open to a larger side setback. He noted there is
160 probably 25-30' of vegetation, but it is second growth so it is not very thick.

161

162 There was no additional input from the public.

163

164 Mr. Meisner noted for the applicant there was only a four person board. They had the
165 opportunity to postpone to the following month to see if they could get a full board. They
166 would need to get three votes in favor. The applicant chose to move forward.

167

168 **MOTION:** Mr. True made a motion GRANT the variance for an application submitted
169 by Monagham Sandown Realty Trust requesting a variance from Article II, Part B,
170 Section 3B to permit the creation of three lots off of a cul-de-sac having less than the
171 required 200' of frontage as requested with the following conditions:

172

- 75' front setback for building on the two new lots
- 40' building setback from the shared property line with M9 L10-5 and 30' no cut
174 zone from the shared property line with M9 L10-5

175

176 Mr. Ardolino seconded the motion.

177

Vote 4-0. Motion carried.

178

179 Mr. Meisner noted there is a 30 day appeal period.

180

181 **M9 L14, Wells Village Road and Old School House Road – An application**
182 **submitted by Gary Barnes & Sons, LLC requesting a variance from Article II, Part**
183 **D, Section 3B to permit the development of a 90.56 acre property with 0' of frontage**

184 **on a Class V highway to be developed with access from two of the three existing**
185 **right-of-ways.**

186

187 Mr. Meisner noted for the applicant there was only a four person board. They had the
188 opportunity to postpone to the following month to see if they could get a full board. They
189 would need to get three votes in favor. The applicant chose to move forward.

190

191 Mr. Tim Lavelle presented the application. He noted the property is 90.58 acres. It has
192 access from Wells Village Road through Old Schoolhouse Lane, Lantern Lane and
193 Debbie Lane. It was previously in front of the Planning Board and approved for a 140
194 unit elderly housing project. They never moved forward with that project. They are
195 proposing a new application for an Open Space Development with 38-40 single family
196 homes. The project would have access from Wells Village Road and Lantern Lane.

197

198 The Open Space regulations require the property to have 200' of frontage on a class V
199 roadway. The project proposes two town roads to be built, so the property will ultimately
200 have plenty of frontage on a Class V roadway, but as it stands today does not.

201

202 They have done a lot of work with the Town Engineer, Fire Chief, and Road Agent and
203 they all felt an Open Space development was the best use of the land. It will reduce the
204 overall disturbance of the land. They will utilize community wells.

205

206 Mr. Meisner noted that he is also a member of the Planning Board. Once he realized the
207 application would be coming before the Zoning Board, he stepped down from all
208 hearings to avoid a conflict of interest. Mr. Lavelle confirmed that was true.

209

210 Mr. Lavelle noted they are trying to avoid over-disturbance of the property. There is a lot
211 more dredge and fill with the old project. They reduced that by a quarter and will not
212 have to blast and fill the property.

213

214 Mr. Lavelle stated there will be 13-14 homes off of Wells Village Road, the remaining
215 lots will come off of Lantern Lane. The two roads would share the open space and water
216 from the community wells. The Road agent is happy with the configuration since there
217 will be fewer roads to maintain. When they do yield calculations for the open space
218 development, they need to show how many lots there would be for a conventional
219 subdivision; they determined there would be 40 homes and twice the amount of roadway.
220 The Open Space Development reduces the detriment to the property and creates less
221 disturbance to the natural ground.

222

223 Mr. Longchamps questioned what the road frontage for each lot would be. Mr. Lavelle
224 noted they would be approximately 100' wide which meets the regulations for an Open
225 Space Development.

226

227 Mr. Longchamps questioned when the development is complete, if all homes would front
228 on a Class V roadway. Mr. Lavelle confirmed they would.

229

230

231 Mr. Lavelle noted on the Wells Village Road entrance, there is a small spur that will be
232 constructed on Old Schoolhouse Road. The first few homes on Wells Village Road utilize
233 Old Schoolhouse Road for their access. That access will not be interrupted, but the first
234 50' of Old Schoolhouse Road will get paved.

235

236 *Cathy Hennesly, 18 Schoolhouse Road*

237 Ms. Hennesly was speaking on behalf of her mother who owns and lives at the property.
238 She wanted clarification on the road and if anything would be changing in terms of their
239 access, which she acknowledged Mr. Lavelle had addressed.

240

241 Ms. Hennesly also expressed concern over their water quantity being diminished. Mr.
242 Lavelle noted they previously tested the area and the impact the wells would have and
243 found no indication there would be any issues. That testing is a requirement of NHDES
244 for community water systems. Since they did that testing 10 years ago, it will need to be
245 done again and they would be notified.

246

247 Mr. Lavelle added that when the previous subdivision was approved, the town laid out
248 access across Schoolhouse Road to connect to Wells Village Road. Right now it is a
249 right-of-way, but it will eventually become town-owned.

250

251 **MOTION:** Mr. True made a motion to Grant the variance as requested by Gary Barnes
252 & Sons, LLC requesting a variance from Article II, Part D, Section 3B to permit the
253 development of a 90.56 acre property with 0' of frontage on a Class V highway to be
254 developed with access from two of the three existing right-of-ways. Mr. Longchamps
255 seconded the motion.

256 Vote 4-0. Motion carried.

257

258 Mr. Meisner noted there is a 30 day appeal period.

259

260 The board took a recess.

261

262 **M26 L44 and L45, 48 Holts Point Road – An application submitted by Thomas**
263 **Stachulski requesting a variance from Article II, Part B, Section 3A to permit the**
264 **construction of a new home on a lot containing 21,344 sq. ft. where 40,000 sq. ft. is**
265 **required.**

266

267 Mr. Jim Lavelle presented the application.

268

269 Mr. Lavelle noted the last hearing was continued because there were concerns about
270 abutting well radiuses, which were not indicated on the septic plans provided. He
271 indicated that he located the abutting wells, and plotted the locations on a copy of the tax
272 map. He noted they met all the required setbacks for abutter's well radiuses.

273

274 Mr. Meisner noted for the applicant there was only a four person board. They had the
275 opportunity to postpone to the following month to see if they could get a full board. They
276 would need to get three votes in favor. The applicant chose to move forward.

277

278 *Kerri and Rob Bohnwagner, 3 Round Hill Road*

279 Ms. Bohnwagner indicated one of their main concerns was the septic and well location.
280 They about the property and wanted to make sure their well would not be impacted by an
281 additional well going in.

282

283 Mr. Lavelle noted their well was an artesian well and likely down about 300' below the
284 surface so they should not have any issues. He could not guarantee there wouldn't be
285 issues, but given the proximity to the lake and the distance between the wells, he had no
286 concerns.

287

288 Ms. Bohnwagner also had concerns with the runoff from the Stachulski's property onto
289 the road, causing the road to wash away. The Stachulski's property is a very large hill,
290 where they have already cut most of the trees.

291

292 Mr. Lavelle noted they are planning to put the home below the steep hill.

293

294 Ms. Bohnwagner questioned if they planned to cut more of the trees. Mr. Lavelle did not
295 know, but they were not prevented from doing so.

296

297 Mr. Meisner noted because the lot is undersized, it would be difficult to require a no cut
298 zone. The homeowner is required to mitigate their own stormwater.

299

300 Ms. Bohnwagner also noted they have concerns with the amount of homes going into that
301 area. There are very narrow roads. She noted Mr. Stachulski has also in the past voiced
302 concern with the narrow roads. She added winter conditions are extremely difficult, but
303 they are equally congested in the summer with children playing in the roads. Another
304 house would only add to that problem.

305

306 The problem with the area is that it was originally set up to be seasonal housing and little
307 has been done to accommodate year-round housing with wider roads. It is barely wide
308 enough for one car. The school won't send buses down there. There are safety concerns
309 about ambulances getting down those roads as well.

310

311 Mr. Bohnwagner added that there were the same issues when they purchased their home,
312 but there were fewer homes in the area.

313

314 Mr. Lavelle noted he understands the area, but the home will have frontage on Holt's
315 Point Road where there is better access. The owner combined two small lots. There are
316 two other homes across the street that were recently developed in a similar manner.

317

318 Mr. Meisner noted that no two lots are exactly the same. The board needs to consider
319 each one on a case-by-case basis.

320

321 Mr. Longchamps noted that the septic and well meet all the setbacks. The lot is
322 undersized, but not as bad as other lots.

323

324 Mr. Meisner closed the hearing to the public.

325

326 Mr. True noted if the applicant does not meet even one of the criteria, then he must deny
327 the application. In his opinion, the application does not meet the public interest criteria. It
328 is not in the public's interest to increase the congestion in an already overly congested
329 area by allowing the development of undersized lots. He has been there in the winter, and
330 stated that two cars cannot pass.

331

332 In addition, he does not believe it meets the spirit of the ordinance. The ordinance
333 requires 40,000 sq. ft to prevent overcrowding. The less congestion there is, the less
334 danger there is to public endangerment caused by people unable to get out of the area in a
335 panic.

336

337 He also does not believe it meets the substantial justice criteria. They recently purchased
338 the property from the Town knowing it was not a buildable lot in the hopes that a
339 variance would be granted. He doesn't believe they are losing anything and the town is
340 not taking away their property rights by saying that you bought an undersized lot that is
341 not developable.

342

343 One more home on an undersized lot is not just one more home; it is the cumulative
344 effect of adding another home and then another home, if you continue to build around the
345 pond, you are putting more pressure on the pond. Continued development could possibly
346 affect the value of the pond which is a substantial asset to the town.

347

348 He believes the application does not meet three of the five criteria.

349

350 Mr. Ardolino agreed.

351

352 Mr. Lavelle noted the owners did purchase the lots from the Town and there are three
353 other examples of where the Town sold undersized lots to people. Many other towns hold
354 that whatever zoning was in effect when the lot was created are the requirements for the
355 lot. If it was created in the 1960s, they look at what was in effect in the 1960s. Sandown
356 treats their lots differently. The two lots across the street are similar and the traffic in that
357 area is not an issue.

358

359 **MOTION:** Mr. True made a motion to grant the variance for the application submitted
360 by Thomas Stachulski requesting a variance from Article II, Part B, Section 3A to permit
361 the construction of a new home on a lot containing 21,344 sq. ft. where 40,000 sq. ft. is
362 required. Mr. Longchamps seconded the motion.

363 Vote 2-2. Mr. True and Mr. Ardolino opposed.

364

365 Motion fails.

366 Mr. Meisner noted there is a 30 day appeal period.
367

368 **Review Application**

369

370 **M25 L63, 21 Pillsbury Road** – An application submitted by Thomas Loeffler
371 **requesting an equitable waiver of dimensional requirements from Article II, Part A**
372 **– General Regulations All Zones for a foundation length that is 2’ longer than what**
373 **was permitted by the building permit, which limited the length of the foundation to**
374 **90’.**

375

376 The board reviewed the application and the abutters list. Mr. Meisner noted the
377 Hampstead abutters list would need to be verified. Ms. Cairns would go to the Town of
378 Hampstead to confirm it is correct.

379

380 Mr. Meisner explained for the board that it was a different kind of application from a
381 variance and suggested they review the NH State Handbook on how these cases are
382 handled.

383

384 **MOTION:** Mr. True made a motion to accept the application submitted by Thomas
385 Loeffler requesting an equitable waiver of dimensional requirements from Article II, Part
386 A – General Regulations All Zones for a foundation length that is 2’ longer than what
387 was permitted by the building permit, which limited the length of the foundation to 90’.

388 Mr. Ardolino seconded the motion.

389 Vote 4-0.

390 Motion carried.

391

392 **Review of the 6/29/17 Minutes**

393 **MOTION:** Mr. True made a motion to approve the 6/29/17 minutes as written. Mr.

394 Ardolino seconded the motion.

395 Vote 3-0-1. Mr. Longchamps abstained.

396 Motion carried.

397

398 **Review of the 7/6/17 Minutes**

399 **MOTION:** Mr. True made a motion to approve the 7/6/17 minutes as written. Mr.

400 Ardolino seconded the motion.

401 Vote 4-0.

402 Motion carried.

403

404 **MOTION:** Mr. True made a motion to adjourn. Mr. Ardolino seconded the motion. All
405 members voted in favor. The motion passed. Meeting adjourned at approximately 10:08
406 p.m.

407

408 Respectfully submitted,

409 

410 Andrea Cairns