

**Town of Sandown
Zoning Board of Adjustment
Minutes 12/27/2018**

- 6 **Meeting Date:** December 27, 2018
- 7 **Type of Meeting:** Public Hearing
- 8 **Method of Notification:** Public Posting - Sandown Town Hall, Sandown Post Office,
9 Sandown Website, *Eagle Tribune*
- 10 **Meeting Location:** Sandown Town Hall
- 11 **Members present:** Steve Meisner- Chairman, Chris True- Vice Chairman,
12 Chris Longchamps, Dave Ardolino, Melyssa Tapley
- 13 **Members absent:** Jon Goldman- Selectman Liaison

14
15 Mr. Meisner opened the meeting at 7:03 pm

16
17 **Public Hearing**

18 **M 22, L 55, 56 North Road- An application submitted by Nordic Lincoln Realty**
19 **Trust requesting a variance from Article II B, Section 3 B to create a 23.2-acre lot**
20 **with 144.43’ of frontage.**

21
22 **Mr. Meisner noted that the board has only 4 members and if the applicants would**
23 **like to continue, they can.**

24 Mr. Lavelle stated he would like to continue.

25 Tim Lavelle from James Lavelle & Associates present.

26 They are looking to create a one in a half acre lot around the daycare and the remaining
27 lot would be 23.3 acres with 144.43’ of frontage on North Road. They would leave a 50’
28 right of way on the West side of the property by the cemetery for a potential future road
29 or another access point to the property out back. Mr. Meisner had a question regarding
30 the shape of the new property line around the daycare. Mr. Lavelle drew a reversed
31 curved on the west side of the property by the cemetery. By doing the reversed curve
32 gave a 50’ right of way between the property in question and the cemetery. The reason
33 Mr. Lavelle drew such a large curve was to also give the 23.3-acre property the 144.43
34 frontage on North Road. Mr. Meisner showed Mr. Lavelle Section 10.7.3 of the Sandown
35 Subdivision Regulations. Mr. Lavelle does not believe that the way he has the reversed
36 curved and how the property line is doesn’t go against that regulation. Mr. Lavelle did the
37 50’ right of way between the property and the cemetery was for a potential road and in
38 that case, they would have to leave a 25’ space between the road and the cemetery. Mr.
39 Lavelle made the curve in the property as big as he did was to give the 23.3-acre lot as
40 much frontage on North Road. Mr. Lavelle can change the curve of the 50 foot right of
41 way by the cemetery to a 25 foot right of way which would change the 23.3-acre lot with
42 144.43’ of frontage on North road to approximately a 23-acre lot with 80’ plus or minus
43 3’ of frontage on North Road. Mr. Lavelle stated that they agree with the 80 feet of
44 frontage plus or minus 3’ of frontage. Mr. True stated that the Zoning Ordinance with
45 200’ of frontage is to prevent over crowding and he does not see a problem with 80’
46 frontage on North Road nor is it overcrowding.

47

48 **Motion**

49 Mr. True made a motion to approve the approximately 23-acre lot with 80 feet plus or
50 minus 3 feet of frontage on North Road. Mr. Ardolino second the motion. All in favor.
51 The motion passed. (4-0-0) Mr. Meisner read the rule of the 30-day appeals process.

52

53 **Continued Public Hearing**

54 **M 28, L 3, 6 Shady Lane- An application submitted by Debra Ann Trust requesting**
55 **a variance from Article II B, Section 3 ABC to allow construction of a dwelling on a**
56 **pre-existing undersized lot of records.**

57

58 **Mr. Meisner noted that the board has only 4 members and if the applicants would**
59 **like to continue, they can.**

60

61 Mr. Lavelle stated he would like to continue.

62 Tim Lavelle and Steve Doherty present.

63 Mr. Meisner stated that they are a 5-member board with only 4 members present. Mr.

64 Meisner asked Mr. Lavelle if he would like to continue with the presentation of the

65 application or request a continuance and wait for a full 5-member board? Mr. Lavelle

66 stated he would like to continue with the presentation before the 4-member board.

67 At the last meeting the Board and Mr. Lavelle set up different times for the Board

68 members to go out and do a site walk of the property. All the Board members at different

69 times met Mr. Lavelle and the owners of M28 L7 and M28 L 8 at the property for them to

70 show the Board how they measured and got the position of the well and septic's in the

71 area. They have placed the septic for this property in the back and the well for this lot is

72 positioned in the front and the center. The lots were created back in 1946 as part of the

73 Duston's Grove subdivision. Ridge Road is not a Class V highway and it is not

74 maintained by the Town.

75 Mr. True mentioned that these tiny lots are squeezed into these well-developed areas and

76 Mr. Lavelle was able to get the well and the septic clear of the surrounding wells and

77 septic. Mr. True is concerned because the well is not 50' feet from a right of way. Mr.

78 Meisner stated that it is 50' from a public right of way. Mr. True said that in his opinion it

79 doesn't matter if it is a private road or a town road because the town has set the 50-foot

80 radius from a road to a well in order to protect the well from the runoff of salt and,

81 chemicals from vehicles that could run off the road and into the well. He doesn't feel that

82 just because it is a private road, he is absolved from the responsibility of considering the

83 health, safety and general welfare of the public and that application should fail on that

84 point alone.

85 Mr. Meisner voiced his concerns. He measured the size of the house on the plans and it

86 measured 1100 square feet and the flooding issues that the members saw at the site walk.

87 This is a 9,082 square lot and put a 1,100 roof on top which can potential cause more

88 ponding and flooding issues for the wells of Map 28, Lot 7 and Map 28, Lot 8. Mr.

89 Meisner also stated that Ridge Road is not a public road and it is privately taken care of.

90 Mr. Lavelle mentioned that there are somethings they can add to the house to help

91 prevent any extra ponding and flooding issues. Mr. Lavelle mentioned they can put in

92 drip line trenches to help with the runoff and along with the raised septic will also help

93 with the run off. Mr. Lavelle answered Mr. True's concerns about the well-being so close
94 to the road. All the wells in the area are close to the road and because it is on a dirt road
95 the chances of anything getting into the well are slim. Mr. Lavelle noted that his applicant
96 doesn't want flooding on his property either and that his applicants is willing to do some
97 changes to help with the run off.

98 Mr. Doherty brought up to the Board that there is about a 15' berm that the water is
99 collecting in. Mr. Doherty mentioned that you can see where the water had once flowed
100 that it didn't cause any flooding to the surrounding properties and flowed right into the
101 pond. That berm is preventing the water from flowing down the natural path already there
102 and going into the surrounding areas. Mr. Doherty stated that if he removes that berm the
103 run off issue will be resolved and the water will go back to its natural flow and not affect
104 anyone's property.

105

106 **Motion**

107 Mr. Longchamps made a motion to approve the application submitted by Debra Ann
108 Trust requesting a variance from Article II B, Section 3 ABC to allow construction of a
109 dwelling on a pre-existing undersized lot of records and to make a good faith effort to fix
110 the drainage issues. Mr. Ardolino seconded the motion. Mr. Meisner called the vote. The
111 motion did not pass. (1-3-0), 1-yes, 3-no's (Mr. Longchamps was in favor)

112 Mr. Meisner ask the Board if they have any comments or concerns.

113

114 Mr. True discussed the ongoing situations with Philip's Pond, Showell Pond, and Angle
115 Pond being shutdown due to the advisory warnings by the state for dangerously high
116 levels of Cyanobacteria/fecal bacteria. According to the state DES, a main cause of these
117 bacteria is overcrowding leading to excessive run off into the lakes.

118 The high levels of bacteria have shut down the town beach and the beach on Angle Pond
119 because these bacteria are very dangerous to pets, livestock, and humans, causing
120 seizures, damage to liver and kidneys, the nervous system, and death. An effective way to
121 fight the spread of these bacteria is to prevent the overcrowding and over building around
122 these lakes.

123 Mr. True then addressed the variance criteria.

124 Criteria #2- The spirit of the ordinance is observed. The ordinance exists to lessen
125 congestion and protecting people from fires, panic and other dangers. Shady/Ridge road
126 is a narrow road...14ft. wide in places and if firetrucks responding to a fire were on the
127 road, no other vehicles could pass. Lemyjoma is the other way to exit from the
128 neighborhood and that road is even narrower and you bottom out with a car even in the
129 summer. Allowing more buildings would jeopardize the health and safety of the
130 residents.

131 Criteria#3- Substantial justice is done. The land in question was bought in Dec2017. The
132 buyer knew or should have known the lot did not meet Sandown Zoning Ordinances.
133 Therefore, I do not see that the town is taking away anyone's rights. The land remains as
134 it was bought... land too small to meet building per Sandown Ordinances.

135 Criteria#4- Values of surrounding properties are not diminished. If we continue to allow
136 the overcrowding and allow more and more stress to put on Angle Pond the values of the
137 surrounding properties will go down if more and more excessive nutrients enter the lake
138 system and cyanobacteria attacks start to occur even more frequently. More frequent

139 cyanobacteria occurrences with more frequent shut downs of the ponds will lower the
140 property values of those around the ponds, and if those values go down, the values of all
141 town wide properties will be affected.

142 Criteria#5- Literal enforcement of the provisions of the ordinance would result in
143 unnecessary hardship. The land was bought, and it was known or should have been
144 known that it did not meet Sandown Zoning. It was bought on the chance a variance
145 would be granted. The purchase does not obligate me to grant a variance of Sandown
146 Zoning that exists to prevent overcrowding. The well does not meet the 50-foot radius
147 from the road. I believe the reason for the 50-foot radius is for the health, safety, and
148 welfare of the public.

149 I find the application fails the variance criteria of 2,3,4, and 5 and thus I can't support the
150 motion.

151 Mr. Meisner stated that the property was purchased with the knowledge of it was
152 unbuildable without a variance and it would have possible health and property value on
153 Map 28, Lot 7, Map 28, Lot 8 or other lots, failing on 2 criteria.

154

155 Mr. Meisner mentioned that if the applicant and Mr. Lavelle would like to look at a
156 similar case to look up the court case Trotter vs. Lebanon case number 117 NH148.

157

158 **Motion**

159 Mr. True made a motion to deny the application submitted by Debra Ann Trust
160 requesting a variance from Article II B Section 3 ABC to allow construction of a
161 dwelling on a pre-existing undersized lot of records. Mr. Ardolino seconded the motion.
162 Mr. True then stated he would not restate all his above comments on the original motion,
163 but that my previous comments are why I support the motion to deny. Mr. Meisner
164 called the vote. Mr. Longchamps not in favor. The motion passed. (3-1-0), 3-yes's, 1-no
165

166

167 Mr. Meisner stated that there is a 30-day appeal process.

168

169 **Mr. Meisner noted that the board has only 4 members and if the applicants would
170 like to continue, they can.**

171

172 **Application**

173 **M 28, L 42, 25 Lakeside Drive-** An application submitted by Richard Leather requesting
174 a variance from Article III Part A, Section 1 B to allow construction of a dwelling
175 without the 15' side setback from neighbors property line.

176

177 **Motion**

178 Mr. True made a motion to accept the application submitted by Richard Leather
179 requesting a variance from Article III Part A, Section 1 B to allow construction of a
180 dwelling without the 15' side setback from neighbors property line. Mr. Longchamps
181 second the motion. All in favor. The motion passed. (4-0-0)

182

183 **Review of 11/29/2018 Minutes**

Motion

184 Mr. Longchamps made a motion to accept the 12/29/2018 minutes as amended. Mr.
185 Ardolino seconds the motion. All in favor. The motion passed. (4-0-0)

186 • Line 15 change Mr. True to Mr. Meisner.

187

188 **Motion to Adjourn:**

189 Mr. Ardolino made a motion to adjourn. Mr. True second the motion. All in favor. The
190 motion passed. (4-0-0) Meeting ADJOURNED. 9:05p.m.

191

192 Respectfully Submitted,

193

194 Melyssa Tapley