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5 **Stratham Zoning Board of Adjustment**
6 **Meeting Minutes**
7 **April 24, 2012**
8 **Municipal Center, Selectmen's Meeting Room**
9 **10 Bunker Hill Avenue**
10 **Time: 7:00 PM**
11

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13 **Members Present:** **Dave Short, Vice Chairman**
14 **Jeffrey Karam, Secretary**
15 **Bruce Barker, Full Time Member**
16 **Kirk Scamman, Full Time Member**
17 **Chris Brett, Alternate**
18

19 **Members Absent:** **Arol Charbonneau, Chairman**
20 **Mike Smith, Alternate**
21

22 **Staff Present:** **Paul Deschaine, Town Administrator**
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24

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26 **1. Call to Order/Roll Call:**
27

28 The Vice Chairman, Mr. Dave Short, took roll call and explained that tonight's hearing is a
29 continuation from the April 10, 2012 meeting. Mr. Short explained that he has had
30 professional involvement with some of the people present in the room: Christian Smith from
31 Beals and Associates, Mr. Scott Gove, realtor in a real estate investment in Portsmouth and
32 Mr. McNeill the applicant's attorney provided some advice to Mr. Gove during that process.
33 He asked if anybody present had an issue with that, nobody present did.
34

35 **2. Approval of Minutes:**

36 April 10, 2012
37

38 The Board did not review the minutes from April 10, 2012.
39

40 **3. Public Hearing:**
41

42 Mr. Short reopened the public hearing and read the case for those present.
43

- 44 **a. Case # 571: Jason White, 39-41 Union Road, Stratham, NH, Tax Map 10 Lot 78. A**
45 **Special Exception has been requested, pursuant to the Zoning Ordinance, Sections**
46 **20.1.5.a and d, 20.4.1, and 17.8.2, to allow the construction of a new residence and**

1 **appurtenant septic system.** A Special Exception is required because the test pits used
2 for the septic system do not meet the requirements of Stratham Zoning Ordinance,
3 Sections 20.1.5.a. and d. specifying a minimum of two feet of natural permeable soil
4 above the seasonal high water table beneath the sewage disposal area and sewage reserve
5 area.
6

7 Mr. McNeill, the Applicant's attorney introduced his client Jason White as well as
8 Christian Beal, Project Engineer and June Lobe, Environmental Consultant. Mr. McNeill
9 explained the exhibits he had provided along with the application. He began by sharing
10 the site plan showing the proposed septic design area. Other exhibits included a copy of
11 the lot of record and a letter dated March 08, 2012 from the Rockingham Country
12 Conservation District relating to their inspection of the property and their comments
13 about exceeding minimum design requirements. Mr. McNeill stressed that this is a very a
14 narrow Special Exception request, requesting relief due to the fact that the test pits relied
15 upon for the septic system do not meet the requirement of 2 feet of natural permeable soil
16 above seasonal high water. The 2 pits the applicant is relying on are 21" above the high
17 water table so a difference of 3". Mr. McNeill explained that the proposed house will be
18 set back significantly from the roadway. There will be wetland impacts to the driveway
19 and there is also a conditional use permit pending before the Planning Board. Other
20 permits required will be a New Hampshire Wetlands permit and a local driveway permit,
21 but that doesn't relate to the 3" high water issue. Mr. McNeill continued that the
22 driveway is designed to miss wetlands to the maximum extent possible.
23

24 Mr. McNeill asked Mr. Smith to explain the project layout to specifically address the
25 septic system and special measures used for it. Mr. Smith referred to 4 wetland crossings
26 on the plan explaining that they tried to locate in accordance with Jim Gove. Three of
27 them don't have flow but the second one does have propensity for a decent flow of water.
28 There are two 18" culverts underneath which should provide more than an adequate
29 capacity to handle the potential flow of larger storms coming in.
30

31 Mr. Smith then talked about the septic design. He said he had spoken with Mike Cuomo
32 from the Rockingham County Conservation District and they had looked at different
33 options to facilitate more settlement before the affluence actually left for the leach field
34 itself. The septic system proposed, meets State requirements easily and has an extra
35 overflow tank too. He added that they also have more enviro-septic field that is required.
36 In addition, Mr. Smith said that even though the test pits show 3" less natural soil, they
37 still maintain Stratham's minimum 3' from the seasonal high table to the bed bottom.
38 Mr. Smith explained why he chose the 21" test pits. Mr. Smith also confirmed that the
39 test pits meet State standards.
40

41 Mr. Short commented that if the test pits met the regular requirements would the system
42 being built be at least equivalent or better than that system would be. Mr. Smith replied
43 that essentially the tank where all the solids are settled, are bad in general for leach fields
44 but the system being built has 500 gallons of additional storage to deal with that. There
45 is also extra bed area which better disperses the flow. Mr. Short said that once that tank
46 is full the flow rate won't be impacted by size. Mr. Smith responded that it is a double

1 walled tank which also facilitates a longer residence time. Had the test pits met the extra
2 3 inches required, then the tank and field that would have been built would have been
3 smaller.

4 Mr. Scamman asked what the State requirements were. Mr. Smith said that the Town of
5 Stratham alone requires an extra 6" of depth more above the water table than the State.
6 Different septic systems were then discussed.

7
8 Mr. Short referred to a letter from Mike Cuomo stating that although Mr. Cuomo refers to
9 mitigation measures being taken, he senses that is not enough in its own right to grant a
10 special exception. Mr. McNeill commented that there was an earlier letter from Mr.
11 Cuomo stating the previous plan was unacceptable. Mr. Smith felt that the wording,
12 "The applicant has exceeded other applicable minimum design requirements in an effort
13 to mitigate impacts resulting from the limitations of the site" and the fact that Mr. Cuomo
14 cites what those measures are, are key.

15
16 Mr. Gove spoke next saying that he did the delineation of the wetland area and was also
17 the soil scientist with Mike Cuomo. He showed some pictures and an aerial photo to the
18 Board and explained the location of the road. Mr. Gove also visited the site today after
19 3" of rain had fallen as he had previously seen it during winter only. He followed the
20 area where the driveway will be located and showed the spot where the septic system will
21 be located which is away from the marsh system and the stream area as well as being the
22 best location for the best soils.

23
24 Mr. Short asked Mr. Scamman if he knew the last time the land was farmed at 39-41
25 Union Road. Mr. Scamman said it had been farmed pretty regularly. Mr. McNeill asked
26 Mr. Gove what difference 3" would make from a soil scientist's perspective. Mr. Gove
27 said it wouldn't make much difference, but from the standpoint of the ability of the soil to
28 treat affluent, it is virtually the same for 21" as it is for 27". The soil is fine sand which is
29 fine for a septic system. Below that is some silt clay loam which is slower, but the
30 treatment portion is above that loam. From the point of natural treatment allowing for the
31 extra material being put in by Mr. Smith, there is no difference between 21" or 24" in
32 terms of treating the affluent. Mr. Short asked if the house grade and therefore the
33 septic system grade were being raised a proportional amount. Mr. Smith said it was.

34
35 Mr. McNeill asked if he could run through the criteria. Mr. Short said he would like to
36 ask the public if they had any input first. Mr. McNeill suggested he run through the
37 criteria first so the public have a better idea of the application. Mr. Short allowed him to
38 do so.

39
40 Mr. McNeill ran through the criteria pertaining to the high water seasonable table in
41 Section 20.1.5.a and d, 20.4.1 and explained how his client met them. Mr. McNeill
42 added that the applicant will need to get a state permit, and Stratham's own inspector has
43 visited the property with Mr. Gove and issued an initial letter addressing issues that
44 needed to be corrected and has then written a letter which has specifically addressed the
45 criteria just addressed by Mr. McNeill as the inspector knows it's essential to allow the
46 applicant to have this pass. Mr. McNeill stressed that he believes the applicant meets the

1 criteria of the Stratham Zoning Ordinance about exceeding the standards. Mr. McNeill
2 then ran through the general criteria that need to be met for a special exception explaining
3 why his client met them too.
4

5 Mr. Short asked if anybody in the audience would like to speak for or against this
6 application. Ms. Elwell from the Stratham Conservation Commission said she found it
7 interesting that the term the applicant keeps using is, "the best spot" for the house. She
8 commented that just because it is the best spot for the house, doesn't mean it is
9 necessarily a good spot for the house or septic design along with the wetland crossings.
10 Ms. Elwell said they were basically adding four wetland crossings to a sub standard lot.
11 Her understanding is that there is a lot of beaver activity behind that lot and they have
12 raised the water table on this site so she doesn't feel comfortable that the septic design is
13 going to be acceptable. Her other concern is that the current seasonable high water table
14 may not be the same in the future. 850' of roadway is going to be added that will be an
15 impervious surface as well as a house and garage. All of those will add to the run off that
16 is going off into the wetland area. From Ms. Elwell's perspective, this will be an over
17 use of this lot even with just one house being built there. Ms. Elwell commented that her
18 understanding of the comment from Mr. Cuomo "exceeded other applicable minimum
19 design requirements in an effort to mitigate impacts resulting from the limitations of the
20 site" refers more to the efforts that have been made and not the septic system design.
21

22 Mr. McNeill said he appreciated Ms. Elwell's comments and asked that she consider the
23 qualitative evidence that has been submitted. He referred to the fact that the Town of
24 Stratham requires a special exception and not a variance for this particular issue and he
25 respectfully disagreed with Ms. Elwell's comments.
26

27 Mr. Paul Deschaine, Town Administrator made everybody aware that members of the
28 Stratham Building department visited the site yesterday during the rain storm and took
29 pictures not knowing that Mr. Gove was going to go out today. The Chairman has copies
30 of those pictures and Mr. Deschaine suggested sharing them with the Applicant. The
31 pictures show very clear ponding and flooding of the area. Mr. Deschaine said that his
32 concern is that areas of this site, including possibly the house site, is subject to flooding.
33 If this site is repeatedly subject to this kind of flooding and adding in the problem that the
34 Town has had with beavers and the culvert that crosses Union Road, Mr. Deschaine feels
35 this could be a problem going forward. Mr. McNeill looked at the photos and then
36 observed that the photos that are before the Board are nothing to do with why the
37 Applicant is before them.
38

39 Mr. Barker asked what Mr. Smith estimated the elevation of the house site was going to
40 be in relation to the road. Mr. Smith emphasized that the bottom of the leach bed will be
41 15" above existing grade at its highest point. Mr. Barker said he was trying to get a
42 handle on how high the bed and the tank is above what he would consider the release
43 point, which would be the road. Mr. Smith said the slab itself is proposed to be about 6
44 feet high. The bottom of the bed will be about 9 feet higher than the release point at the
45 road. Mr. Smith wanted the Board to know that with regard to the separation from the
46 bed bottom to the seasonal high water table, would be the same regardless of the number

1 of inches of native soil above that seasonal high water table. He continued that they are
2 not requesting a reduction of 3 inches of the bed to the seasonal high.

3
4 Mr. Gove added he would like to speak specifically to the soils aspect of this case and
5 relate that to the pictures. He said it is sometimes difficult looking at photos and
6 overviews to actually grasp what is geographically placed at the site. He explained there
7 is a lot of clay and water flows into it slowly, sometimes it is more likely that the water
8 will flow over it and down slope. On this site in the upland parts, there is a sandy cap
9 over the top so from the road to the septic location, there are areas that are clay, that have
10 a cap of sandy loam and sand on top of that, clay, sandy loam, clay, sandy loam and clay.
11 During a rain storm there is plenty of infiltration and then run off. The reason Mr. Gove
12 went out to the site after the rain storm was to see how much water actually infiltrated
13 into the soil. Mr. Gove showed where it had completely infiltrated and one small area
14 near a crossing had 6 inches of water, but it was still working its way into the soil. Mr.
15 Gove said this is why a double culvert is being put into that area. This is all fairly typical
16 after a rain storm. Mr. Gove then talked about the beavers and said they come and go and
17 that this water table is long term one because beavers have been backing up the water for
18 a very long time in that area. Mr. Gove said there is no evidence of water inundation
19 even in the short term.

20
21 Ms. Elwell asked Mr. Gove to talk about the impact of the impervious surfaces. Mr.
22 Gove said that she was talking about an area that has 6 acres of land and a driveway that
23 is about 12' wide and 850' long. Mr. Smith said that equated to about four tenths of a
24 percent of the site. Ms. Elwell asked about the house. Mr. Smith said that calculation
25 included the house. Mr. Barker asked if the culverts were meant to redirect any flow or
26 just to maintain flow. Mr. Smith said they were for maintenance. Mr. Short asked who
27 would be responsible for maintaining those culverts from the beavers. Mr. Smith said it
28 would be the homeowner's responsibility.

29
30 Ms. Cindy Stoddard, current owner of the property commented that she had maintained
31 the lot. She further stated that the Town had managed to discourage the beavers, but then
32 it started to encroach on her hay field so she took care of the beaver and swales. Ms.
33 Stoddard emphasized that as long as the field is maintained, drainage will not be a
34 problem. She added that the culverts are in a place where she knows there is drainage
35 that flows into the current stream that goes under the road. Ms. Stoddard also
36 commented that the location for the house is definitely the highest spot on the property
37 but maintenance is essential to prevent the beaver from affecting the drainage. If it isn't
38 maintained, it will start to affect the homes surrounding it.

39
40 Mr. Short checked there were no further comments from the public and closed the public
41 session. Mr. Short said his concerns were more about the site itself, but that is a Planning
42 Board issue not a zoning one. Mr. Scamman stressed that they were here to discuss the 3
43 inches which meet the State requirements, but not Stratham's. Mr. Karam said that he
44 would like to discuss Mr. Cuomo's letter as he felt it was neither for nor against the
45 proposal. Mr. Karam feels that Mr. Cuomo is leaving the decision up to the Board and
46 that the applicant fulfilled certain criteria from his point of view. Mr. Short and Mr.

1 Scamman agreed. Mr. Brett asked if there was a reason why Stratham had a more
2 stringent ruling than the State. Mr. Deschaine responded that the belief is that the State
3 minimum in part is set up for all the soils in the State and so it is generic. Mr. Deschaine
4 continued that it is believed that here on the seacoast that an added treatment layer was
5 advisable but it varies from town to town.
6

7 The Board then went through the criteria relevant to the application from Section 20.1.5.a
8 and d, and 20.4.1. The Applicant satisfied the criteria. The Board then went through the
9 criteria of Section 17.8.2 of the Ordinance for Special Exceptions. The Board agreed the
10 Applicant met all of the criteria.
11

12 Mr. Scamman made a motion to approve Case # 571 for Jason White at 39-41 Union
13 Road, Stratham, Tax Map # 10, Lot # 78 to allow the Special Exception as requested.
14 The motion was seconded by Mr. Barker and the motion was passed unanimously.
15

16 Mr. Short reminded everybody that there is a 30 day appeal period.
17
18

19 **4. Miscellaneous**

20

21 There was nothing to report.
22

23 **5. Adjournment**

24

25 Upon a motion by Mr. Karam and seconded by Bruce Barker, the meeting was adjourned
26 at 8.38pm. All in favor.
27
28