

**ZONING BOARD
SEPTEMBER 1, 2015 DRAFT MEETING MINUTES**

Present: Chairman - Jack Dearborn, Member - Stu Richmond, Member - Marc Morette, Alternate ó Donald Rogers, Alternate ó Michael Meyer, Land Use Coordinator ó Chip Meany, Minute Taker ó Tina Ripley

Guests: Maria Dolder, Diane Durgin, Mike Durgin, Bob Kelley, Candace Sleeman, Ann Cummings, Kevin Cummings, Richard Hoenig, Noreen Lull, John Henry, Dan Demers, Peter Norris, Gary Kittredge, Michael Pelletier, Brett Hadley, Art Siciliano

I. CALL TO ORDER

The meeting was called to order by Jack Dearborn at 7:30pm. Jack stated what was on the agenda tonight and explained that one of the members was running late. Jack explained how it would affect the voting process. Jack went down the list to see if the next person in line wanted to go or wait for the board member. All parties decided to wait.

II. PUBLIC HEARING

Case #0715 – Michael & Diane Durgin – variance from Article 14-3.1 on the South Side of Colby Road at Map 412, Lots 154.3-154.8 in R/A zone.

Ms. Dolder said her clients would like to wait until there is a full five member Board. Jack showed Ms. Dolder some inconsistencies on her application. Jack said that council for Case #0715 has request to move to October 6, 2015. Stu motioned to continue the variance to the next meeting. Michael seconded. All in favor. 3-0-0.

Jack called the public hearing back to order.

Case #0815 – GM Investment Properties is requesting a variance on Article 25.5.2, reduced frontage on Map 412, Lot 170 on the South side of Colby Road in an Industrial Zone.

The board members introduced themselves. Jack said these members seated will hear the case.

Jack said we have an application filled out, check sheet, something for the five points of hardship, a list of abutters, some attached maps. Stu made a motion to accept the application for hearing. Marc seconded. Motion passed. All in favor. 5-0-0. Jack asked Mr. Kittredge to read his variance.

Mr. Kittredge read the five points of hardship into record.

- 1) **That the granting of the variance will not be contrary to the public interest because:** öWe are not proposing any changes to the currently approved town zoning use and would not be contrary to the public interest.ö

- 2) **The variance requested, will not be contrary to the spirit of the ordinance because:** öThe ordinance requires 200øfrontage which would predetermine a ample size of acreage per lot.ö
- 3) **That through the granting of relief by variance substantial justice will be done because:** öGranting relief would allow and keep dormant and old town land fill located on site and up keep of debris on said property.ö
- 4) **That by granting the variance, the values of surrounding properties will not be diminished because:** öFuture use of property will be governed by Article 25 thus, surrounding property values will not be demished.ö

Jack said he listed the wrong article number for the variance and said it should have been the 200øarticle. Jack checked and said he is fine.

- 5) **To qualify for a variance, you must demonstrate that denial of the variance would result in an unnecessary hardship. Pursuant to applicable law, the test for “unnecessary hardship” is set forth in two alternative parts, (Parts A & B), as follows.**
 - (A) **“unnecessary hardship means that, owing to special conditions of the property that distinguish it from other properties in the area.**
 - i. **No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property**
 - ii. **The proposed use is a reasonable one.**

Accordingly, while having the foregoing standards in Part A in mind, please provide the following facts relative to your application:

A: Please describe the special conditions of your property that distinguish it from other properties in the area: öParcel encompasses old town land full closed in 1960ø.ö

- i. **No fair & substantial relationship exists between the general public purposes of the ordinance provision & the specific application to the property:** öThe general purpose of the ordinance is to provide 200øfrontage. In order to donate the land fill lot the remaining frontage is not enough to provide 200øfrontage. Please bear in mind that a lot of this size in a residential zone requires a minimum of 50øof frontage.ö

Jack said the second line is immaterial and asked if they would like it to be scratched out and was told yes

- ii. **and how the proposed use is a reasonable one:** öThe use of the property will be utilized as intended under Article 25.1, Industrial Zone.ö

(B) If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exit if, and only if, owing to special conditions

of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

Accordingly, while having the forgoing standards in Part B in mind, please provide the following facts relative to your application:

B. Please describe the special conditions of your property that distinguish it from other properties in the area: òOld town land fill site on Map 412, Lot 170.ö

Please indicate how owing to the special conditions identified above, your property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it: òFrontage loss after donation to Weare Winter Wanderers. 2+ acre lot.ö

Jack said you already have a compliant use for that property and Mr. Kittredge said yes. Jack asked Mr. Kittredge what the hardship is for the property. Mr. Kittredge said they are donating a piece of property and Jack said that is not a hardship since they can still go on with their property the way it is now. Jack said this is a technicality you need to overcome; the variance is given to the property not the landowner. Mr. Kittredge said it does contain a land fill and Jack said it doesn't prevent you from turning everything but the 2 acres into an industrial lot. The Board looked at the map. Jack was looking at the test pits and asked if there was anyone here to speak on its behalf. Jack stated there were no engineering stamps on the report. Mr. Kittredge said they would like to continue on October 6th. Marc made the motion to continue the variance. Stu seconded. Motion passed. All in favor.

Case #0915 – Bret Hadley – requesting a variance from Article 3.5.1, setbacks, in Residential zone on 40 Walker Hill Road, Map 202, Lot 41

Jack said the members seated would hear this variance. Jack read the application. Jack said there is five points of hardship, signature by the owner, location map, abutters list, Lot 202 tax map, larger view of tax map, quitclaim deed, corrected easement, drawing stamped by Art Siciliano on the existing house with deck on the back of the lot. Marc moved to accept the application for hearing. Stu seconded. Motion passed. 5-0-0. Art Siciliano said that Brett Hardy met with his neighbor just before the meeting and they suggested moving the deck and stairs and all agreed. Mr. Siciliano read the five points of hardship into record.

- 1) That the granting of the variance will not be contrary to the public interest because:**
òThe land is zoned residential as are the surrounding properties. The proposal is to construct a deck and stairway which are typically part of a residential house. The construction will be on the back of the house and not seen by the public.ö
- 2) The variance requested, will not be contrary to the spirit of the ordinance because:**
òThe spirit of the ordinance is to keep separation of buildings between lots. There is an easement for a leach field on the abutting lot. No building will be constructed in that part of the abutter's lot. This portion of the abutters lot is about 125' from his house.ö

- 3) **That through the granting of relief by variance substantial justice will be done because:** öThe owner will be able to enjoy use of the existing second floor sliding glass door as an access way in and out of the house.ö
- 4) **That by granting the variance, the values of surrounding properties will not be diminished because:** öThis is only a deck and stairway constructed in a residential zone. Residential use in a residential neighborhood will not reduce values.
- 5) **To qualify for a variance, you must demonstrate that denial of the variance would result in unnecessary hardship. Pursuant to applicable law, the test for “unnecessary hardship” is set forth in two alternative parts, (Parts A & B), as follows:**
- A. **“unnecessary hardship” means that, owing to special conditions of the property that distinguish it from other properties in the area:**
- (i) **No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property; and**
 - (ii.) **The proposed use is a reasonable one.**

Accordingly, while having the foregoing standards in Part A in mind, please provide the following facts relative to your application:

A: Please describe the special conditions of your property that distinguish it from other properties in the area: öThis is a small lot, possibly one of the smallest lots in town. So small that an easement for a leach field was purchased from the neighbor. Other properties in the area are much larger. The abutting easement create a unique situation.ö

- (i) **No fair & substantial relationship exists between the general public purposes of the ordinance provision & the specific application of that provision to the property:** öThe general purpose of the ordinance provision is to create building setback for separation of buildings on abutting lots. In this instance there is an easement for a septic system adjacent to this proposed deck and stairway. There will be no buildings on the abutting lot.ö
- (ii) **And how the proposed use is a reasonable one:** öThe owner will be able to use existing sliding glass doors to access the deck and stairway on the back of the house for another way to enter and exit the house.ö

B: If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exit if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably

used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

Accordingly, while having the forging standards in Part B in mind, please provide the following facts relative to your application:

- B. Please describe the special conditions of your property that distinguish it from other properties in the area:** öThis is a small lot, possibly one of the smallest lots in town. So small that an easement for a leach field was purchased from the neighbor. Other properties in the area are much larger. The abutting easement create a unique situation.ö

Please indicate how owing to the special conditions identified above, your property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it: öStrict conformance of the rule is a hardship on this small lot. The variance is necessary because the owner would like to use the second story slider to a deck and stairway for access in and out of the house. There will be no building on the abutting land near that location, abutters house is 125ø from that area.ö

Jack asked for any approving abutters to come and speak.

Peter Norris spoke in favor of it and said it is a safety issue. Jack closed the public hearing at 8:45pm.

Marc motioned to accept number 1. Michael 2 seconded. Motion passed. All in favor. 5-0-0

Marc motioned to accept number 2. Stu seconded. Motion passed. All in favor. 5-0-0

Marc motioned to accept number 3. Don seconded. Motion passed. All in favor. 5-0-0

Marc motioned to accept 4. Mike seconded. Motion passed. All in favor. 5-0-0

Marc motioned to accept 5 in its entirety. Stu seconded. Motion passed. All in favor. 5-0-0

The variance was granted.

III. OTHER BUSINESS

Jack said they have an extension. Chip said it is for Cindy Krasvorsie on Pond View. Marc motioned to accept the request for extension. Don seconded. Motion passed. All in favor. 5-0-0

IV. ADJOURNMENT

Stu made the motion to adjourn. Don seconded. Motion passed. All in favor.

Tina Ripley

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