

**ZONING BOARD OF ADJUSTMENT
FEBRUARY 7, 2017 DRAFT MEETING MINUTES**

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

Guests: Roscoe Blaisdell, Hayley Bryant, Charles Sargent Jr.

I. CALL TO ORDER

The meeting was called to order by Chairman Dearborn at 7:30pm.

II. ADMINISTRATIVE ITEMS

The board introduced themselves ó Marc Morette ó member, Stu Richmond ó member, Chairman Dearborn, Michael Meyer ó alternate, Malcolm Wright - member. Chairman Dearborn said these are the members that will be seated for the case.

III. PUBLIC HEARING

Chairman Dearborn said we have on case tonight, case #0217 Pitbull Realty Group, Inc. – variance to Article 28.9 to build a driveway in a wetlands buffer at 351 South Stark Highway, Map 109-21

Mr. Morette moved to accept case #0217. Mr. Richmond seconded. Motion passed. 5-0-0.

Chairman Dearborn said there are 5 points of hardship, completed list of abutters, and deeds were provided.

Roscoe Blaisdell presented plans to the Board. Chairman Dearborn said he has an issue with the map and one of the problems when he was reading this over is, asked if they have a three unit subdivision and was told yes, and asked if they were here because they think they are 25ø away from the cemetery with the way the plan is draw and was told yes. Mr. Blaisdell said they have to encroach into one or the other and said he doesnø think the state will let them. Chairman Dearborn said the Board doesnø speak for the State, but that is certainly your prerogative to go that way. Chairman Dearborn said the point he is trying to make is that they are here tonight to ask for a variance because they want to encroach into the wetlands buffer and Mr. Blaisdell said that is correct. Chairman Dearborn said he looked at the deeds and said everybody from 1949 and forward is reserving and accepting the cemetery. Chairman Dearborn asked Mr. Blaisdell if his client believes he owns that land where the cemetery is and Mr. Blaisdell said no because they accept it and said the person that sold it sold everything except the cemetery. Chairman Dearborn said everyone down the line used the same language and Mr. Blaisdell said that is correct and they reserved the right to it. Chairman Dearborn said there is only one owner and the next person canø accept and reserve except for maybe the easement. Chairman Dearborn said the land is still in the name of the person back in 1949 that started all this.

Chairman Dearborn said you are hanging the case on the fact that there is a cemetery there and Mr. Blaisdell said that is correct. Chairman Dearborn said everyone is wondering how big it is, do you represent the fact and said someone does own the land for the cemetery. Mr. Blaisdell said they don't own and said the Town claims it on the tax map. Mr. Blaisdell said he doesn't know if the Town owns it. Chairman Dearborn said here you are drawing a map and asked Mr. Blaisdell how he knows the map is compliant with their request when you don't know where the cemetery is. Mr. Blaisdell said the deed said the cemetery is in a certain area and said he found a stonewall, found a headstone, all the land has been logged at some point, and said he is calling it 50' wide. Charles Sargent said it is pretty accurate what Mr. Blaisdell is describing. Mr. Blaisdell said he is doing his best to. Chairman Dearborn said as a professional surveyor, you are not willing to put four pins in and say it is the cemetery and Mr. Blaisdell said he is going to and that they are not claiming it. Chairman Dearborn said when it is that close to the stone, it looks like you are trying to get away with the minimum encroachment. Mr. Blaisdell said the land use type changes at the point.

Mr. Wright asked Mr. Blaisdell to describe the conditions that led him to the demarcation and Mr. Blaisdell said there is a stonewall, the land use lawn, picker brush, mature trees and said things were pushed around to be. Mr. Blaisdell said if they can't figure out where the boundaries are they can do a boundary agreement. Chairman Dearborn said State Statute 29 says you need to stay 25' away from the cemetery, but you really don't know where the body is buried and just know that there is a disturbed headstone. Chairman Dearborn said here is the thing, we are supposed to be 25' away from the cemetery and you have done nothing to identify if that is in fact the cemetery except by observation on the top. Mr. Blaisdell said that is what land surveyors do. Chairman Dearborn said you haven't made any attempt to do anything else. Mr. Blaisdell asked what else should he do, he has the deeds, looked for evidence. Chairman Dearborn said that Mr. Blaisdell has exhausted his capabilities and suggested there may be other capabilities that have not been applied. Mr. Sargent said if you were on site, it would be clearer and said he doesn't think that Mr. Blaisdell is being grey about the boundary lines.

Chairman Dearborn said you didn't notice the owner and said there is no owner here tonight. Mr. Blaisdell said the Town claims to be the owner per the tax map. Mr. Sargent said the Planning Board is having them verify that. Chairman Dearborn said that they don't know that. Mr. Blaisdell asked if the Board doesn't know if the Town owns it or is claiming it on the tax map. Mr. Meany said both. Chairman Dearborn said it is up to you to bring the facts and said they are trying to identify what is missing.

Mr. Wright asked Chairman Dearborn if they granted the variance or not, the concerns about the cemetery, could they be put into the limitations of the variance or in other words, they come here with a question about the wetlands and theoretically we grant them the wetlands variance, it could be contingent upon further definition of the cemetery. Mr. Wright said if the cemetery is a problem then the variance would be null and void. Chairman Dearborn said you are touching on some options and said we could allow you to go through the process and they vote based on their understanding or you might gather from the conversation there maybe some concerns you may want to go off and consider and come back and ask for a continuance. Chairman Dearborn said the problem with a variance is if you don't get it the first time unless you have a completely different application they won't hear it the second time. Chairman Dearborn said the reasons variances are granted is because it is a relief valve of the zoning.

Chairman Dearborn said the Board understands they bought the land, subdivided into 3 lots and understand their intent, but thinks there is still an issue. Chairman Dearborn asked if they had an

alternative without going through the wetlands. Mr. Blaisdell said they could get a dredge and fill permit. Chairman Dearborn asked Mr. Blaisdell if they wanted to continue and deal with the outcome or take a continuance and come back with more information. Mr. Roscoe said he did everything he can under his control. Mr. Sargent said the Planning Board will not let them continue until they get the ownership issue resolved. Mr. Sargent said they are pretty confident on where things are. Chairman Dearborn said he thinks there is an issue with the land and where the cemetery. Chairman Dearborn said he thinks this is not a clean cut issue and said he understands the surveyor did everything that he could.

Mr. Richmond made a motion to continue case #0217 until March 7, 2017. Mr. Morette seconded. Chairman Dearborn said he is going to go to the town attorney to ask questions. Motion passed. 5-0-0.

IV. MEETING MINUTES

Mr. Morette moved to accept the January 3, 2017 minutes as written. Mr. Wright seconded. Motion passed. 5-0-0.

Mr. Richmond moved to accept the October 4, 2016 minutes as written. Mr. Morette seconded. Motion passed. 5-0-0.

V. ADJOURNMENT

Mr. Morette motioned to adjourn at 8:00 pm. Mr. Meyer seconded. Motion passed. 5-0-0.

Tina Ripley