



Town of Weare
Zoning Board of Adjustments
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Zoning Board
Jack Dearborn, Chairman
Forrest Esenwine, Vice Chair
Stu Richmond, Member
June Purington, Member
Malcolm Wright, Member
Neal Kurk, Alternate
Donald Rogers, Alternate
Marc Morette, Alternate

ZONING BOARD – OCT. 7, 2014 SECOND DRAFT MEETING MINUTES

Present: Jack Dearborn, Chairman, Forrest Esenwine, Vice Chair, Stu Richmond, Member, June Purington, Member, Marc Morette, Alternate, Donald Rogers, Alternate, Chip Meany, Code Enforcement Officer and Wendy Stevens, Recording Secretary.

Guests: Daniel & Betty Kosowicz, and Ginger Esenwine.

I. CALL TO ORDER

The meeting was called to order by Chairman Dearborn at 7:30 pm. Chairman Dearborn appointed Mr. Rogers as a full voting member for this meeting.

II. PUBLIC HEARINGS

Case # 0314: Application for a Variance to Article 17.1.1; Building on a private road. Property is located on Winter Road at Map 105-40 in a residential zone.

Ms. Purington made a motion to accept the application. Mr. Richmond seconded. All were in favor and the motion passed.

Ms. Kosowicz read her application into the record:

1) The variance will not be contrary to the public interest:

"Our house will be constructed within all Weare building codes and will be set back from the road on the lot, leaving a tree/shrub barrier from the road. Our driveway will be in a position that it will not disturb anything already established on the road. Our home will increase the value of the property and thus, the tax base for the Town of Weare."

2) The spirit of the ordinance is observed:

"The spirit of the ordinance is to allow for the building of residential houses within the residential zone. This is what we are proposing to do."

3) Substantial justice is done:

"This land was divided into a house lot in the 1940's, which was the property's original intent. The courts have shown substantial justice is done when the benefits of granting a variance far outweigh the justice done by not granting the variance, as is the case here."

4) The values of surrounding properties are not diminished:

"This is a residential area surrounded by year-round homes. Our lot will have just our one home and garage on it, which will be built to be similar to the surrounding homes. Our house will not encroach on anyone's property lines and we believe will increase the value of the surrounding properties. We will also be one more contributor to the yearly maintenance of the road."

- 5) **Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. For purposes of this subparagraph, “unnecessary hardship” means that, owing to special conditions of the property that distinguish it from other properties in the area:**

A. “All of the surrounding properties are similar to our lot. We are all located on a private road.

- 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:**

“Although our property is located on a private road – the Winter Road community is a well established one.”

- 6) **The proposed use is a reasonable one:**

“We would like to build our home on this lot, constructed within all Weare building codes, similar to surrounding homes and be an additional Winter Road resident contributing to the community.”

B. If the criteria in subparagraph (A) are not established, an unnecessary hardship will be deemed to exist 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. The definition of “unnecessary hardship” set forth in subparagraph (5) shall apply whether the provision of the ordinance from which a variance is sought is a restriction on use, a dimensional or other limitation on a permitted use, or any other requirement of the ordinance:

“All of the surrounding properties are similar to our lot. We are all located on a private road.

Our property is located on a private road. On this same private road, there are 13 year-round houses (all lived in) and 4 summer homes. The other year-round homes were built in the 1970’s and 1980’s and the community was established then.”

Vice Chair Esenwine asked about the community road maintenance, have they have already signed an agreement to that affect? Mr. Kosowicz stated he established road maintenance in 1973 when he first moved out there, and he is already a part of that community. Mr. Rogers asked how long have they owned the property? Ms. Kosowicz responded for a couple of years.

Chairman Dearborn asked if there were any other questions, there being none he closed the public hearing.

Vice Chair Esenwine moved to accept point 1. Ms. Purington seconded. All were in favor. Point 1 was accepted.

Vice Chair Esenwine moved to accept point 2, Ms. Purington seconded. All were in favor. Point 2 was accepted.

Vice Chair Esenwine moved to accept point 3. Ms. Purington seconded. All were in favor. Point 3 was accepted.

Vice Chair Esenwine moved to accept point 4. Mr. Richmond seconded. All were in favor. Point 4 was accepted.

Ms. Purington moved to accept point 5 in its’ entirety. Mr. Richmond seconded. All were in favor. Point 5 was accepted.

All points being accepted, the variance was granted.

III. REQUEST FOR VARIANCE EXTENSIONS

Case No. 2504, Bailey Trust for an extension of a driveway variance on Tax map 407-153-1. Ms. Purington moved to extend the variance. Mr. Richmond seconded. The vote was unanimous in favor.

Case No. 2707, Cindy Kaczmariski Tax Map 108-41. Ms. Purington made a motion to extend the variance. Mr. Richmond seconded. The vote was unanimous in favor.

IV. OTHER BUSINESS

Vice Chair Esenwine moved that the second draft minutes dated Sept. 9th be approved as distributed. Ms. Purington seconded. The vote passed 4-0-1, with Mr. Richmond abstaining due to absence.

V. ADJOURNMENT

Vice Chair Esenwine moved to adjourn the meeting. Ms. Purington seconded. The meeting was adjourned.

A true record,

Wendy J. Stevens