



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 – JANUARY 6, 2015 FIRST DRAFT MEETING MINUTES

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

Guests: Nicolas Kerr, Michael Meyer, Naomi Bolton, Richard Colburn, Michael Ploof, and Julie Ploof.

I. CALL TO ORDER

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

II. PUBLIC HEARINGS

CASE #0414, Nicholas M. Kerr; Special Exception; Article 19.1.10; accessory dwelling, “In Law” the proposed new home on lot 189. Previously there was already a camp located on the property. The proposed home would merely be in a different location on the property and be utilized apartment at 30 Sherwood Forest Road; Map 403-154 in a Residential Zone.

Ms. Purington moved to accept the application for Case #0414, Mr. Richmond seconded. The motion passed 5-0-0.

Mr. Kerr stated as his application reads, it hits all the main points in Article 19.1.10. The purpose is to care for a father-in-law who would like to move in. They have met the requirements for a single family residence, it would be an in-law apartment that would not exceed the 650 square foot limitation as they are currently at 466 square feet. One interior connecting door pass between is a 30 inch door that will go into the unfinished part of the apartment. Thirty feet from that door there is an exit to the garage, which has an egress to the exterior. There is also a 32” door walk out basement that exits to ground level. There will be no modifications to windows or doors aside from replacing the existing door for energy efficiency. He does have an approved septic plan on file prepared by St. Onge. He stated the entrance exit will be through the existing walkout basement door, there will be no change in size or location. The driveway currently has two vehicles, the apartment will create a need for a third vehicle and there is room in the driveway and a diagram has been provided.

Chairman Dearborn invited any approving abutters to speak. There were none. He invited any non-approving abutters to speak. There were none. He invited any public at large or boards to speak. There being none, Chairman Dearborn closed the public hearing.

Ms. Purington moved to accept Case #0414. Mr. Richmond seconded. The motion passed 5-0-0. The Special Exception was approved.

CASE #0115, Richard Colburn, Variance for Article 17.1.1 Building on a Class VI Private Road Map 203-46.001 in a Res/Ag zone, Colburn’s Meadow Rd. A variance is needed to construct a single family home.

Chairman Dearborn stated Article 17.1.1 prohibits building on any Class VI or private road, and Colburn's Meadow Rd. is a private road and therefore a Variance is needed. He noted the property is 26.39 acres.

Ms. Purington moved to accept the application on case #0115. Mr. Richmond seconded. The vote passed unanimously 5-0-0.

Ms. Bolton stated she is a resident of 42 Norris Rd. and she is here to help Mr. Colburn out. Mr. Colburn has a property of 26.39 acres on Colburn Meadow Rd. and he also does have a right of way that runs right next to the town tennis courts. Mr. Colburn's father donated the property that the tennis courts sit on today. Mr. Colburn also has frontage on Colburn Meadow Rd. She stated it does not make sense to use the right of way by the tennis courts as it is used by the library, and she is here to achieve the end result for Mr. Colburn to build a single family home.

Ms. Bolton read the five points of hardship into the record:

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

"the new single family residence will be constructed within all the Weare Building Codes and it will be situated on the 26 acre lot so that it will not interfere with any setback or other zoning requirements. The driveway will be in a position that will not disturb anything that is already established on the road. This single family residence 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 homes within the rural agricultural zones. This request is the same as other requests that have been granted not only on this particular street but in other locations in Weare."

3) **Substantial justice is done:**

"This lot is the remainder of a larger parcel that Mr. Colburn's father had subdivided. The lot for the tennis courts was taken out of this lot back in the 70's and donated to the Town so that the courts could be built. Mr. Colburn has a deeded right of way running immediately adjacent to the tennis courts, which is not really the appropriate location for access as the right of way would be right of the parking lot, also known as Paige Memorial Lane. Mr. Colburn is just asking to be granted the same enjoyment as all of the others in the neighborhood. This lot has year round homes built before and after this lot. There are 5 year round homes on the six lots on Colburn's Meadow Road."

4) **The values of surrounding properties are not diminished:**

"This is a rural agricultural area surrounded by five year round homes and this lot is the only lot fronting on Colburn's Meadow Road that does not have a residential home on it. The subdivision that created the lots on Colburn's Meadow Road was done in the late 1970's, prior to any zoning regulations. The five homes built on Colburn's Meadow Road were done built (1) 1977; (1) 1986; (1) 1988 and (1) 1989, prior to Article 17.1.1, a couple were built prior to the original zoning ordinance. The lot contains enough acreage that there will be no encroachments on property lines and we believe that another single family residence will not diminish the values of surrounding properties."

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 this lot, other than the lot size. All of the lots including this one are located on a private road. This subdivision is considered a mature

subdivision, as 5/6ths of the lots have had the enjoyment of building a single family residence, we would like the same.”

- 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:**

“Colburn’s Meadow Road will be built out completely if this variance is granted. This is the last lot in this almost 40 year old subdivision to be built on. This lot has been in the Colburn family for several years and the intent of this request is to be granted permission to allow a single family residence to be built just like all of the others.”

- ii. **The proposed use is a reasonable one:**

“Allowing this last lot to have the same enjoyment that others have been granted is a reasonable request. There are homes located before and after this single family residence. The right of way off the end of the parking lot and a driveway running immediately adjacent to the tennis courts makes no sense when there is access located off a private road that is pretty well traveled with other surrounding residents.”

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 the surrounding properties are pretty much similar to this lot. This lot has access through a parking lot running right next to the tennis courts and the ability to get access from a private road if the variance is granted. The special conditions on the lot are that all of the other five lots have single family homes on them and this one should as well. It is the only vacant lot off the private road, called Colburn’s Meadow Road. It is a large lot that would easily accommodate the construction of a single family residence.”

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:

“This lot is located off a private road with additional access from the parking lot at the tennis courts. On this private road there are currently 5 single family year round homes that were built between 1977 and 1989. Without a variance Mr. Colburn would not be able to have the same enjoyment as all of the others. All we are asking for is approval to allow one single family home to be constructed on a 26 acre lot, located in between other single family homes on a private road.”

Chairman Dearborn invited any approving abutters to speak.

Mr. Ploof of 34 Colburn’s Meadow Rd. asked about the road itself, with four houses to the right hand side and they all have a deeded road maintenance agreement. He asked how was this going to be handled? Would this new driveway share in the maintenance as well? Chairman Dearborn stated it is a civil issue, and part of that is because it is a private road. Chairman Dearborn asked if his property was beyond the road? Mr. Ploof stated he is adjacent to all of them. Mr. Ploof stated the fee title of the road is owned by one of the people. Mr. Ploof stated he is approving of this he just had a question about the road maintenance.

Chairman Dearborn invited any non-approving abutters to speak. There were none. Chairman Dearborn invited any other comments from the public at large or any boards. There being none, Chairman Dearborn closed the public hearing.

Ms. Purington moved to accept Case #0115 section 1, Mr. Richmond seconded. All were in favor. Point 1 was accepted.

Ms. Purington moved to accept section 2. Mr. Moretti seconded. All were in favor. Point 2 was accepted.

Ms. Purington moved to accept section 3. Mr. Moretti seconded. All were in favor. Point 3 was accepted.

Ms. Purington moved to accept section 4. Mr. Moretti seconded. All were in favor. Point 4 was accepted.

Ms. Purington moved to accept section 5, parts 1 and 2, Mr. Moretti seconded. All were in favor. Point 5 and parts 1 and 2 were accepted.

The Variance was approved.

III. **OTHER BUSINESS**

Ms. Purington moved to approve the Oct 7th 2014 minutes as written. Mr. Richmond seconded. The motion passed 5-0-0.

IV. **ADJOURNMENT**

Ms. Purington made a motion to adjourn the meeting at 8:00 pm, Mr. Moretti seconded. The meeting was adjourned.

A true record,

Wendy J. Stevens