

Town of Weare

Zoning Board of Adjustments

Alma Shmid Trust, Trustee Raymond Banks
Map 203 Lot 93, East Road

Applicant: Ian McSweeney, agent

Variance, Article 14, Section 14.3.1

Applicant is requesting permission to relax the 5 acre minimum lot size requirement to allow a 3.55 acre lot to maximize the land (farmland fields) being protected by conservation easement (Society for the Protection of New Hampshire Forests) and purchased, in fee, by the town.

1. That the granting of the variance will not be contrary to the public interest because; *approval will:*
 - a. Increase acreage (farmland fields) the town will purchase from applicant (will not increased revenue to applicant because purchase contract is at fixed price that is less then full value and will not change with acreage), for the benefit of all citizen's of the town.
 - b. Connect existing conservation easement land and pending conservation easement land (the town has provided/committed funds and obtained interest in property on both abutting parcels) to create an approximately 300+ acre conservation corridor that extends/will extend along the whole south side of East Road.
 - c. Allow the continued Agricultural and Forestry uses, while ensuring public access for passive recreation, hunting, fishing and other traditional uses.
 - d. Protecting the existing viewshed that present surrounding properties benefit from.
 - e. Protect water quality through the conservation protection of the subject land, which lies over a known aquifer.
 - f. Allow farmland fields to be part of land the town purchases, which will then allow the town to make use of 7+ acres of open fields for a multitude of town uses; including but not limited to: passive recreation, events and celebrations, local agriculture, educational uses, etc.

2. The variance requested, will not be contrary to the spirit of the ordinance because; *approval will:*
 - a. Support the town's Agricultural Priorities, which have been created and adopted through: creation of an Agricultural Commission, Adopting "Right to Farm" ordinance (3.11) and altering "Cluster Housing" to prioritize farmland protection (27.3.11).

- b. Ensure the land benefitting from variance and being subdivided from Lot 203/93 will never be developed in any manner and will remain in its present state (Farmland field) solely for the benefit of the public.
 - c. Accomplish more than what 5 acre minimum RA zoning is able to, in regards to protecting RA land in tracts large enough to make viable for agriculture, as this variance is only being sought to accomplish the due diligence requirements of a purchase contract that will conserve the land.
3. That through the granting of relief by variance substantial justice will be done because:
 - a. This land is zoned Rural/Agricultural and has a 5 acre minimum lot size. The present Lot (203/93) has a multifamily apartment building, which does not have any connection to agricultural. The Lot (408/123) would benefit from increased acreage and would continue to be used/have the potential to be used for agriculture by the town (future owner) and restricted to agriculture, forestry and passive recreation uses by conservation easement held by the Society for the Protection of New Hampshire Forests.
 - b. The landowner (Alma Shmid Trust) has agreed to sell land at a bargain sale so will not have financial benefit from the granting the variance.
 - c. The landowner is willing to accept restrictions on future development of Lot (203/93), thus will not see any benefit to lot 203/93.
 - d. The town, general public and conservation interests will obtain greatest benefit through the granting of the variance because it will ensure the farmland fields are protected through conservation easement and used for the benefit of the town.
 - e. Approval will maintain greatest amount of land is protected for agriculture, forestry and town passive uses.
4. That by granting the variance, the values of surrounding properties will not be diminished because:
 - a. When factoring in several existing conservation purchase contracts, all of the land along the south side of East Road, from Carding Mill Road to the end will be conserved. Allowing the greatest amount of acres, on the subject property, to be included in conservation will create a significant size conservation corridor that will benefit the surrounding properties.
5. The special conditions of your property that distinguish it from other properties in the area
 - a. The subject lot (203/93) could not be altered in other directions to maintain needed acreage, as directly to the East is a different lot and directly to the West is the proposed access to the lot that the town would purchase.
 - b. The subject lot (203/93) is zoned RA, but has a multi-unit apartment building on it. Other similar properties in the area (including the Lot that would benefit from variance) are zoned RA and used for some type of agriculture

(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:

- a) The 5 acre minimum lot size in RA zone provides benefit by ensuring that RA zoned area is not subdivided into lots smaller than 5 acres; this ensures benefits to visual rural character, viable farmland, density reductions, and other items of importance. Adhering to the ordinance, in this case, would allow for greater density to be created on the subject lot (203/93) than we presently see. Adhering to the ordinance would provide no benefit to the actively used farmland fields, as they would continue to be part of Lot 203/93 which is utilized as a multi-unit apartment building.

(ii) And how the proposed use is a reasonable one:

- a) Approval of this variance will maintain rural character in a Rural Agricultural zoning district, protect groundwater and aquifer and ensure that no additional development will occur on this land.



TOWN OF WEARE
PLANNING BOARD
ZONING BOARD OF ADJUSTMENT
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Naomi L. Bolton
Land Use Coordinator

Office Hours:
Monday
thru
Friday
8 AM - 4:30 PM

APPLICATION FOR ZONING HEARING

Case # 0711

Applicant: Jan McSweeney Telephone: 428-6007
Address: 22 Better School Road - Weare

Owner: Alma Spauld Trust
Address: 38 Bozzell Hill Road

Property Address or Location: East Rd
Tax Map & Lot #: 203/93 Zone: RA

Property Description (length of frontage, side and rear lines, etc.):
land south of East Rd

Proposed use or existing use affected: conservation easement
restricted Agricultural Farm land

Why does your proposed use require an appeal to the Zoning Board of Adjustment?
To allow 7.49 acres of open fields
to be part of 137.3 acre parcel the
town will purchase

BUILDING DEPARTMENT

OCT 07 2011

TOWN OF WEARE