

FINAL



WEARE ZONING BOARD OF ADJUSTMENT
MEETING MINUTES
May 3, 2022

PRESENT: JACK DEARBORN, CHAIRMAN; MICHAEL MEYER, VICE CHAIRMAN; BOBBI-JO PLAMONDON, MEMBER; MARC MORETTE, MEMBER; MALCOLM WRIGHT, MEMBER; NAOMI BOLTON, INTERIM LAND USE COORDINATOR

GUESTS: David Giovagnoli; Richard Keiser; Kevin Cahill; Attorney Cooley Larroyo

Chairman Dearborn called the Town of Weare Zoning Board of Adjustment April 5, 2022 meeting to order at 7:32 pm.

I. INTRODUCTION/ADMINISTRATIVE ITEMS:

The Chair stated there tonight there is one case and one request for rehearing. Chairman Dearborn explained all questions come through the Chair. He will ask for a motion to accept the application making sure there is adequate information to proceed. Clarification will be made on any missing information and he will ask the Board if they have any questions. The applicant will then come forward and read the five points of hardship or seven points for a special exception with answers. The Chair will again ask the Board if they have any questions. He will then ask for approving/disapproving abutters, public at large or other boards to speak. The applicant can rebut and then a second round of abutters, public at large and other boards. The Chair will then close the hearing and the Board will deliberate and vote. With regard to the rehearing there will be no public input, just Board deliberation. Chairman Dearborn then asked all member present to introduce themselves.

II. PUBLIC HEARING

CONTINUED: Case #08-2022: David Giovagnoli (Owner and Applicant), 86 Reservoir Drive, Tax Map 201-007, Village Zone, Variance – Article 22, Section 22.6.4.5. Applicant is seeking a variance to construct a 2 family home on a lot in the village zone.

The Board reviewed all documentation submitted with the application for completeness. **Mike Meyer moved, Marc Morette seconded to accept Case #08-2022 as complete. Vote: 5-0-0**

David Giovagnoli explained to the Board that currently there is an old run down trailer and garage, located on 86 Reservoir Drive. He is proposing to remove both the trailer and garage and put a new two family home there. He reminded the Board he was here last month. There was some discussion about whether he had to be here or not. Town Counsel's opinion was sought. It was determined by Town Counsel that he did indeed need to obtain a variance, so here we are. Mr. Giovagnoli received the planning board approval for the architectural design of the proposed home on Thursday, April 28, 2022. Without any further questions, Mr. Giovagnoli proceeded to address the 5 points of hardship as follows:

1. The Variance will not be contrary to the public interest: *Existing property has fallen into disrepair, and is a threat to public. Any improvement would greatly benefit the public.*

2. Please describe how the spirit of the ordinance is observed: *The spirit of the ordinance will be observed because it will allow for best use of property.*

3. Please describe how substantial justice is done; benefits to the applicant must not be outweighed by harm to the general public: *It is an existing lot, I have no choice in frontage, if denied property will not be usable.*

4. Please describe how the values of surrounding properties are not diminished: *The current property (trailer/garage) are an eye sore, currently bring the values down, new construction would help maintain values in lieu of trailers.*

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship;

A. Please describe the special conditions of the property that distinguish it from other properties in the area, explain any details of the property, structure, that are different from surrounding properties such as slopes and wetlands: *Only 95.30' of frontage, abutting lots have 302', 400', 1080'. Existing garage overhang is on abutter's property.*

i. Owing the special conditions identified above, please indicate how no fair and substantial relationship exists between the general public purposes of the ordinance and the specific application of that provision to the property: *General public purpose of the ordinance is to allow owners to use their property. Denying would go against the spirit of the ordinance by not allowing owner to use property, wouldn't be able to build anything.*

ii. Owing to the special conditions identified above, please indicate how the proposed use is a reasonable one, explain how the special conditions of the property and the zoning restriction interferes with the reasonable use of the property: *Only way a person can build on this land is Town granting a variance for single or two family home.*

After Mr. Giovagnoli finished going through the 5 points of hardship. Vice Chairman Meyer asked how long the property has been empty. Mr. Giovagnoli replied since March when he purchased it. Without any further questions, Chairman Dearborn asked him to take a seat and he asked for:

Approving Abutters: none

Disapproving Abutters: none

Public At Large: none

Other Boards: none

Being none, for the record Chairman Dearborn asked for a second go around.

Rebuttal of Applicant: Mr. Giovagnoli added that if denied he was told could only put the same kind (trailer) in same location.

Approving Abutters: none

Disapproving Abutters: none

Public At Large: none

Other Boards: none

Chairman Dearborn then closed the public hearing at 7:50 PM and moved onto the board deliberation.

Board Deliberations:

Point 1: Malcom Wright moved, Vice Chairman Meyer seconded to accept point one of the five points of hardship for Case 08-2022. Discussion: Chairman Dearborn stated that the new home will harmonize with the

other homes and will be compliant. Vice Chairman Meyer stated that the existing use is residential and this will be an improvement. **Passed 5-0-0**

Point 2: Vice Chairman Meyer moved, Malcolm Wright seconded to accept point two. Discussion: Chairman Dearborn stated that again the spirit of the ordinance is observed it is strictly a frontage issue. It is a lot of record and there are no other setback relaxing. **Passed 5-0-0**

Point 3: Vice Chairman Meyer moved, Bobbi-Jo Plamondon seconded to accept point three. Discussion: Chairman Dearborn stated in this situation both wins for the zone, the improvement to property and owner. **Passed 5-0-0**

Point 4: Vice Chairman Meyer moved, Malcolm Wright seconded to accept point four. Discussion: Chairman Dearborn stated that this is benefiting surrounding properties. **Passed 5-0-0**

Point 5: Vice Chairman Meyer moved, Malcolm Wright seconded to accept point five in its entirety. Discussion: Chairman Dearborn stated that without this the owner only gets to put back a mobile home which is restrictive. This requests appears to be a reasonable use. **Passed 5-0-0**

The variance was approved.

REQUEST FOR REHEARING: Case #03-2022 – Highland Farms & Forest Acquisitions

Chairman Dearborn stated the applicant's attorney has presented the Board with a package of information that objects to the request for rehearing. As this is the first time the Board has ever had an objection to a rehearing, Chairman Dearborn would like to send this to Town Counsel to rule on the merit and process. The packaged was delivered on Friday, April 29th but too late to mail before tonight's meeting. The suggestion was to continue to next month for the Board to get an answer from Town Counsel. **Marc Morette moved, Bobbi-Jo Plamondon seconded to continue the request for rehearing on Case #03-2022 until June 7, 2022 to consult with Town Counsel. Passed 5-0-0**

IV. MINUTES:

April 5, 2022 Minutes: Marc Morette moved, Bobbi-Jo Plamondon seconded to accept the minutes of April 5, 2022 minutes as written. **Passed 5-0-0**

V. NEXT MEETING:

June 7, 2022

Other business: The Board discussed developing a checklist or some documentation for the Board, from either Tony Sawyer, Zoning Enforcement Officer or Romeo Dubreuil, Building Inspector that would give the ZBA some idea as to how or why an applicant was sent for a variance or special exception. They felt it would possibly alleviate confusion and put off the applicant, as in Case #08-2022.

Being that there was no more business to come before the Board, Marc Morette moved, Vice Chairman Meyer seconded to adjourn the meeting at 8:07 pm., passed 5-0-0.

ADJOURNMENT

A True Record.

Naomi L. Bolton

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Recording Secretary