

DRAFT



WEARE ZONING BOARD OF ADJUSTMENTS
MEETING MINUTES
August 1, 2023

PRESENT: Jack Dearborn- Chairman, Michael Meyer- Vice Chairman, Marc Morette- Member, Malcolm Wright-Member

Finance Administrator: Beth Rouse

ABSENT: Bobbi-Jo Plamondon- Member

GUESTS: Ryan Hooper (Applicant), Leonard Biskaduros (Abutter)

Chairman Jack Dearborn called the meeting to order at 7:30 PM.

- I. **INTRODUCTION/ADMINISTRATIVE ITEMS:** Chair Dearborn explained the process of the Variance and how the meeting would be conducted.
- II. **PUBLIC HEARINGS:**
Case#13-2023: Ryan T. Hooper (Applicant); Holden Presti & Krystal Lewis (Owners); Wildwood Road, Tax Map 404-019; Residential Zone-Variance, Article 17.1.1. The applicant is requesting permission to construct a single-family home on a private road.

The Zoning Board reviewed all documentation submitted with the application for completeness. **Vice Chair Michael Meyer moved; Marc Morette seconded to accept Case #13-2023 as complete. The vote passes 4-0-0.**

1. **The Variance will not be contrary to the public interest because:** Applicant Hooper stated it does not change the essential character of the neighborhood. Additionally, the construction of a single-family home does not threaten the health, welfare, or safety of the public.
2. **Describe how the spirit of the ordinance is observed:** Applicant Hooper stated the construction of the single-family home does not change the essential character of the neighborhood and does not create public hazards.
3. **Describe how substantial justice is done:** Applicant Hooper stated the proposed use of the property does not cause harm or risk to the general public. Substantial justice would be done with the allowed use to build a home. Malcolm Wright asked how many homes are already built within the development. Chair Dearborn said about six or eight.
4. **Describe how the values of the surrounding properties are not diminished:** Applicant Hooper stated that he does not see any cause or potential for the values of the surrounding properties to decrease due to the construction or addition of a new single-family home.
5. **Literal enforcement of the provisions of the ordinance would result in unnecessary hardship:**

- a. **Describe the special conditions of the property that distinguish it from other properties in the area:** Applicant Hooper stated that the lot shows great potential for new construction of a single-family home. It is within a great area of town and has no special conditions that are different from the other properties surrounding the lot. Chair Dearborn asked if he did not receive the variance and if it would be a hardship for the applicant. Applicant Hooper said yes because he would own a lot he could not do anything with.
- b. **Describe the special conditions of the property that distinguish it from other properties:** Applicant Hooper stated that the property has a great opportunity for new construction of a single-family home. The property has a few flat spots for the house to be located and provides a quiet small-town atmosphere.
- c. **Owing to the special conditions identified above, indicate how the property cannot be reasonably used in strict conformance with the ordinance, and a variance is, therefore, necessary to enable the reasonable use of it;** Applicant Hooper stated the property in its current state can not be reasonably used due to the restriction listed in section 17.1.1 of the Zoning Ordinance. A variance is necessary to enable reasonable use of the property.

Chair Dearborn asked if any abutters would like to speak.

Leonard Biskaduros owner of 63 Wildwood spoke as an approving abutter. Mr. Biskaduros said he does not see why Applicant Hooper should not be able to build on the property. He showed Mr. Biskaduros where he would like to build if the variance was approved.

No rebuttal from the applicant or abutter.

Chair Dearborn closed the public hearing at 7:53 pm.

Vice Chair Meyer motioned to move case #13-2023 question one. Seconded by Morette. The vote passes 4-0-0.

Chair Dearborn stated that when the Zoning Board Considers conditions for Class Six and Private roads, some of the conditions are required by state law and what the Zoning Board feels is important to the Town. Chair Dearborn said they shall be required to post necessary signed signs at the transition of a private road in accordance with the Town of Weare's sign policy and be consistent with NH RSA 674:41,1(d) which is a private road. The sign wording should state that road has not been accepted by the Town of Weare which the Town assumes no responsibility to maintain. The town assumes no maintenance including snow removal, nor liability resulting from the use of streets per RSA 634:41. Chair Dearborn stated condition two comes from RSA 674:41 which is a state regulation. The applicant shall be requiring to complete the town of Weare liability disclaimer at the Hillsborough County Registry of Deeds and be consistent with NH RSA 674:41,1, (d) private roads. Chair Dearborn said the third condition is the applicant shall take necessary action to be in practical compliance with the Town of Weare's Planning Board Subdivision regulations for driveway permit requirements and the Town of Weare's Zoning orders under Article 36. The Town of Weare's Public Works Director shall be the authority for interpreting the practical implementation of the requirement condition. Chair Dearborn said condition number four would be the applicant would be required to take necessary actions to comply with the E-911 signage requirement for proper identification of residence location, to support emergency vehicles for life and safety responses.

Morette motioned to move case #13-2023 question two. Seconded by Wright. The vote passes 4-0-0.

Chair Dearborn said the zone is for residential and single-family homes are allowed within the zone. The issue is that it does not have enough road frontage on a class five road. The reason the Zoning Board does

not allow the building on private roads without a variance is that they do not want people being put in situations where life and safety can not respond reasonably. The posting is for when people drive to the home, they are aware that it is private a private road and they are their liability. Chair Dearborn said the road is in good shape as it is a dirt road with gravel grade. It has been there before zoning and the lots have been subdivided before zoning.

Vice Chair Meyer motioned to move case #13-2023 question three. Seconded by Morette. The vote passes 4-0-0.

Chair Dearborn said substantial justice has been done because they have taken care of the life and safety issue and there are other buildings along that road. Vice Chair Meyer said the road is maintained and in good condition.

Vice Chair Meyer motioned to move case #13-2023 question four. Seconded by Morette. The vote passes 4-0-0.

Morette said the surrounding properties looking at the plan provided he does not believe it would diminish any of the surrounding properties.

Wright motioned to move case #13-2023 question five in its entirety. Seconded by Vice Chair Meyer. The vote passes 4-0-0.

Chair Dearborn said this was a change that happened about 10 to 15 years ago so from the landowner's perspective this would be a necessary hardship.

Chairman Dearborn motioned to move case #13-2023 with the following Conditions:

- 1.) The applicant shall be required to post the necessary sign(s) at the transition from the private road in accordance with the Town of Weare sign policy and be consistent with NH RSA 674:41,1,(d)**
- 2.) The applicant shall be required to complete a Town of Weare Liability disclaimer and file the disclaimer with the Hillsborough County Registry of deeds, and be consistent with NH RSA 674:41,1(d)**
- 3.) The applicant shall take the necessary actions to be in practical compliance with the Town of Weare Planning Board Subdivision Regulation for driveway permit requirements and the Town of Weare Zoning Ordinance, Article 36. The Town of Weare's Public Works Director shall be the authority of interpreting the practical implementation of this condition.**
- 4.) The applicant shall be required to take the necessary actions to comply with E911 signage requirements for proper residence location identification to support emergency vehicles for life and safety responses.**

The vote passed 4-0-0.

Chair Dearborn postponed the minutes to next month.

Motion to adjourn made by Wright at 8:03 pm. Seconded by Vice Chair Meyer. Vote passes 4-0-0

ADJOURNMENT

A True Record.

Kearsten O'Brien

Kearsten O'Brien, Minute Taker