

ZONING BOARD OF ADJUSTMENT

November 5, 2019 DRAFT MEETING MINUTES

Present: Jack Dearborn, Chairman; Michael Meyer, Vice-Chairman; Malcolm Wright, Member; Marc Morette, Member; Gary Shelto, Alternate; Bobbi-Jo Plamondon, Alternate; Kelly Dearborn-Luce, Land Use Coordinator.

Guests: Anthony & Wendy Conant, Tom Carr from Meridian, and John Devlin.

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

I. INTRODUCTION/ADMINISTRATIVE ITEMS

Chairman Dearborn asked all members present to introduce themselves. The Chair explained how the meeting will be run. He will read the outline of the case at hand, ask the Board for a motion to accept the application, making sure the application is complete. Upon getting a motion and a second, and after discussion, a vote will be made. Only then will the Board hear the case. If at any point during the hearing there is a discrepancy with the application, the Chair will stop the meeting and ask for clarification, and if need be, the hearing will be continued, so the applicant has a chance to return with the additional requested information. Once the Board has accepted the application and the Chair has read the case in more detail, the applicant will be asked to come forward to read the five points of hardship out loud, both the question and the answer. This is necessary as only the Board has the application in front of them to refer to. The applicant must read to the group because it benefits not only the listening audience but provides the opportunity to read into the record. After the applicant has had the opportunity to speak, the Chair will ask the applicant to sit down and request that approving abutters, disapproving abutters, public at large and other boards come forward to speak. The applicant would then come back up and refute anything necessary. The process will be repeated, with the close the public hearing just after. The Chair then will ask for a motion to accept (he stated that the reason is yes means yes, and no means no). From that perspective, all five points of hardship of the variance, each individually, shall progress with a motion, a second, a discussion, and then a vote. After the fifth point is read, in order for the variance to carry, the applicant will need to have all five points pass with at least 3 positive affirmations. For example, if you get four points to pass, and one point gets only two or one positive votes, the whole variance fails. In this case, the only action for the applicant would be a re-hearing before the Board, taken on advisement, resulting in a vote on whether the Board wants to hear the case again or not. Additionally, in the case of a special exception, the applicant must meet seven (7) mandatory conditions in the positive, per Article 6, Section 6.1.4 of the Zoning Ordinance.

II. PUBLIC HEARINGS

Ms. Plamondon was seated at the table as a Member.

Case #11-19 Application for a variance from Weare Zoning Ordinance Article 17.1.1.

The applicant is Arthur Siciliano representing AMS Properties LLC to allow construction of a single family home on a private road. The property is located on Pondview Road, Tax Map 108, Lot 89 in the residential district.

Mr. Thomas Carr, from Meridian Land Services, authorized by Arthur Siciliano, Surveyor presented the application. Tom read the items of criteria for a variance.

The undersigned hereby requests a variance to the terms of Section 17.1.1 and asks that terms be waived to: allow a building permit to be issued for a new single family home on a private road.

To qualify for a variance from the terms of the zoning ordinance, you must demonstrate that:

1. The Variance will not be contrary to the public interest: The construction of a new home is comparable to abutting homes. No public funds will be used to construct or maintain the road. The existing road is being maintained by the people that live on the road.

2.)Please describe how the spirit of the ordinance is observed: The reason for the article is that there are many private roads in Town that are not up to a passable standard for Town Fire and Emergency vehicles. This road, however, is up to that standard. This section of the road is in very good condition and ample width for those town vehicles. There are multiple homes on this road that use this road every day.

3.)Please describe how substantial justice is done: Granting a variance for a building permit will allow use of the property as abutting property owners have already done. This residential zone lot would be one of other homes allowed variances on private roads in Weare.

4.)Please describe how the values of surrounding properties are not diminished: The new single family home will be used for residential use, as are the surrounding properties. Similar uses in the same neighborhood will not diminish.

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: The special condition of this lot is that it is on a private road. The other special condition is that this road has already been constructed to a standard which allows those Town emergency vehicles to pass and repass easily and safely.

Owing to 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: The general purpose of the ordinance is to make sure homes and people are protected by Town services. Roads are to be constructed for safe travel to pass and repass. This particular road is constructed to that standard.

Owing to the special conditions identified above, please indicate how the proposed use is a reasonable one: We are requesting a variance to allow a building permit for a single family home on this private road. The road is up to a standard for Town services to get access to the new home. It is reasonable to use this lot for a residential home.

B. Please describe the special conditions of the property that distinguish it from other properties in the area: The special condition of this lot is that it is on a private road. The other special condition is that this road has already been constructed to a standard which allows those Town emergency vehicles to pass and repass easily and safely.

Owing to the special conditions identified above, please indicate how 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 ordinance article restricts building on this lot. This lot is accessible by a good well-traveled road by others. A variance in this case will allow reasonable use of the lot for a single family home.

The Chairman reviewed the “flow chart” with Mr. Carr regarding the request for a building permit on a private road.

Chairman asked if approving abutters wanted to speak:

Mrs. Wendy Conant spoke to the Board about the recorded deed she found stating the Town owned part of the road. Mrs. Conant said she is just looking for clarification and status from the Town on what part of the road the Town may own or which part is private.

Chairman Dearborn was concerned that if the town owned this part of the road it may not be private and that is what the applicant is seeking a variance for (building on a private road). Chair also stated the difference in type (or classification) of road may make the application defective.

Michael Meyer made a **motion** to continue this hearing until the December 3, 2019 meeting date, to clarify the correct status of this road. Motion was seconded and all voted in favor. Motion passed.

Motion to adjourn at 8:05.

Respectfully submitted,
Kelly Dearborn-Luce,
Land Use Coordinator