

ZONING BOARD OF ADJUSTMENT MEETING
September 1, 2016

PRESENT: Wendy Juchnevics-Freeman, Chairman, David Lage, Stanford Long, Edwin Somero, Walker Farrey, Joanne Meshna, Lori Rautiola

The meeting was called to order at 7:00 p.m. at the Town Office. Walker was appointed to fill the vacancy of Marianne Graham.

John Heywood - Public hearing for a variance:

The applicant owns lot 12/103, 76.5 acres, Old Country Road. An application for a variance to Article X. D.4.b.1 of the Zoning Ordinance was submitted to allow construction of a driveway with three crossings of forested wetlands and one crossing of an intermittent stream and within the wetlands setback. A site visit was held on August 27. Mr. Henry Kunhardt was present to represent Mr. Heywood and discuss the application. He stated the closest point of the driveway to the wetlands is 43 feet at station 500, seven feet short of the 50 foot buffer. A revised map was submitted to clarify where the wetlands are located. Mr. Kunhardt stated the distance from the wetland perpendicular to the stone wall is 73 feet. By zoning dimensional requirements, a 20 foot setback from the driveway to the boundary line is required, 10 feet is required for the driveway, and the driveway setback from the wetlands is 50 feet for a total of 80 feet, 7 feet short. He suggested pulling the driveway away from the boundary line in order to maintain the 20 foot setback making the encroachment on the wetlands 7 feet.

Mr. Kunhardt gave a brief history of the lot. He then reviewed the five criteria for granting the variance application:

- 1) The purposed use would not be contrary to the public interest - it will provide access to a pre-existing lot for construction of a single family dwelling, emergency services, and other reasonable uses. There will be little or no impact to the Townspeople.
- 2) The use is not contrary to the spirit of the ordinance - the proposed design avoids potential wetland impacts to the maximum extent possible and minimizes unavoidable impacts. The project is necessary for the landowners to access and make reasonable use of their property.
- 3) Granting the variance would do substantial justice - it will not contribute to the pollution of surface and ground water by sewage or other potential sources of pollution, as stated in the purpose of the Wetland and Surface Water Conservation Overlay District. Also it will allow reasonable use of a pre-existing property.
- 4) The proposed use would not diminish property values – it will have no effect on abutting properties.
- 5) Literal enforcement of the ordinance would result in unnecessary hardship to the owner... - It would give access to a unique piece of land with no street frontage. The driveway is the most feasible and least impacting alignment possible to enable use of the property.
 - a) No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application on that provision - the design minimizes the

wetland impacts and there will be no adverse impacts to the neighbors or to the general public.

- b) The proposed use is a reasonable one – it is the minimal design feasible to enable reasonable use of the lot.

Abutters were invited to speak:

Mr. Doug Ford stated he was pleased with the design of the driveway and commended the applicants for a job well done so far.

David made a motion to close the public hearing and enter into deliberations. Stan seconded the motion and it passed unanimously.

- 1) The proposed use would not be contrary to the public interest - David stated he did not think it was contrary to the public and Wendy agreed.
- 2) The use is not contrary to the spirit of the ordinance – Wendy stated the impacts to the wetlands are minimal and she was pleased with the way they would direct the water flow.
- 3) Granting the variance would do substantial justice – David stated it would be another house lot to help carry the tax burden.
- 4) The proposed use would not diminish property values – David stated there is no effect on abutting property value.
- 5) Literal enforcement of the ordinance would result in unnecessary hardships to the owner – Wendy stated he needs access to his property and there would be no other way without causing more impacts to the wetlands, and literal enforcement would mean he could not access very much of the land.

David made a motion to approve the variance application. Walker seconded the motion and it passed unanimously.

David made a motion to approve the minutes of the August 4, 2016 meeting. Edwin seconded the motion and it passed with one abstention.

The meeting adjourned at 7:50.

Respectfully submitted,

Lori Rautiola