

ZONING BOARD OF ADJUSTMENT MEETING  
SEPTEMBER 7, 2017

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

PUBLIC: Ed Rogers

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

7:00 p.m. Joseph & Winifred Edwards – Public Hearing for a special exception:

Mr. and Mrs. Joseph Edwards, 3 Peterson Road, Lot 16A/19, has submitted a special exception application to Article VI.C.4 of the Zoning Ordinance to permit operation of a general auto repair and welding fabrication business.

The Edwards own a triangular piece of land with an easement for Peterson Road (Class V) which goes through a small section of their land and extends into the Town of Greenville (Butternut Hill Road). Mr. Edwards stated the road is more like a bridle path, there is no traffic and his driveway is the only one on the road. Mr. Edwards submitted a site plan which Mr. Ed Rogers designed. Mr. Rogers gave a brief history of the land and surrounding roads (Turnpike, Kenney and Peterson Roads, formerly Butternut Lane). He stated Kenney Road was a significant part of the plot plan as it was part of the original Old Country Road that was laid out in 1752. Kenney Road which came up from Townsend MA and Turnpike Road were originally four rods wide. In 1795 Hillsborough County determined them to be three rods wide. From Kenney Road down to Townsend the right of way width is three rods wide. There are stone walls that define the original right of way. This is where the 30 foot setback from Turnpike Road comes from. Wendy asked for a copy of the deed and Mrs. Edwards stated she would get a copy.

Mr. Rogers mentioned the Town of Mason's history reports a road being laid out from the Meeting House in Mason to New Ipswich (Greenville did not exist at this time) which ends at Turnpike Road. Wendy questioned what the deed states regarding the name of the road and Mr. Rogers responded the deed states the "Old Road". Mr. Rogers has not been able to find any records from the Town of New Ipswich that a road was ever laid out and if Mason had permission to do so in New Ipswich. However, people made use of the small section of road to get to Old Country Road (Kenney Road).

Mr. Rogers noted the 30 foot setback from the road. He stated the Edwards own one parcel and questioned if they should be subject to a setback in the middle of their property. David questioned why the new building was put there in the first place. Mr. Edwards stated there was a motorcycle shop there on a rock foundation with cement sides. Wendy and David both agreed the new building should not have been permitted. Mr. Rogers questioned their reason and David stated it is not the same size building as the one before and there was a trailer there not a building. Mr. Rogers responded that the building can be seen on an aerial in that same location adding there was definitely a structure there not a trailer. Mr. Rogers mentioned he had visited the site before the new building was present and felt the building was in the right of way. The new building was pulled back out of the right a way and away from the well and road. Wendy commented if the building was pulled back out of the right a way, why then was it permitted

as it did not conform. Mr. Edwards mentioned he did not know the Town owned Peterson Road and thought it was just a bridle path and therefore did not know about the right of way.

There was discussion on the permitting of the new building. Mr. Edwards stated he was allowed to move the building away from the well by two feet, and put it on the same layout plus add six feet to the side and also make it shorter in front. This work was all permitted. David and Wendy commented the building was not put in the same footprint. Mr. Rogers stated by doing so it gave the right of way more of a buffer and was made smaller by six feet. The discussion continued on the permitting of the building.

Mr. Rogers noted the building and Turnpike Road were not the reasons for the hearing this evening. Wendy responded that with every application the Board needs to take into the account if there are violations of the Zoning Ordinance and try find a remedy. If there is a violation, the Zoning Board wants to correct the violation before moving forward. Mr. Rogers stated the Board needed to be very careful as municipal estoppel might apply in this case and it is not fair to have the applicant caught between the Board and the Building Inspector. Wendy stated the Board needs to determine if the location is appropriate for a garage; the Board needs to be sure the operation of the garage stays outside of the right of way and conforms as much as possible.

Mr. Rogers questioned why the road is considered a Class V road and David responded it is town maintained, the Town plows snow in the winter. Mr. Rogers questioned why the Town plows the road when there is no traffic except for the Edwards. He continued stating there will not be any thru traffic unless a 40 lot subdivision is built in Greenville, adding if that does happen the traffic will be far more to the right on the map according to the survey. Mr. Rogers stated it is important to know there will never be traffic so close to the building because the road would have to be realigned.

Wendy asked where the existing entrance was and Mr. Edwards responded it was the gravel road off Turnpike Road. Wendy added it was nonconforming. David added the driveway extends up to the building and into the back. Wendy asked if the existing gravel road would be used for the business and asked if the applicants would be willing to shorten it up and give a setback to Turnpike Road. Mr. Edward stated he wanted to be able to drive around the building. Mr. Edwards agreed to do so. Wendy noted if the road was discontinued the Edwards would be left with 16 feet for a driveway which would be sufficient. David mentioned a site plan review by the Planning Board would be needed.

Wendy stated if the subdivision were built and the access road from Turnpike redrawn from the center line of the road to the property, it would still remain an access for the applicant and the business; it is still going to be gravel and a driveway coming off Turnpike Road and looping around the building to the mobile home. Mr. Edwards stated the mobile home will be removed and a new house built.

David asked how the Board could approve a special exception for a business on a residential property that is staying residential. Ed asked if the Board would be more comfortable if the trailer was removed and the house built in Greenville. Wendy asked if there were bathrooms in the garage and there are not yet; there is a pipe through the slab to be tied into. There are no records for the septic system. David questioned what provisions have been made to catch oil and Mr. Edwards responded he does not do oil changes and filters for customers but has drain buckets for himself and it is then brought to the proper

facility for disposal. David noted it was typical for an auto maintenance facility to be equipped for accidental spills. Wendy did not recall a specific ordinance that pertained to a garage but felt it would fall under the light industrial use so they would need 1.5 parking spaces per employee. Five parking spaces are indicated on the plan. David stated pavement markers for the parking spaces should be considered. Mr. Edwards stated it would only be himself and possibly his son as employees. Three spaces would be needed for parking. Wendy suggested adding loam to the lower part of the gravel driveway to give the correct setback from the road and Mr. Edwards stated that would not be a problem to do so.

There was discussion on a residential property being used for commercial use. Mrs. Edwards stated if the Board would like them to remove the mobile home from the property they would do so. The mobile home is currently occupied. Wendy mentioned an appropriate septic system would be needed if it were to be considered a home business. Dave stated a maintenance garage would not meet the criteria for a home business. Wendy stated it would be adding a commercial business or allowing the property to be used for both commercial and residential at the same time.

Wendy noted when considering the first criteria for granting the special exception (is the site an appropriate location) the location is considered and here the area is mostly residential. The Board needs to consider if the garage can fit within the surrounding environment. Also, are there appropriate facilities for the business and is the applicant making the building appropriate for the business. It does not seem logical for the public to come to the business without proper facilities and running water.

The five criteria for granting a special exception were reviewed:

- 1) The site is an appropriate location for such use – Mr. Edwards stated there is plenty of parking. Turnpike Road is a busy road and the location would be a good site to promote his business. The site is appropriate for a garage as there was a garage there previously and the applicants will improve the site further and make it look nice. Wendy stated she would like to see the applicant put loam down and seed the setback area and she wanted to see more defined roadway and parking areas so it does not become a junkyard.
- 2) The use as developed will not adversely affect the adjacent area – It will not affect the adjacent area as the property will be well kept and there will not be vehicles sitting outside for long periods of time. Also, the property has improved a lot compared to what it looked like two years ago. There will be no auto work being done outside. David questioned if the mobile home was removed could the parking area be located in another area and Mr. Edwards stated they could. Walker added there would be an adverse effect if cars were left for long periods of time allowing for over growth of weeds etc.  
David noted when the applicants came before the Selectmen about another matter the garage was intended for personal use and not commercial use. Mr. Edwards stated when he bought the property he intended to build a garage and use as a hobby shop but when his other property was destroyed he thought he could use the property to run a small portion of his business. Mr. Rogers stated that every homeowner has the right to change their mind.
- 3) There will be no nuisance or serious hazard to vehicles or pedestrians – There are only have neighbors across the street and the applicants own between this property and their Greenville abutter. Wendy stated becoming a nuisance can be prevented if there is a defined entrance

and exit and an organized way of parking and containing the vehicles to be repaired. David noted traffic coming out of a gravel road from a business onto a state road could be a problem and something should be done to address the gravel coming out onto Turnpike Road, possibly a paved apron or hard pack.

- 4) Adequate and appropriate facilities will be provided for the proper operation of the proposed use - All waste will be taken care of in the proper manner. Walker questioned if there were any drains in the building and Mr. Edwards responded there is not and he will not be doing any oil changes for customers. David stated an approval from this Board would go with the property not the owner. Wendy questioned where the dumpster would be located as it was not on the site plan and Mr. Edwards responded there is not a lot of waste in his business but is was willing to put one on the site plan for future purposes. Wendy questioned the facilities being adequate for what the applicant wants to do and if they will be adequate when the business grows.
- 5) Such approval should be consistent with the intent of the Master Plan, after having given due consideration to recommendations received from the Planning Board, Conservation Commission and Board of Selectmen, within thirty days of receipt of the petition by the Zoning Board of Adjustment - Mrs. Edwards stated they would keep the property rural. David responded explaining what the Master Plan was and how a business in general should be an asset to the Town.

The Board listed items to be addressed: parking, driveway and roadway, septic system, bathroom facilities, dumpster, oil containment, and other hazardous waste. David also suggested the applicant provide a statement explaining their procedure for proper waste management. Wendy stated at this time she did not feel the application met the criteria for the special exception. Further, she stated for the Board to approve the special exception, the items listed need to be shown on a plan. David added a site plan review will be required by the Planning Board. Wendy asked for a copy of the deed.

David made a motion to continue the public hearing until October 5, 2017. Stan seconded the motion and it passed unanimously.

Minutes: David made a motion to approve the minutes of the August 3, 2017 meeting. Walker seconded the motion and it passed unanimously.

2018 budget: The Board discussed the 2018 budget. The 2018 budget will remain the same as the 2017 budget.

The meeting adjourned at 9:30 p.m.

Respectfully submitted,  
Lori Rautiola, Land Clerk

