

ZONING BOARD OF ADJUSTMENT MEETING
DECEMBER 3, 2015

PRESENT: Wendy Juchnevics-Freeman, Chairman, David Lage, Marianne Graham, Stanford Long, Edwin Somero, Joanne Meshna

The meeting was called to order at 7:00 p.m. at the Town Office.

New Ipswich DG, LLC – Submission of a special exception application:

The applicant submitted a special exception application from Article VI, Section C.3. of the Zoning Ordinance to permit a Dollar General retail store with associated parking and other site improvements on lot 7/36, 786 Turnpike Road. The property is under agreement and a purchase and sales agreement was submitted.

Marianne made a motion to accept the application as complete. Stan seconded the motion and it passed unanimously. The public hearing was scheduled for January 7, 2016 at 7:00 p.m. A site visit will be held on December 12, 2015 at 9:00 a.m.

Marcus and Darci Rautiola – Public hearing for a variance application:

The applicants own lot 8/15-1, 142 Wheeler Road. They submitted a variance application from Article XII. A. of the Zoning Ordinance to permit a driveway within the 50 foot setback to wetlands, the 20 foot side setback and the 25 foot wetlands buffer. The closest point of the driveway to the wetlands is 10 feet. The stream is approximately 6 feet wide. There is vegetation of young trees and shrubs between the driveway and the stream.

The applicant addressed the five criteria for granting of the variance:

- 1) The proposed use will not be contrary to the public interest – The driveway is private and the public does not utilize it in any manner. There is no runoff into the stream. The Board noted the wetland buffer would need to be maintained and Mr. Rautiola stated he had no intention to clear it.
 - 2) The use is not contrary to the spirit of the ordinance – The wetlands were not disturbed during construction of the driveway.
 - 3) Granting the variance would do substantial justice – This is the only way onto the property.
 - 4) The proposed use would not diminish property values – The driveway is very private and not in view of many houses. Wendy noted runoff from the driveway will run into the wetland and not onto abutting properties.
 - 5) Literal enforcement of the ordinance would result in unnecessary hardship to the owner...- With literal enforcement a helicopter would have to be used to access the property.
- And

- a. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property – No relationship exists.
- b. The proposed use is a reasonable one – No wetlands were disturbed and this is the only access to the property.

Abutters were invited to speak:

Dorothy Murray stated she was not concerned with the project as long as it does not bother the stream. Edward Courtney stated he did not have any problems with the project and Mr. Rautiola was doing an excellent job.

At 7:35 p.m. Stan made a motion to close the public hearing. Marianne seconded the motion and it passed unanimously.

The Board reviewed the five criteria for granting the variance:

- 1) The proposed use would not be contrary to the public interest – This is the only way to get onto the property. Because of the topography there will be no impact to the neighbors. Mr. Rautiola will need to maintain the wetlands buffer.
- 2) The use is not contrary to the spirit of the ordinance – It is a driveway.
- 3) Granting the variance would do substantial justice – This is the only way onto the property.
- 4) The proposed use would diminish property values – It will not diminish property values.
- 5) Literal enforcement of the ordinance would result in unnecessary hardship to the owner...- It would result in a hardship to the owner.

David made a motion to approve the variance application from Article XII. A. of the Zoning Ordinance to permit the driveway within the 50 foot setback to wetlands, the 20 foot side setback, and the 25 foot wetlands buffer, with the condition that the buffer remain as it is. Marianne seconded the motion and it passed unanimously.

The meeting adjourned at 7:45 p.m.

Respectfully submitted,

Joanne Meshna, Town Administrator