



MEETING MINUTES

Wednesday, March 11, 2020 – 1st Floor Conference Room

Call to Order 7:00 pm

In Attendance:

DAVID HATFIELD, CHAIRMAN
AMI WALL, CLERK
JAMES H. MCBAIN
CHARLES L. TARBELL, JR.
THOMAS J. LUCEY, ALTERNATE
GREGORY W. MCINTOSH, ALTERNATE

Not Present:

JOSEPH PRIDE
MICHAEL L. FEELEY, ALTERNATE

CONTINUED HEARING:

(19-17 & 19-18) o OSSIPEE LANE – CAROL B. HANNIGAN

Attendees for the Petitioner: Bill Hannigan, Carol Hannigan, Attorney Brian McGrail

Purpose: Variance for frontage relief and a Variance for relief from the requirements that a street be constructed for the full length of the frontage to construct a single family dwelling.

Discussion: Mr. Hannigan and Attorney McGrail explained that last night the Planning Board voted to approve the plan submitted here tonight. Their decision has about 27 conditions and restrictions on the lot. The Board reviewed the Planning Board's "daft conditions". The plan show's two lots 3A1 is the lot that this Board is contemplating. They are asking for a Variance of 40 feet instead of 100 as far as paving the frontage. The application for a Variance that was requested for definitions is going to be withdrawn, there is no need for that variance. Jim asked if the February 3rd plan is the correct plan. This Board will refer to that plan. Attorney McGrail drafted conditions for the Board to review for their decision.



Plans/Documents Presented:

- Planning Board Draft Conditions
- New Site Plan, Prepared by Hannigan Engineering, Inc. and dated 3/3/20
- New set of Plans, prepared by Hannigan Engineering, Inc. and dated 2/3/20 (these are the approved plans).
- Draft conditions from the ZBA

Public Testimony: None

VOTE: Chip made a motion to grant the Variance for Lot 3A1, dated and prepared by Hannigan Engineering, Inc. dated August 20, 2018 and revised through February 3, 2020, from the requirements of Article VI and Table 2 Dimensional Regulations including reducing the lot frontage requirements and to reduce lot width to what is shown on said Site Plan, and allow relief from the Bylaw relating to as needed to allow a Single Family Dwelling on Lot 3A1 as shown on said Site Plan.

FINDINGS:

- a) Unusual Circumstances Affecting Land or Structures. The Property is odd shaped with unique topography. The shape and topography of the Property limits the possible design of the proposed lot and single family dwelling.
- b) Hardship. The Board found hardship based upon the existing lot configuration related to the limited frontage both existing and proposed. An area of a Federal Wetlands impacts the options for constructing the street providing frontage.
- c) Substantial Detriment and Derogation. The Board found that the requested relief could be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Bylaw.

CONDITIONS:

1. The Applicant shall comply in all material respects with the conditions of this decision. The Board shall retain jurisdiction to approve any minor amendments to this decision that do not materially alter the terms of this decision. If, in the Board's judgement, a proposed change is material, then a new hearing shall be required to amend this decision. Jurisdiction to decide any disputes or make any necessary clarification(s) of this decision and conditions contained herein, which cannot be resolved by the Zoning Board Enforcement Officer, shall be retained by the Board.
2. Appearance of the project shall be substantially as shown on the Final Site Plan.
3. Notwithstanding this Variance, the single family dwelling to be constructed on Lot 3A1 may have a different foundation shape and/or footprint than as shown on the Final Site Plan so long as it is the same or less square feet as the foundation shown on the Final Site Plan, no setback relief is required.

Ami seconded the motion, all were in favor

Voting members – Chip, Jim, Tom, Ami, Greg

Chip made a motion to withdraw without prejudice application 19-18.

Ami seconded, all were in favor

Voting members – Chip, Jim, Tom, Ami, Greg

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Not Present:

JOSEPH PRIDE
MICHAEL L. FEELEY, ALTERNATE

CONTINUED HEARING:

(19-68, 19-69, 19-70) CHERRY LANE, A/K/A o GREENWOOD STREET – NGHI LUU

Attendees for the Petitioner: Nghi Luu and Attorney Erik Haggstrom, Reading

Purpose: Variances – 50 feet from a stream, allow 3 stories, reduce front yard setback

Discussion: Attorney Haggstrom explained that Mr. Luu is asking for three forms of relief. Mr. Luu has an order of conditions from the Conservations Commission. If Mr. Luu is restricted to the 50 feet requirement in our bylaw it would really restrict where he could build his house. He would like to move the house closer to the paper street. There was a mix-up with Mr. Luu's deed, Attorney Haggstrom presented an updated deed. Mr. Luu is asking for a height variance and a setback variance. Chip asked if the new plot plan presented tonight was the same as what ConCom had approved. Mr. Luu replied no, it is a different one – it now shows 20 feet from the front. The Board wants ConCom to approve this new plan and say that the new plan is better and ok with them. Attorney Nordstrom said his client is very anxious to break ground is ok with the original plan submitted to ConCom. He also said he understands that this Board would like more detail and setbacks on the plan and asked the Board if they would be inclined to grant the variances if they put more detail on the plans. Chip said for him the plan presented tonight seems to be the best plan and the correct variances they are looking for. The easiest thing would be for them to get the blessing of ConCom. Chip feels because they are bettering everything they may not even need a formal meeting, it may be a minor modification and just an ok from the agent. Chip has no problem with the plan but all the pieces need to be put together. Tom likes the new plan better. Dave reviewed the relief that has been requested on the application. Mr. Luu said he wants to build a single family home on a slab. It will be 3 bedrooms. He minimized the footprint to aid in the process with Conservation, and that forced him to go up a story. The attic will be unusable. There are no stairs off the deck. The height on the plans are different. Mr. Luu said the end result would be under 35 feet. Dave asked Mr. Luu if he has spoken to DPW and Mr. Luu replied he had some discussions with them and to do a water main would be cost prohibited. This Board wants a condition that Mr. Luu will meet all DPW requirements. Tom would like the ConCom conditions to circulate amongst themselves they can review and also take the time consider the comments from the public. Chip would like them to go to DPW to see how they are going to work out water, sewer and gas. Attorney Haggstrom said he will give the Board a

construction plan to help them understand how the neighbors will get in and out of their property, the Board also wants Attorney Haggstrom to send a PDF of the ConCom decision.

Plans/Documents Presented:

- Quitclaim Deed
- Elevations, dated 3/9/20
- Site Plan, prepared by Clifford & Rober, dated 12/26/18 and 3/9/20.

Public Testimony: Susan Palmer, 123 Greenwood St – she wrote a letter that should be in the file. She would like to voice her concerns. The proximity to the stream, skunk cabbage, problems with flooding. This has been an ongoing concern with herself and her neighbors. They are concerned that water will be moved around and she will get water in her basement. The water comes off Cherry Lane into her house now. Who is responsible for digging up the road and fixing it? How will the street be managed and maintained? How will they access their homes during construction? Who will take responsibility for the road if damaged, because it is not a Town road? When the Wood's built their home they were held to a higher standard and had to move their house back. Ms. Palmer went to the ConCom hearings and thought that Mr. Luu was supposed to build a 2 ½ story home not a 3 story home. Please take into consideration what this home will do to the neighborhood. Chip asked Ms. Palmer if she agreed with the ConCom conditions and she said it does not make sense to her – why are they trying to wedge a house on a property that is very challenging.

Erica Colvin – 7 Norway Street – She is here because of the repercussions of development in Town. Her backyard is non-functional because of all the water that now floods her yard because of all the development going on. Development can affect homes that are 3 houses away.

Chip made a motion to continue to 3/25, Ami Seconded the motion and all were in favor.

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Not Present:

JOSEPH PRIDE, ALTERNATE
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CONTINUED HEARING:

(20-28) – 343 ALBION STREET – DAVID A. KELLY AND MARY A. KELLY

Attendees for the Petitioner: Attorney Kimberly Bielan, David and Mary Kelly

Purpose: Party aggrieved; for a review of a decision made by the Building Inspector.

Discussion: Board member Gregory McIntosh recused himself.

Tom said he is a little bit torn, he thinks in his opinion that they have to respect the Building Inspectors decision. He does sympathize with Mr. Kelly, he does not think that the property owner has any respect for his neighbors. After hearing all of the evidence he does not think that Mr. Kelly showed enough evidence. He said the Kelly's are fighting for their neighborhood.

Jim feels it has not been a very lovely place for a long time. It has not looked meaningful to the neighborhood for some time. Jim read the definition of a gasoline station in our current bylaw. He said what the intent is.

Chip pointed out that he agrees, if one use stops it doesn't mean that the current use should be eliminated. He agrees with Tom's comments 100%. If they look at the facts, they are whether they uphold the Building Inspectors decision. He believes the use has never been abandoned. Chip said we probably wouldn't be here tonight if they did not have U-Haul trucks and cars/trucks all over the place. Ami agrees, and she hopes the neighbors become good neighbors. Maybe put some plantings in. Dave said he kept going back to the definition of the bylaw and came to the conclusion that it can be interpreted in different ways. He agrees it was approved for multiple uses and has been used that way for many years. Chip agrees there has not been a change of use, one use stopped but not the other.

VOTE: Chip moved to uphold Mr. Roberto's decision and deny the Kelly's request
Ami seconded – unanimous decision

Voting members - Tom, Ami, Chip, Jim, Dave

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OTHER MATTERS:

642 MAIN STREET - SIGNAGE

Mr. Lawton and Attorney McGrail were present to discuss signage that was put on the retail space. The tenant that is a barber, installed signage on his own and did not properly permit it. They were supposed to come back to this Board and also get a sign permit. Mr. Lawton said he did not do it maliciously, Jim disagreed. Jim asked what does this Board do – make him take it down? He is over the percentage allowed. Chip asked Jim, if he did come before this Board would they have allowed this. Jim said he would have probably allowed it except for the signage on the corner because it is not allowed at all. Tom understands Jim and thinks some kind of action needs to be done. Mr. Lawton actually likes the signage, he did not want signage all over the windows. Amy likes the signage on the side of the building. Chip said that he likes the signage but doesn't like that he put it up with no permits. Chip suggested that the Board make him cover up the signage and go through the process. Mr. Lawton said running a business is very hard these days and he feels that would be harsh. Dave said that even if this did come before them they never would have allowed the phone number on it. The Board said they would like to take the signage on the side off and take the phone number off or do nothing and make him come in. Jim said make him file for a variance. Brian said he does not feel that he needs to file an application for a variance because this board holds jurisdiction on the special permit. The permit will be granted when the phone number is off. Chip made a motion based on the signage and the drawing presented on Plan A-3.01 and allow the 3 signs to remain, except for the phone number it must be removed in a week and a sign permit must be pulled.

Ami seconded the motion – Voting members - Greg, Tom, Ami, Dave, and Chip

12 LAFAYETTE STREET – Attorney McGrail requested from the Board an extension of time to exercise the rights authorized by the Variance and Special Permit for six months. Chip moved to grant the extension on the Special Permit and the variance.

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APPROVE MINUTES

Chip moved to approve the minutes of February 26, 2020, Ami seconded the motion it was a unanimous vote.

The hearing adjourned at 9:20 pm