



TOWN OF WEARE
PLANNING BOARD
ZONING BOARD OF ADJUSTMENT
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Naomi L. Bolton
Land Use Coordinator

Office Hours:
Monday
thru
Friday
8 AM – 4:30 PM

**ZONING BOARD OF ADJUSTMENT
MINUTES
OCTOBER 2, 2007
(Approved as amended 11/6/07)**

PRESENT: Forrest Esenwine; Jack Dearborn; June Purington; Malcolm Wright,
Alternate; Naomi L. Bolton, Land Use Coordinator.

GUESTS: Cindy Kaczmariski; Laura Kaczmariski; Joseph R. Kaczmariski; Rebecca
Kram; Edward Palmer; Ginger Esenwine; Chris Rand; Karen S.
McGinley; Harper Marshall; Bill Stafford; Frank Campana

I. INTRODUCTION:

In the absence of the Chairman and Vice Chairman, Forrest Esenwine made a motion to have senior member Jack Dearborn be the acting chairman for tonight's meeting, June Purington seconded the motion, all in favor. Acting Chairman Dearborn called this meeting to order at 7:30 PM and asked the board members present to introduce themselves. Acting Chairman Dearborn explained to those present the way by which the board conducts business. Acting Chairman Dearborn appointed Malcolm Wright to sit as a voting member for tonight's meeting. Acting Chairman Dearborn stated that there are four voting members this evening and in order to be successful an applicant needs three yes votes. It will be up to the applicant to proceed with four or wait until next month's meeting in November when there should be a full board.

II. ADMINISTRATIVE ITEMS:

There were no administrative items for this evening and the board went right to the hearings.

III. PUBLIC HEARINGS:

Case #2107 Granite State Telephone
Administrative Appeal, Article 34, Section 4.1
Variance, Articles 24.9.1 & 34.4.1
Special Exception, Article 24.9
Applicant is appealing the order from the Code Enforcement
Officer to have the sign removed as well as applying for a variance
and special exception to permit a pre-existing sign to remain on the
property.
Tax Map 411-106 South Stark Highway

Chris Rand, Granite State Telephone stated that he would prefer to have the cases continued to November 6, 2007 and wait for a full board. June Purington moved to continue Case #2107 to November 6, 2007; Malcolm Wright seconded the motion, all in favor.

Case #2207 Ronald Elliott (Owners: John Reade & Sherry McKenzie)
Variance, Article 4, Section 4.1
Applicant is requesting permission to access both lots with a common driveway via a described right of way.
Tax Map 201-113 & 201-113.1 Quaker St & Thorndike Rd

Naomi informed the board that she had received a phone call from Ron Elliott who indicated that he would not be coming in right now. He was going to go and look at other options. There was nothing received in writing for this request. Acting Chairman Dearborn stated that the board can dismiss this case and when the owners decide which path they would like to take they would be allowed to come back. The abutters would be re-notified if there was to be another hearing.

Case #2707 Cindy Kaczmarski (Owners: Howard & Mary Kreider)
Variance, Article 17, Section 17.1.1
Applicant is requesting permission to construct a single family home.
Tax Map 108-041 67 Pondview Drive (Class VI Road)

Naomi informed the board that action was taken previously on this lot and under this article. The previous application was heard as a private road. It was brought to the Town's attention that in 1984 a deed was signed transferring ownership of the private road to the Town of Weare, which would make this a Class VI road. The board briefly discussed the old application. The board agreed that the deed being found is evidence enough to warrant this as a new hearing. Cindy Kaczmarski was present to present her application. Ms. Kaczmarski stated that her intention was to purchase the lot and build a new cedar log home. She did go and meet with the Board of Firewards and the Police Chief because it appeared from the previous application that the biggest concern to all was the safety of the road. There are letters from both the Fire Chief and the Police Chief included in the package. Acting Chairman Dearborn stated that the applicant has filled out both the area and use sections of the application. Acting Chairman Dearborn stated that this would be an area variance, because the use is permitted. Ms. Kaczmarski stated that she didn't know which one to choose so to be on the safe side she filled out both. Acting Chairman Dearborn informed Ms. Kaczmarski that she is welcome to address both if she would like, but felt it was not necessary. Ms. Kaczmarski stated that she would only address the area section when she came to number three. Ms. Kaczmarski then addressed the five points of hardship as follows:

1. There will not be a diminution of value of surrounding properties as a result of the granting of this variance because: I am planning on building a cedar log home which will blend in nicely with the other homes on the road. Plus an additional home will also help pay for the fees to repair and maintain the road.
2. The granting of a variance will not be contrary to the public interest because: I believe most of the public's concerns are due to safety reasons. According to a letter which was read at the last meeting about the property, the association had been dissolved for approximately 1 ½ years due to limited participation both in providing funding and volunteering time for management of projects and business. There is currently no guarantee of snow removal, no sanding and there will be no other maintenance on the road for the foreseeable future. If this variance is approved and I become a homeowner on Pondview Road, I would like to volunteer my time and service to try to get the association started again. I've attached a copy of the signed association which approximately half of the residents still reside at Pondview Road. I've been talking to other associations to get ideas as to what works and what doesn't when it comes to road associations on private roads. I've also been talking to one of the former presidents of the Pondview Association about the problems, concerns and plans of the association in the past in hopes of getting it started again to make Pondview Road a safe road for everyone. I feel this is very important especially since there currently is no association or plans to maintain the road.
3. That enforcement of the zoning ordinance will create an unnecessary hardship in that the zoning restriction:
 - aa. An area variance is needed to enable the applicants proposed use of the property given the special conditions of the property because: This lot is situated in a development started prior to zoning and prior to the Town not allowing homes to be built on private roads. It has always been the landowner's intent to build a home on this property. I have attached a letter from the Weare Police Department in regards to the safety concerns and accessibility to this lot. After reviewing the road and property, Chief Begin's opinion is that there is no indication construction on this lot would present a greater cause for concern than that of any existing resident on this road. In actuality, it is closer in proximity to the public road than fourteen existing homes. The Chief also adds that "as of this date, there is no documentation, record or indication of response to past calls having been hindered as a result of the accessibility via the private roadway."
 - bb. The benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance because: There is no other road frontage and there is no adjoining land available that may have class V road frontage. On 8/13/07 I presented my plans to build my home on

Pondview to the Firewards. The next day Chief Richards and I walked Pondview Road and the property. Chief Richards sent me a letter with recommendations and requirements which I have attached for you to review. Due to the layout and grade of the road and property, Chief Richards said he would be willing to work with me to reach equivalencies to the recommendations and requirements to ensure the safety of my home if I agreed to install a residential sprinkler system in my home. He also added that anyone may call him if they have any questions.

4. That through the granting of relief by variance substantial justice will be done because: Though everyone is concerned about safety, to the best of my knowledge, there is no association or plans to repair or maintain the road. Approving this variance will allow me to volunteer my time and work with the neighbors to try to start the association again to repair and maintain the road for everyone's safety.
5. The use, for which the variance is requested, will not be contrary to the spirit of the ordinance because: The area is zoned residential and building a single family home on an accessible road is not contrary to the spirit of the ordinance. The spirit of the ordinance is to address safety concerns associated with roads not maintained by the Town and to prevent uncontrolled development. Given the development is already complete on the road, and the condition of the road to this lot, neither of the two concerns should be applicable in this case.

Forrest Esenwine stated that his only comment has to do with point #5. The response given only addresses one part of the ordinance and there are other parts of the ordinance that this would be contrary to as well.

June Purington asked how far from her house is the town maintained portion of Pondview Road. Ms. Kaczmarek responded about 400 feet. Her house would be closer to the Town maintained portion than about 14 other homes.

Approving Abutters: NONE

Disapproving Abutters: NONE

Other Boards: NONE

Public At Large: NONE

Rebuttal of Applicant: NONE

Acting Chairman Dearborn closed this hearing at 8:08 PM.

BOARD DISCUSSION: There was no further board discussion.

CASE DECISION: Point #1: June Purington moved to accept point #1; Malcolm Wright seconded the motion. Discussion: Acting Chairman Dearborn commented that the homework has been done to the status of the road. Both fire and police have submitted support and a remedy has been given with regard to sprinkling the home. Vote: 4 in favor (Wright, Purington, Dearborn and Esenwine) and 0 opposed. Point #2: June Purington moved to accept point #2; Malcolm Wright seconded the motion. Discussion: none. Vote: 4 in favor (Wright, Purington, Dearborn and Esenwine) and 0 opposed. Point's #3aa & 3bb: June Purington moved to accept points 3aa and 3bb; Malcolm Wright seconded the motion. Discussion: none. Vote: 4 in favor (Wright, Purington, Dearborn and Esenwine) and 0 opposed. Point #4: June Purington moved to accept point #4; Malcolm Wright seconded the motion. Discussion: none. Vote: 4 in favor (Wright, Purington, Dearborn and Esenwine) and 0 opposed. Point #5: June Purington moved to accept point #5; Malcolm Wright seconded the motion. Discussion: Vote 3 in favor (Wright, Purington and Dearborn) and 1 opposed (Esenwine).

June Purington moved to grant the variance for Case #2707 as requested; Malcolm Wright seconded the motion. Discussion: Acting Chairman Dearborn stated that he felt the board should add the following conditions:

1. Class VI Road sign to be posted at the entrance of the road.
2. Town of Weare Liability Disclaimer to be attached to the building lots deed and be recorded at the Hillsborough County Registry of Deeds as part of the deed, approved by Town Counsel.
3. Access to lot 108-041 from the end of the Class V portion of Pondview Road to the driveway of the subject property must be brought up to a performance standard under the direction of the Public Works Director to allow the safe passage of emergency vehicles. The improvements need to be inspected prior to the issuance of a building permit AND prior to the issuance of the occupancy permit.
4. To ensure appropriate fire protection, the Fire Department must review the building plans for compliance.

Forrest Esenwine made a motion that the above conditions be added to the approval; June Purington seconded the motion. Vote: 4 in favor (Wright, Purington, Dearborn and Esenwine) and 0 opposed.

Case #2807 Edward Palmer (Owner: EP Stark Highway, LLC)
Special Exception, Article 24, Section 24.9.1
Applicant is requesting permission to install two signs that exceed the permitted surface area.
Tax Map 411-102 485 South Stark Highway

Ed Palmer was present. Mr. Palmer explained that he is looking to install two additional signs. There is an existing 8 x 4 two sided sign in front of the business, which is 64 square feet. He would now like to add two additional signs.

Each sign is to be no larger than 12 square feet. The Zoning Board has the authority to grant a special exception for up to 100 square feet. This request, if approved, would still fall under the 100 square feet maximum. Mr. Palmer then went through the seven conditions required for a special exception as follows:

1. The specific site is an appropriate location for such a use or uses in terms of overall community development: Need signage to identify permitted businesses.
2. The proposed use will not adversely affect the neighborhood and shall produce no significant reduction of real estate values in the neighboring area: Installation of two new attractive signs would not have an impact on the neighbors.
3. The proposed use will not be a nuisance or serious hazard to vehicular traffic or pedestrians: Sign will be placed on the building and should not affect traffic.
4. The proposed use will not cause an undue burden on the Town through the provision of basic Town services: There should be no burden on the Town. They are private commercial signs.
5. Adequate off-street parking be provided if determined necessary by the Zoning Board of Adjustment: Off-street parking was previously approved with the approval of the site plan.
6. A buffer may be required to screen neighboring uses from the proposed use. Buffers may be fence screens, dense planting of suitable trees and shrubbery, or naturally occurring shrubs and trees: No buffer is necessary. The signs are needed to advertise the businesses.
7. The Zoning Board of Adjustment, in granting any special exception, may include such restrictions or conditions to insure compliance with this section: (there was no answer given).

Acting Chairman Dearborn closed the hearing at 8:23 PM.

BOARD DISCUSSION: There was no further board discussion.

CASE DECISION: June Purington moved to grant the special exception for Case #2807; Malcolm Wright seconded the motion. Acting Chairman Dearborn stated that he would like to add to the motion that the two signs are not to exceed 24 square feet total. Vote: 4 in favor (Wright, Purington, Dearborn and Esenwine) and 0 opposed.

IV: OTHER BUSINESS:

SEPTEMBER 11, 2007 MINUTES: Forrest Esenwine moved to accept the September 11, 2007 minutes as amended, Malcolm Wright seconded the motion, all in favor.

V. ADJOURNMENT:

As there was no further business to come before the board, Forrest Esenwine moved to adjourn the meeting at 8:30 PM, June Purington seconded the motion, all in favor.

Respectfully submitted,

Naomi L. Bolton
Land Use Coordinator