

City of Keene
New Hampshire

ZONING BOARD OF ADJUSTMENT
MEETING MINUTES

Monday, December, 7 2015

6:30 PM

City Hall, Second Floor Committee Room

Members Present:

Louise Zerba, Chair
Jeffrey Stevens, Vice Chair
David Curran
Joseph Hoppock
Steve Bragdon, Alternate

Staff Present:

Gary Schneider, Plans Examiner

Members Absent:

Nathaniel Stout

Others Present:

I. Introduction of Board Members-

Chair Zerba called the meeting to order at 6:28 PM. Chair Zerba introduced the Board Members.

II. Minutes of the Previous Meetings – November 2, 2015

Mr. Hoppock made a motion to approve the minutes of November 2, 2015. Mr. Curran seconded the motion with the following changes:

Chair Zerba stated that on pg. 4, second paragraph it reads, Homer S. Bradley and Faulkner P.C. and should instead read just Bradley and Faulkner P.C. Chair Zerba stated that on pg. 3, last paragraph it reads, legislature and should instead read, legislator. Chair Zerba asked about the tunnel reading 10 x10 on pg. 22. Mr. Schneider replied that this refers to the height and width. Chair Zerba questioned the statement outlined in yellow on pg. 21. Mr. Schneider explained that administrative staff highlights areas in question. The Board decided that the statement is adequate and can be left in the minutes.

On a vote of 4, the Zoning Board of Adjustment approved the minutes of the previous meeting. Mr. Bragdon abstained due to his absence from the last meeting.

III. Unfinished Business –

IV. Hearings:

Continued ZBA 15-16/: Petitioner, Kathy A. Theiss of 6429 Abdella Lane, North Port, FL, represented by Homer S. Bradley of Bradley & Faulkner, P.C., of Keene, requests a Variance for property located at 708 Roxbury Rd., Keene, which is located in the Rural District. The Petitioner requests a Variance to be permitted to build a structure on the premises to encroach 25 feet into the side setback per Section 102-791 of the Zoning Code Basic Zone Dimensional Requirements of the Zoning Code.

Mr. Bradley requested that a public hearing not take place. Mr. Schneider stated that after the November ZBA meeting, he had an additional meeting with Attorney Bradley and the contractor. He continued, stating that he determined that the house in discussion could fit within the 50 foot setback indicated in the design. The house was surveyed and the contractor decided to move the house within the foot set back as best he could. Mr. Schneider stated that the petitioner will still need to come back to the ZBA for additional Variances, specifically the setbacks on Jordan Road and Roxbury Road. Mr. Schneider stated that he and Attorney Bradley decided that it is best to withdraw the petition and come back for future Variance requests.

A motion was made by Mr. Hoppock to withdraw ZBA 15-16 without prejudice to the petitioner's right to bring forward a new application in the future. Mr. Stevens seconded the motion.

On a unanimous vote the Zoning Board of Adjustment approved the withdrawal of ZBA 15-16.

ZBA 15-27/: Petitioner, Dorene K. Adams of 277 Old Walpole Rd., Keene, requests a Variance for property located at 277 Old Walpole Rd., Keene, which is located in the Rural District. The Petitioner requests a Variance to allow two lot subdivision of a lot in the Rural Zone. One lot will have 51 feet of frontage where 50 feet is required and one lot will have 28 feet of frontage where 50 feet is required per Section 102-791 Basic Zone Dimensional Requirements of the Zoning Code.

ZBA 15-28/: Petitioner, Dorene K. Adams of 277 Old Walpole Rd., Keene, requests a Variance for property located at 277 Old Walpole Rd., Keene, which is located in the Rural District. The Petitioner requests a Variance to allow the removal of vegetation and grading of slopes within prohibitive slope areas totaling 7,700 square feet where removal of vegetation and grading is prohibited per Section 102-1404 of the Zoning Code.

Chair Zerba asked the petitioner to present both petitions together because they are associated. She continued, stating that a site visit is necessary for these petitions as per requested by the City Attorney. Chair Zerba stated that the hearing will continue in January with additional questions pertaining to the site itself.

Mr. Schneider stated that there is a revision to ZBA 15-27 and should read 29 feet of frontage and not 28 feet of frontage. This is the only difference on the application. Mr. Schneider discussed the details of the site on the map presented.

Dave Bergeron of Brickstone Land Use Consultants approached the Board. Mr. Bergeron presented three maps for the Board to review. Mr. Bergeron stated that the lot in discussion is

very narrow with 80 feet of frontage and is approximately 11 ½ acres. He continued, stating that there is a house located on the lot and the owners are interested in creating an additional lot in the rear with the intention of having another house that would stay in the family. Mr. Bergeron noted the small easement near the abutting property and stated that the current driveway extends into this easement. He continued, stating that the easement is an additional 50 feet along Walpole Road adjacent to the lot. Mr. Bergeron stated that a common driveway extending from the current driveway is proposed and would turn to the rear lot just before the septic system.

Mr. Bergeron stated that the steep slopes are mentioned in the Variance and would be impacted by the driveway extension. Mr. Bergeron discussed the coloring and steepness of the slope: green- 0-15%, yellow-15-25%, red-over 25%. Mr. Bergeron noted that the driveway would impact slopes at 25% slope and above 25%. Mr. Bergeron noted that this is the only area that the driveway can be developed due to the location of the garage and the increased steepness of other slopes in the area.

Mr. Bragdon asked if the 50 foot easement is recorded. Mr. Bragdon replied yes and stated that he has copies of the deed if interested. The Board did not review the deed. Mr. Bergeron gave the deed to Mr. Schneider. Mr. Hoppock asked if this extension will benefit lot one but will impede on lot two. Mr. Bergeron stated that it will benefit both lots and the driveway will be used by both. Mr. Hoppock asked the length of the extended driveway. Mr. Bergeron measured the map and replied that the extended driveway will be approximately 1,250-1,300 feet long.

Mr. Curran asked about the boundary lines of the second lot and what the narrow section located on the map means. Mr. Bergeron stated that the narrow section is to maintain the 200 foot wide existence on the lot. Chair Zerba asked if one of the lots was sold in the future, how the owners would access the remaining property. Mr. Bergeron stated that a common access driveway is often preferred by the Planning Board and a Common Access and Maintenance Agreement would be recorded with the deeds which would discuss responsibilities. Chair Zerba asked if this would be done initially. Mr. Bergeron replied, yes.

Mr. Stevens asked about turnoff requirements. Mr. Bergeron stated that turnoffs are mandatory every 300 feet and there must be enough space at the end of the driveway for a firetruck to turn around. Mr. Stevens asked if the turnoffs affect the slopes. Mr. Bergeron stated that they should not affect the slope but if necessary a retaining wall could be put up to avoid this impact. Mr. Bergeron stated that the development is hitting the full width of the red zone and because it is a precautionary slope-it is allowed to be impacted. Mr. Stevens asked if Mr. Bergeron is asking for a Variance for the entire shaded slope. Mr. Bergeron replied, yes.

Mr. Curran asked how many lineal feet for the prohibited slope. Mr. Bergeron stated 250-260 feet. Mr. Hoppock asked about the vegetation being removed in the shaded area on the map and how erosion will be mediated. Mr. Bergeron stated that he would refer to the Hillside Ordinance which has mandatory steps to avoid erosion including a retention pond and stone line ditches as well as crossline culverts.

Chair Zerba asked how runoff will be avoided. Mr. Bergeron stated that a retention pond can be used and there is currently a cross culvert. Mr. Curran asked about setbacks from property lines

for driveways. Mr. Bergeron stated that in the residential area it is three feet. Mr. Curran asked why the driveway could not be closer to the lot. Mr. Bergeron replied that the slope is much steeper and the slope increases faster closer to the property lines. He continued, stating that the current design does not run directly into the contour lines. Mr. Schneider noted 102-794 #5 in reference to Mr. Curran's question on setbacks from property lines. It confirmed the three feet setback previously mentioned.

Chair Zerba asked if the retaining wall would cover the entire shaded area. Mr. Bergeron replied that a retention wall is not currently needed in the plan.

Mr. Curran asked if this is the first time Mr. Schneider has heard a request referencing the Hillside Ordinance. Mr. Schneider referred to Prospect Place. Mr. Stevens stated that he remembers a request on Hurricane Road as well. Mr. Bergeron recapped the condition of Hurricane Road. Mr. Bragdon stated that the slope is more than 25% and asked how much more. Mr. Bergeron replied about 28%-29% but not 50%.

Chair Zerba opened the public hearing.

Steve Bergeron of 271 Old Walpole Road approached the Board. He stated that he is the abutter who owns the easement. Mr. Bergeron stated that he previously offered to sell the petitioner the necessary frontage available but they did not accept the offer. Mr. Bergeron referenced the Driveway Application Instructions for the City of Keene, Item 13 which states that driveway with slope greater than 15% shall be prohibited and driveways longer than 300 feet must meet the certain standards. Mr. Bergeron did not discuss the standards. Mr. Bergeron continued to Item D discussing driveways with a slope greater than 10% and the first 20 feet must have a slope of 5% or less. Mr. Bergeron stated that the first 20-30 feet of driveway in discussion is greater than this.

Mr. Bergeron noted that he is not objecting to the subdivision but he believes that the driveway in existence is currently non-conforming and the additional extension would then be non-conforming as well.

Mr. Curran asked Mr. Schneider if this concern will be discussed in the Planning Department. Mr. Schneider replied, yes. Mr. Bragdon asked if there is a requirement or Variance needed for the new lot if the current driveway is non-conforming. Mr. Schneider stated that the City Attorney would have to address this item.

Dave Bergeron of Brickstone Land Use Consultants stated that the driveway standards are not part of the driveway code but the City Code and this would require permission from the City Council because you are waiving a City Code. Mr. Hoppock questioned if this concern would then affect the safety of the public and if emergency vehicles are able to fit. Mr. Dave Bergeron restated that turnoffs are mandatory every 300 feet for this reason. Mr. Curran stated that the new driveway will tap off the existing driveway further up and the driveway permit would then be for the start of the new driveway and not the existing driveway.

Mr. Steve Bergeron stated that both driveways should meet regulations if it is two lots. Chair Zerba stated that he is welcome to join the Board Members during the site visit. Mr. Bragdon

wondered if the driveway permit would address the start of the new driveway or if it would address the driveway at the beginning of the road. Mr. Schneider stated that the City Attorney would have to weigh in on this. Mr. Stevens asked if Mr. Bergeron issued the easement. Mr. Bergeron stated that the easement was there prior to his ownership of the property. Mr. Dave Bergeron stated that it would be best for the Board to sit and talk to the City Attorney. He continued stating that the remaining driveway is paved.

Mr. Curran stated that there will be more development on hillsides and site visits need to be the norm for the Zoning Board of Adjustment. Mr. Schneider stated that the City Attorney has expressed that the ZBA have more site visits as well. Mr. Curran stated that Board Members can have a better understanding of the site and make more confident decisions. Mr. Bragdon asked if the Board will be reviewing the slopes and if the driveway is easy to get to. Mr. Steve Bragdon stated that the Board will be able to view the slopes from the current driveway. Chair Zerba stated that a site visit should be done before snow fall.

The Board agreed on Friday, December 11, 2015 at 3:30 PM. The Board decided to meet at the site. Mr. Dave Bergeron stated that the Board can drive up the driveway and he will let the home owner know the Board Members are coming.

A motion was made by Mr. Hoppock to continue the public hearing of ZBA 15-27 and ZBA 15-28 until January 4, 2016. Mr. Stevens seconded the motion.

On a unanimous vote the Zoning Board of Adjustment continued ZBA 15-27 and ZBA 15-28.

V. New Business

Mr. Schneider noted that on the ZBA schedule the deadline should read December 2015 and not December 2016.

A motion was made by Mr. Hoppock to approve the 2016 ZBA schedule with the discussed change. Mr. Stevens seconded the motion which carried unanimously.

VI. Communications and Miscellaneous

VII. Non Public Session (if required)

VIII. Adjournment

Chair Zerba adjourned the meeting at 7:15 PM.

Respectfully submitted by:
Lana Bluege, Minute-Taker
December 7, 2015