

TOWN OF GREENFIELD
ZONING BOARD OF APPEALS

APRIL 5, 2016

REGULAR MEETING

A regular meeting of the Town of Greenfield Zoning Board of Appeals is called to order by Kevin Veitch at 7:30 p.m. On roll call the following members are present: Kevin Veitch, Denise Eskoff, Curt Kolakowski, Laura Sanda, Joseph Szpak and Andrew Wine, Alternate.

March 1, 2016 MINUTES

MOTION: J. Szpak

SECOND: K. Veitch

RESOLVED, that the Zoning Board of Appeals waives the reading of and accepts the minutes of March 1, 2016, as submitted.

VOTE: Ayes: Veitch, Eskoff, Sanda, Szpak, Wine

Noes: None

Abstain: Kolakowski

NEW BUSINESS

OLD BUSINESS

G. DAVID EVANS – Area Variances/Interpretation

Case #955, Plank Road

D. Engel, attorney, and D. Evans are present. K. Veitch opens the public hearing at 7:32 p.m.

Stewart Sullivan, Plank Road, states that there is a solution on the books within the town about flag/keyhole lots and the secondary solution, if you don't want to have a keyhole lot property, is to create a cul-de-sac and an official road that the Town would accept. This proposal appears to him to be something in between. He questions whether this would set a precedence that the Town would have to follow after this; that they would then have to allow more of a shared driveway, monkey-in-the middle type lots where anyone could cut a driveway in and put a lot on the back side. He puts his faith in the original people who came up with the idea of having road frontage, believes that is a decent policy and he would like it to stay that way. He is against this variance. K. Veitch reads from Joseph Bruchac's letter received 4/5/16 regarding his concerns for his easement across one of the lots in addition to environmental issues concerning Bucket Pond. D. Engel states that with regard to S. Sullivan's comments, as they noted last month, the changes here are really quite minor. The road plan stays unchanged. All they are doing is taking the keyhole lots, which are really kind of artificial strands which have little or no relationship to where the roadways are, and cleaning them up. The bottom line is that the strands that make these keyholes, bringing them out to the public highway, in some instances don't even follow the roadways. They are just strands of property that were drawn that way in order to touch the highway. The problem is that you now end up with these weirdly shaped lots which affect the marketability of those. He does not think that we are looking at a situation that is going to have any precedential value or impact; this is a rather unique situation. D. Engel states that J. Bruchac does not own the right-of-way as he describes it. J. Bruchac has an easement through lot 9 and lot 9 is basically going to be changed in a very minor way by what is being requested. The change in no way

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effects whether you can build a house on it or not. It is unfortunate that J. Bruchac sought this forum, although he is not here tonight, but injects himself through a letter to the Board to discuss an issue which really has nothing to do with what the applicant is requesting. J. Bruchac's concern is that he has an easement; D. Engel points it out on the plans, which you can see has something coming off of it for a proposed building site. All of that remains in essence unchanged in the present situation to the proposed situation. D. Engel states that he understands that J. Bruchac does not want a home built there and enjoys the use of the easement which allows him to walk back and forth across the property so he can access his property on the far side of Bucket Pond, but his concerns certainly don't go to the issues that are before this Board. Speaking on behalf of D. Evans, D. Engel states that they are prepared to sit down with J. Bruchac and come to a reasonable resolution, but that issue is unrelated to this variance request and not appropriate for J. Bruchac to raise it here much less for the Board to consider it. What they are requesting has nothing to do with J. Bruchac's concerns. The applicant has a perfect right, right now, to develop the property as previously approved and if J. Bruchac thinks that is somehow going to affect his easement, that is an issue to be worked out between J. Bruchac and the applicant. It has nothing to do with the instant application. The easement is a general description which basically says there is going to be a 15' logging road or some sort of road that goes through what is now lot 9 and allows the party who owns what they call the 'Bruchac parcel' at this point to cross what is now lot 9 to access that parcel. D. Engel reiterates that this is not a road that J. Bruchac owns or a right-of-way, it is an easement that is only generally described in the deeds that have been recorded. To ascribe to that any greater formality than that would be completely incorrect. He states that their hope would be that the Board would set aside J. Bruchac's comments as really not relevant to be before this Board. Their hope is that the hearing can be closed this evening and the Board can move on to resolve this matter. D. Eskoff asks R. Rowland about the changes to the acreage. R. Rowland states that the variance the applicant is seeking is for frontage, not acreage. J. Szpak questions that there is some kind of agreement to get back to lot 8 if the roadway does go through the Bruchac property. D. Engel states that the easements are in existence right now but that is not intended to be the real source of access to lot 8 on a going forward basis. J. Szpak questions that it would be the other roadway depicted. D. Engel concurs. J. Szpak questions that the real benefit that the applicant is trying to get, because most of the lots are the same, but lot 5 gets bigger as lot 4 gets a little smaller. Is the real drive here to make this lot arrangement more marketable than the existing one? D. Engel states that is it, it takes out the spaghetti strands and cleans up what is otherwise kind of a confusing setup. C. Kolakowski asks what is to prevent the same type of problem that the applicant is having with J. Bruchac happening with the people on the back lots if they don't have the alternative of taking frontage on the road, if there is a disagreement between neighbors. D. Engel states that what we have right now, and would have this in any event, is shared driveway agreements. That is something that is already in place and the driveways have for the most part been constructed. Anyone buying these lots is taking these subject to the shared driveway agreement and with the understanding that that is how access is going to be afforded to those parcels. That is not going to change regardless of whether we were to proceed under the existing plan or the revised plan. C. Kolakowski comments except that the owner wouldn't have an alternative if they are unable or if there is a disagreement between neighbors on the shared access with respect to maintenance or things along those lines. Under the existing plan, if one is not happy with the situation you do have some alternative means that are strictly under your own control to get to the public road. D. Engel states not really. Lot 3 for example, the strand that comes off under the existing plan goes through an area of such steep slopes that it is simply not a practical means of access to lot 3A. J. Szpak states that it is really contoured in there, although probably in the strictest sense C. Kolakowski is correct, it wouldn't be practical. The amount of money one would need to create that access would be extreme. D. Engel states that people are going to be buying these lots subject, with or without the change, to the shared driveway agreement. Lot 2 for example, the only way access is obtained is through a roadway that cuts up through lot 1. The strand of lot 2 that touches Plank Road has no roadway on it. The roadway system does not change. The roadways are designed in appreciation and by necessity in light of the topography, and it is with that understanding that people are going to buy lots here or not, assume responsibilities, and proceed with the understanding that they are going to be living in a community where there is going to be shared responsibilities on these roadways. It is not an unusual circumstance. D. Eskoff states that these are many of the questions that the Town Board should be looking at. J. Szpak states that the

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way he understands this, this is quite a change from what was initially approved by the Planning Board, but for this to go back to the Planning Board, they would like the ZBA to act on the variance first. What the ZBA is considering for the variance is the frontage issue, but not the whole issue of whether they have the right access, is it safe, does it comply with roadways, etc., because that has to go back to the Planning Board. D. Eskoff states that where we are now is, that we are going to require open development area approval from the Town Board. It goes to the Town Board, and then comes back to the ZBA before the ZBA can actually approve it under our Town Law. We have done this before; we have done this with D. Evans as recently as 2014. We did that one contingent and it went through fairly well, 3 months she believes. We are going about this in a slightly different way. K. Veitch states that we do have to turn this over to the Town Board and that is why we want to leave the public hearing open. D. Eskoff states that the Town Board will look at safety issues, look at the Planning Board's concerns regarding the subdivision, as well as any concerns that we send to them. Then it will come back to the ZBA for the public hearing to continue and the ZBA to take action. D. Engel states that it should be understood that nothing has changed from what was previously approved. The idea that the reconfiguration of the lots should be a basis for a reconsideration of a roadway system that was previously approved doesn't seem to make an awful lot of sense. The roadways either made sense and were going to work under plan A or they weren't and nothing has changed in terms of those roadways as to what we might now call plan B. D. Eskoff states that those are issues that the Town Board will look at and the Planning Board will look at. They are not issues for the ZBA, whose basic concern in an open development area is safety which includes access but it includes the comments back from the Town Board and safety officials, which usually means the Fire Department. K. Veitch states that although the changes D. Engel has stated as being minor, a change is a change, and unfortunately when you open that up to that point, you are opening it up to any new changes that might be in their regulations pertaining to roadways, etc. We want to make sure that those things are reviewed and have the opportunity to be renewed under any new law or changes in those policies or procedures before the ZBA gives a determination. D. Engel asks if the Board will have any further discussion on this matter after the other public hearings or are we pretty much done with this discussion for tonight. D. Eskoff states we would be done once we refer it to the Town Board with the public hearing being kept open to the next meeting. K. Veitch states that the only thing the Board would entertain would be someone putting in a comment if they show up late, etc. L. Sanda asks if the application is for all these lots individually. If we granted a frontage variance would it be for each lot requiring one. So we could potentially discuss each of these individually. For instance, lot 3A, the keyhole frontage doesn't really do much for the applicant, but what about lot 2 and lot 3B, etc. Are those in an area where terrain is reasonable? D. Engel states that lot 2's frontage has nothing to do with the roadway either. L. Sanda questions that where the frontage is for lot 2, could they potentially build a road there in the future if they wanted their own private access because they weren't getting along with the neighbors, the neighbor wasn't doing their fair share, etc. – they still have that access to build their own road in the future if they wanted to without having to deal with the complication of the shared driveway. She understands that the roadways are built, but she is curious. The way these are right now, she agrees with what C. Kolakowski was saying before. They do offer access to Plank Road from the property. She is just curious as to whether the actual keyhole portions are actually useable or not. D. Engel states that in looking at the plans, the keyhole portion has nothing to do with giving access to those lots. The keyholes further up, particularly on lot 8, the road that is going to be used to access lot 8 crosses a short little piece of lot 8 that incidentally is sort of stranding out to Plank Road. J. Szpak states that based on his observations and maybe D. Evans can confirm this, the big difference is the creek runs across there and to get lot 2 through the current keyhole to the road, you have to go across the creek and it seems not practical to him. He thinks that the same thing happens with lot 6. K. Veitch questions how we ended up with this. J. Szpak states that his thinking is that in his mind he wants to say, forget about how we got here, because it seems to him that it is kind of monkeyed up that we would create these lots but that is not where the driveway is going anyway. So the proposed plan is what he wants. If that is what he wants, let's go through the process of evaluating this. This has no frontage; it needs open development and needs to go through the Planning Board. J. Szpak asks what prevents the ZBA from evaluating this from a zoning variance perspective, acting on it and then letting the Planning Board do their thing. D. Eskoff states that because it has no frontage, it has to go to the Town Board, then back to the ZBA, then to the Planning Board. J. Szpak states because that is our protocol. D.

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Eskoff states that technically we would have sent it to the Town Board before even accepting the application, but we are trying to move things along. K. Veitch states that the applicant is looking for 100% variance on every lot. We have had applications requesting 10 or 20' and we try to find ways to mitigate those. With this request being as large as it is, that is why open development is so important. J. Szpak states that this is probably the best kind of use for that land, it is beautiful up there but boy it is really hard to get to. He states that it is not the ZBA's responsibility, but he is concerned about the whole fire truck thing, safety thing, the roadway things, and so he has to believe that the process will evaluate that. He gets what the ZBA has said that you have to go thru this process to get certain approvals before you can ask for the variance to develop this way. D. Eskoff states that the Town Code does not have any parameters for an open development area so we go through basic town law and the procedure is to go to the Town Board. D. Engel asks if the ZBA is going to make a referral of this to the Town Board or is it up to the applicant to go to the Town. D. Eskoff states that the ZBA will make the ruling and the applicant will need to be there for that meeting. It will come back to the ZBA with whatever the Town Board decides. K. Veitch suggests the applicant also contact the Town Clerk. Board explains that there is an agenda meeting this Thursday night and then probably next Thursday if it gets on the agenda. K. Veitch states that we are adjourning the public hearing for this case at 8:03 p.m. When we return to discuss it again, we will reopen it.

RESOLUTION – G. David Evans, Area Variance

MOTION: D. Eskoff

SECOND: J. Szpak

RESOLVED, that the Zoning Board of Appeals refers the application of G. David Evans for area variances for property located on Plank Road, TM#123.-2-11; TM#123.-2-58.11; TM#123.-2-66; TM#123.-2-58.121; TM#123.-2-68; TM#123.-2-67; TM#123.-2-28.12; TM#123.-2-28.11; TM#123.-2-28.31; and TM#123.-2-28.21, to the Town of Greenfield Town Board for Open Development review and requests that the Town Board please take into consideration the Zoning Board of Appeals minutes and discussion from this evening as well as previous Planning Board minutes on this particular subdivision.

VOTE: Ayes: Veitch, Eskoff, Kolakowski, Sanda, Szpak

Noes: None

THERESA BARCHUK – Area Variance

Case #958, Locust Grove Road

T. Barchuk is present. K. Veitch opens the public hearing at 8:50 p.m. and closes it as there are no comments. J. Szpak states that this was for the garage and they wanted to keep the 20' separation as the septic is in the back and also to be able to have access to the propane tank. A. Wine asks if there is a buffer between this property and the one to the right. T. Barchuk states that is an empty 3 acre lot. Discussion takes place that the 20' is to be able to access the rear of the property and to be able to jockey around vehicles.

RESOLUTION – T. Barchuk, Area Variance

MOTION: J. Szpak

SECOND: L. Sanda

RESOLVED, that the Zoning Board of Appeals approves the application of Theresa Barchuk for an area variance for property located at 945 Locust Grove Road, TM#112.-2-24.4, as follows:

- **12' right side yard variance**

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This is based on the following criteria:

- **It is minimized to the most practical extent**
- **There is no other feasible means to get the garage on that property**
- **There is no undesirable change to the neighborhood**
- **No adverse physical or environmental effects**
- **Difficulty was not self-created**

VOTE: Ayes: Veitch, Eskoff, Kolakowski, Sanda, Szpak
Noes: None

MATTHEW JASON – Area Variance

Case #959, Allen Road

S. Hodges and M. Jason are present for the application. A public hearing is opened at 8:10 p.m. K. Veitch reads letters into the record from Lisa & Andy McKnight and Charles Yudkoff. The public hearing is closed as there are no additional public comments.

J. Szpak states that this is a variance request because the foundation was put in too close to the front of the property. R. Rowland states that she spoke to W. Barss about the tree cutting and he stated that the Town did remove some trees along Allen Road at the request of property owners and that the power company had also removed trees along Allen Road. J. Szpak states that he is wondering if we can have conditions to mitigate the impact of the variance, such as additional tree planting. M. Jason states that there are big trees between the house location and the road. He states that the house next door is not that far away from the road either. D. Eskoff questions that S. Hodges and M. Jason are familiar with the site plan that was submitted and the scale to which it was drawn, because they had said at the previous meeting that they were not aware. M. Jason states that no one made them aware of the setbacks. D. Eskoff states that they are on the survey so she wants to confirm that they did see the survey and that it indicates that the scale is 1" to 100', so 3/4" equals 75'. K. Veitch states that the information was there. M. Jason states that he has a copy of his application and he had left that information blank, and the application was received. K. Veitch states that that does not mean anything, the fact that they left it blank. When you get your plans to build a house, it is part of the information. D. Eskoff states that this is not a mistake we want to see keep happening. K. Veitch states that we do get variance requests for a foot or two off, which is still hard to believe with today's technology. This request is substantial, that being said, in the future they should really watch themselves. They are getting pressure to start denying these requests. D. Eskoff states that in some places they would be required to dig up the foundation or cover it and move it over. She asks if there is any room for mitigation. J. Szpak states that they already have trees there, we could have a condition that they maintain one or more trees as a buffer. Further discussion takes place regarding a possible buffer. L. Sanda asks if there is a site plan for the septic system, etc. That is in the building permit file and L. Sanda reviews it.

RESOLUTION – M. Jason, Area Variance

MOTION: J. Szpak

SECOND: L. Sanda

RESOLVED, that the Zoning Board of Appeals approves the application of Matthew Jason for an area variance for property located at 190 Allen Road, TM#111.-2-73.2, as follows:

- **15' front yard setback variance**

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This is based on the following criteria:

- **The neighboring house is about the same distance so there is no significant change to the character of the neighborhood**
- **There are trees and foliage between the house and the roadway that the owner intends to maintain and those that were removed were removed by the Highway Department and the power company**
- **There will be no adverse physical or environmental effects**
- **The size of the variance is the minimum practical solution to this situation**
- **Neighbors did not object**
- **Benefit cannot be achieved by other means feasible to the applicant**

VOTE: Ayes: Veitch, Eskoff, Kolakowski, Sanda, Szpak
Noes: None

Meeting adjourned at 8:29 p.m., all members in favor.

Respectfully submitted,

Rosamaria Rowland