

TOWN OF GREENFIELD
ZONING BOARD OF APPEALS

November 3, 2020

REGULAR MEETING

A regular meeting of the Town of Greenfield Zoning Board of Appeals is called to order by D. Eskoff, Chair, at 7:09 p.m. On roll call the following members are present: D. Eskoff, C. Kolakowski, N. Toussaint K. Taub, and S. MacDonald, Alternate. M. Waldron, Zoning Administrator/Code Enforcement Officer is present. A. Wine is absent. S. MacDonald will have full voting privileges for the entirety of the meeting.

Minutes

October 6, 2020

MOTION: C. Kolakowski

SECOND: S. MacDonald

RESOLVED, The Zoning Board of Appeals waives the reading of, and accepts the October 6, 2020 Minutes with a minor corrections.

VOTE: Ayes: D. Eskoff, C. Kolakowski, K. Taub, and S. MacDonald

Noes: None

Abstain: N. Toussaint

Absent: A. Wine

OLD BUSINESS & PUBLIC HEARING

Kirchhoff, D. Case #1020
TM# 124.-1-48

Area Variance
187 Plank Road

Kristen Darrah and David Kirchhoff are present. D. Eskoff states that the ZBA has received the October 27, 2020 Planning Board minutes which serve as the Advisory Opinion to the ZBA on this case. D. Eskoff opens the Public Hearing at 7:10 p.m. She states that in the original packet the Board received correspondence from David Douglas from 515 Ormsbee Road. She reads the letter. D. Eskoff asks if Mr. Douglas is still the one who intends to purchase the property. D. Kirchhoff states yes. K. Darrah states the goal is to subdivide this property and one lot will have just over 6 acres and the remaining lot will have 4.238 acres. The new lot at 6 acres will be a conforming vacant and remaining lot will have 4.238 acres with the current residence on the property. The request is due the Zoning being 6 acres in the LDR District. The current buyer for this property does not desire to have this much land. Mr. Kirchhoff does has a buyer for the current house lot. D. Eskoff asks if he does not want to

maintain or pay less in taxes, etc. K. Darrah states that if the house was in the middle of the property it would be different. D. Eskoff asks if there is any history with that property. Was it farmed at one time? D. Kirchhoff states that he does not know. K. Darrah states with the research that they have done it has been broken up over time. D. Eskoff asks if the cemetery had come off that lot originally. The Planning Board brought up the cemetery. D. Kirchhoff states that it is on Toby Middlebrook's property. D. Kirchhoff walked it and when they were doing the survey. It is right on the edge of his property. K. Darrah states that it was probably part of Medbury Farm. D. Eskoff states that is what she was thinking. There is no access through D. Kirchhoff's property to the cemetery. K. Darrah states no. D. Eskoff states the Planning Board had some concerns with the current garage. The garage is not changing and she assumes it was built with the house. What year was the house built? D. Kirchhoff states that he does not know and back in the 70's it was a snowmobile and motorcycle dealership. D. Eskoff states that it has had several lives. K. Darrah states that the house was built in 1935. K. Taub asks when the deed was acquired for this property. D. Kirchhoff states last December. D. Eskoff states that at the last meeting D. Kirchhoff mentioned a subdivision and asks if D. Kirchhoff could reiterate about that because she is not sure what property he was referring to. K. Darrah states that it is directly west of the subdivision. D. Kirchhoff states that it was done in 2012. D. Kirchhoff states that it was filed under an LLC. D. Eskoff states Mandell. D. Kirchhoff agrees. D. Eskoff states that she looked into it for subdivisions. The ZBA did hear that case, it was actually a re-approval. It had been approval several years prior and nothing was done with it. Then it came back to the ZBA with the same request for a very similar project. It was basically a re-approval by the ZBA and the Planning Board. It was two lots. When lots get cut up over years you end up with odd shaped parcels. Visually from the road they look like very big lots. When you actually measure them out they don't. In this case, there is a lot of frontage. For the ZBA they are looking at a subdivision which is a pretty serious matter when taking a standard lot making, in this case, a standard lot and a substandard lot. There would be one standard lot out of this and one that is with the existing house. If the lot that has the house needed a setback they would have to come back to the ZBA. That is up to M. Waldron. She is not that concerned with that part. She is not sure how the ZBA feels about that. C. Kolakowski agrees if it was vice versa then he would have some concerns. As long as there is plenty of room on the lots. D. Eskoff states that the Town's Comprehensive Plan has LDR for 6 acres. That is the ideal which is what the town wants people to have and realistically in some areas in Town that is more doable than others. The ZBA has had other applicant's come in front of them and they have been turned down or have leaned towards turning them down. Every case is different some of those cases didn't have the frontage that the Applicant has or there they had other land that was available. She asks is there is any other land available that could be added to this that is for purchase that would make it so the Applicant would not have to have such a large variance. D. Kirchhoff states no there is not, he did pursue the people above him and they were not interested. K. Taub states that he has spent many hours reviewing this case. The ZBA reviews the Balancing Test. In the immediate neighborhood K. Taub states that he does not see any detriment. It looks like all the other lots around it are non-conforming. It is substantial because they are discussing acreage that is almost 30%. He is troubled by thinking that the Town Board made these regulations regarding the Zoning Districts and the acreage for each District and he is not sure if it is his decision to make. Since he has been on the ZBA this is the only case that has given him this pause. D. Eskoff states she understands K. Taub's concern that the cases that have come before them have given all of them the same amount of pause. They may have not been in neighborhoods that are as mixed in lot types as this one is. N. Toussaint states this lot has the frontage and you have to take in account every situation is different. Having that amount of frontage makes it unique in that aspect. D. Eskoff states that it does distinguish it from some of the other ones that have come before them. Yes, the Town does have a Comprehensive Plan and that was the goal of that Zoning which goes back to

having 6 acres ideal, but you have to take that and balance against everything that is in there and it is a Balancing Test. K. Taub asks if it is fair to say that she believes that the elected officials in this Town expect the ZBA member to use power to determine this. D. Eskoff states that they are the ZBA and they are here to if they so choose to base on the correct criteria and the correct way of approaching it that is what the Variance is for to deviate from that. The ZBA's charge is to go through this criteria that he is working through and determine it one way or is it another way or is the ZBA in the middle. Boards don't always agree on everything. Don't ever feel that you have to agree on everything just because somebody else does. Does the substantiality of this act go against all the factors that are in there? K. Taub states that when he went out and looked at this scene he said there is nothing that this request is going to change if anything everything is denser there. D. Eskoff states that character has a lot to do with it. K. Taub states that only when he started to consider that fact that 6 acre zoning is the law and it was established by an elected Board and he is looking for guidance from his colleagues. D. Eskoff states that the ZBA does take this seriously in effect a house will be adding another home to a neighborhood. You're adding more utilities and more traffic and all the things that go with a home. You're also adding the tax base to the Town. There are different ways to look at it. Different people look at it differently. Put all of it factors into the Balancing Test. C. Kolakowski states he could not agree more with K. Taub and everything he said as far as how he feels this applies to the criteria. This didn't happen in the Saratoga area. There wasn't a need for people wanting subdivisions now the difference between getting one extra lot for someone is substantial and people want it whether it is affordable or not. He has gone through the same thing himself. He would have to say only a few times that he has said he feels 100% that all the criteria have been met. Almost every time the vast majority of the time one of them have not weighed toward the applicant. Like K. Taub has mentioned before the Town has a Zoning Law for pre-existing property and lots when the Town Board approved the existing. If you look at our Town Zoning map the Town has very few zones in this Town compared to other municipalities. They are big and they overlay a large area. In MDR-1 does not adhere to what the zoning is. There wouldn't be a ZBA if the Town Board said this is the law and they are never going below it there is no need for it. They enacted this procedure for these reasons in times were clearly is called for. His hardest decision in these types of cases is it could be a subdivision and he could get two lots and sell both lots. He feels with all the points that are the weakest one. Also, the Applicant is a property owner of the Town and when he drove past the property agrees 100% with K. Taub. There is nothing there. Frontage (for him) tends to be a big deal because that is what people see or if they are creating a back property line that would somehow infringe and it is clearly not the case here in his opinion. He struggles with that himself every time. He does take it too heart it is a balancing test. He feels that the detriments are so small that it is a reasonable request in an area where a neighboring lot is substandard the lots around it are smaller. D. Eskoff states many of the lots are. Also it is a triangular lot not a square lot which happens sometimes when farms a broken up. From some of the ZBA past cases this one is quite different in that respect. They are also not asking for 2 substandard lots. They are asking for one that visually looks to be standard from any angle the ZBA looks at this. She states that she has struggled with this case too and she struggled with the past ones. In her mind that is the way she is seeing this case. C. Kolakowski agrees. S. MacDonald thinks the same as the other ZBA member's and agrees with them. N. Toussaint states that he feels the ZBA does not have to worry about setting a precedent with this case because it is unique. D. Eskoff agrees. She thinks it is time for the Board to go through the balancing test. She closes the Public Hearing at 7:33 p.m. She states if the ZBA is not comfortable making a decision tonight the ZBA does have time to make a determination under Town Code. K. Taub states he is ready to make a motion.

MOTION: K. Taub

SECOND: N. Toussaint

RESOLVED, that the Zoning Board of Appeals hereby grants an Area Variance of 1.762 acres for property located at 187 Plank Road, TM# 124.-1-48, for a 4.238 acre lot where the current home is situated to allow for a second new lot of 6.026 acres.

This approval is based on the following criteria:

- The benefit cannot be achieved by other means feasible to the Applicant. The Applicant is seeking an Area Variance for the current 10.26 acre property in order to create two lots leaving one lot at 4.238 acres at 1.762 acres under the 6 acre minimum requirement and a second new lot of 6.026 acres which meets current requirements. There are no other feasible means of doing this given the overall size and both lots will have substantial road frontage.
- There are no undesirable changes to the neighborhood character or detriment to the nearby properties given the varying sizes of existing nearby properties and within the visual standards of the Town.
- The request is substantial at close to 30% reduction in minimum lot size but it would also leave a new conforming lot.
- There are no detrimental adverse environmental effects by granting this Area Variance.
- This is a self-created adversity, which is relevant but not determinative, in that the Applicant purchased property after the Zoning Laws were in effect and presumably, although not necessarily with knowledge of what they were. A small financial gain is involved.

VOTE: Ayes: D. Eskoff, C. Kolakowski, N. Toussaint, K. Taub and S. MacDonald
 Noes: None
 Abstain: None
 Absent: A. Wine

NEW BUSINESS

Kellerhouse, Case #1021
 TM# 136.-1-58.2

Area Variance
 638 Sand Hill Rd.

Patricia Kellerhouse, Applicant and Georgianna O'Dell from Capital District Manufactured Housing are present. D. Eskoff states that this is for a 15' front yard setback and a 25' right yard setback in the LDR District. The current house has a 3' side yard setback. P. Kellerhouse states that she purchased a modular home that she would like to put a basement on and keep it similar to where the mobile home is now. D. Eskoff asks if she would be moving the modular 22' over from where the mobile home originally is. P. Kellerhouse states yes. D. Eskoff asks if the current home has been moved. P. Kellerhouse states it is in the process. D. Eskoff states that the Applicant is looking to increase the setback from what it was. This is a pre-existing non-conforming lot and the Applicant has 83' from the road, but not from the property line is that correct. N. Toussaint states it says 83', but looks like 60'. P. Kellerhouse states it is 60'. G. Odell states that the back of the house is 83'. It is 60' from the front. D. Eskoff states the ZBA only looks from the property line. P. Kellerhouse states that she has spoken to her neighbors on the right and they are fine with it and have no problems with the

project. D. Eskoff states that the Applicant provided pictures they are black and white. G. O'Dell provides color pictures to the ZBA. She states she works for Capital District Manufactured Housing and they are doing the removal of the old home and the set-up of the new one. D. Eskoff states this is very wooded area. C. Kolakowski agrees and he states that he can see on the aerial imagery that it is fairly restricted to where the home can be put. It also looks like it cannot be moved much further. If it was moved further from the side property line it would be directly behind the existing garage. He asks if the Applicant has chosen that location and asks if the Applicant has moved it away from the property line as possible. P. Kellerhouse states yes, they moved it 25' and will come almost to the corner of the garage. Her land does slope down. D. Eskoff asks in the back. P. Kellerhouse states yes. D. Eskoff states that the ZBA would be looking at putting this on the agenda for next month and setting a Public Hearing. This is a pretty straight forward case and the Applicant has given the ZBA a good amount of information.

MOTION: C. Kolakowski
SECOND: K. Taub

RESOLVED, that the Zoning Board of Appeals hereby accepts the Application of Patricia Kellerhouse, Case #1024, for 15' front yard setback and 25' right yard setback Area Variances for property located at 638 Sand Hill Road, TM #124.-1.48, and sets a Public Hearing for December 1, 2020 at 7:00 p.m.

VOTE: Ayes: D. Eskoff, C. Kolakowski, N. Toussaint, K. Taub and S. MacDonald
Noes: None
Abstain: None
Absent: A. Wine

DISCUSSION

D. Eskoff states the M. Waldron and the Building Department received word from Attorney Stephanie Ferradino that her clients Gupta-Carlson J. & H., Case #1017 at 141 Squashville Road, TM# 137.-2-36.112, have withdrawn their Application. This case is now closed.

Meeting adjourned at 7:46 p.m. All members in favor.

Respectfully submitted by,

Kimberley McMahan
ZBA Administrative Assistant