

**TOWN OF CHESTERFIELD, NH
ZONING BOARD OF ADJUSTMENT**

**MINUTES
April 9, 2013**

Present: Vice Chairman Andy Cay, Harriet Davenport, Renee Fales, Alternates Lucky Evans and Jim Larkin, Selectmen's representative

The Zoning Board of Adjustment met at the Chesterfield Town Office on April 9, 2013

1. Stephen Laskowski et al requests a variance from Articles 204.4 Section A Lot Area and Section B Lot Frontage to permit subdividing an 85+- acre parcel to create 2 lots with less than 5 acres and less than 400 ft frontage and one conforming lot. The property is located at 26 Dexter Thomas Rd, W Chesterfield (Map 15 Lot B15) Rural/Agricultural district.

Steve Laskowski advised the lot to be subdivided is 85 acres purchased in the 1930's by his grandfather. He along with his brother and sister own the property. They propose subdividing the lot to create 2 additional lots of 1.5 to 2 acres each leaving the remainder of the acreage in one lot. The proposed lots would have 250 ft frontage and one would be minimal frontage, approximately 50 ft. Their goal is to make a lot for the Skryzniarzes to build on next door to the other proposed lot that has an existing house where their parents live. They also wish to preserve the rural feel and working landscape of the area. They could make the lots larger but there is a steep swale that drops in the rear of the proposed lots. Laskowski stated they also hay that area. Pictures were presented of the farm house in 2002; the new house that replaced the farm house and the proposed house depiction.

Laskowski stated the frontage on the lot is 50 ft on Stage Rd, 525 ft on Dexter Thomas Rd and 200 ft on the other side of Dexter Thomas Rd. The hardship is in the topography; lay of the land. The south side of Dexter Thomas Rd is very steep and wet.

Fales move to close the public portion. Davenport seconded the motion; which carried.

Cay stated the required acres in R/A is 5 acres per lot. The 2 proposed lots have less than 2. The required frontage is 400 ft per lot. The proposed lots have 250 ft of frontage for one and not much for the other. Evans stated we've been hard on frontage and have shot down an application for 300 ft.

Cay stated that it is technically feasible to do a cluster development subdivision. The Board doesn't see the hardship. Cay noted that the applicant must establish that the property is burdened by the zoning restriction in a manner that is distinct from other similarly situated property.

Davenport stated there is a possible way to do it but they won't be able to use the property as it has been used by Laskowski's presentation for haying. Cay asked is there reasonable use of the property as it is today; everything else is a choice. Cay stated that looking at a building in the setback is very different than a subdivision.

Larkin asked about the area on the other side of Dexter Thomas Rd. It was noted that the area slopes down and is wet.

Fales moved to deny the application of Steven Laskowski, Michael Laskowski and Linda Skryzniarz to subdivide their lot on Dexter Thomas Rd, West Chesterfield. The criteria were reviewed.

Criteria for approval:

- The variance is not contrary to the public interest. **No**
- The variance will not be contrary to the spirit and intent of the ordinance. **No; the spirit of the ordinance will not be observed. The ordinance requires 400 ft of road frontage where they are asking for 250 ft frontage and 50 ft of frontage on the Dexter Thomas Rd and acreage of 60,000 sq ft and 65,000 sq ft where 5 acres are required under Rural/Agricultural zone.**

- Substantial justice is done. **No**
- The variance will not diminish the values of surrounding properties. **Yes, dividing the property won't diminish the values of surrounding properties.**

➤ Literal enforcement of the ordinance would result in unnecessary hardship. **No**

(A) Because of the special conditions of the property that distinguish it from other properties in the area:

(a) There is no fair and substantial relationship between the general public purposes of the ordinance provision and the specific application of that provision to the property.

And

(b) The proposed use is a reasonable one.

We find there is no hardship on this property. The property is over 80 acres and there is room to extend the road to create conforming lots on the property.

Evans seconded the motion; which carried by majority vote. (4-Yes: Larkin, Fales, Evans, Cay 1-No: Davenport)

2. William Hogue requests a variance from Article 203.5 Section A and B, Front and Rear setbacks to permit rebuilding the burned down barn as a 2-car garage within the 50 ft setback. The property is located at 38 High St, Spofford (Map 6A Lot D2) Residential district.

Hogue advised there was a fire January 31st that destroyed the barn. The barn was on the side property line. They propose building instead of the barn in its current location a garage moving it 11 ft from the side property line and 23 ft from the road at the closest point and 27 ft from it furthest point. Moving the garage would enable them to move the existing parking from in front of the house very close to the road.

The lot is .87 acres with a 15 x 15 barn, a 21 x 16 barn and a 36 x 28 house. The former barn was 16 x 25 ft. The height was 1 ½ story with loft area. This is the same as the proposed garage. There would only be storage above the garage.

Larkin suggested attaching the garage to the house. Hogue stated he can't because of the rooms in the house on that side.

Benny Schlichting, abutter, advised he has no problem with the barn being rebuilt or the proposed garage.

Fales moved to close the public portion. Larkin seconded the motion; which carried unanimously.

Larkin stated there are a lot of buildings on the lot. The site plan only showed the existing barn, proposed garage and the existing house on the .87 acre lot.

Fales moved to continue the meeting to a site visit on Monday, April 22nd at 6:30 pm. Davenport seconded the motion; which carried unanimously.

3. Charles & Elaine Belawske request a variance from Articles 203.6b Section A, Road Setback, 203.6a Section A, Single Family Dwellings and 503.1, Expanding Nonconforming Building, to permit rebuilding the house as a duplex within the front setback. The property is located at 36 Canal St, Spofford (Map 6A Lot B7) Residential/Spofford Lake district

Belawske advised that he purchased the house in May 2012. The house is beyond repair. He'd like to replace the house with a 2 bedroom duplex. The previous owner has moved out to a nursing home. He has a State approved septic design.

The 28 x 10 ft front section would be removed. The proposed building would be 23 ft from the road where currently it is 13 ft from the road and 43 ft from the south side setback. The footprint is going from 1,842 sq ft to 1,650 sq ft.

It was noted that a portion of the lot is in the Spofford Lake District (SLD); the proposed house location may not be. Cay stated by scaling the map it seems that the SLD encompasses the entire lot. Belawske will have David Mann determine where the 500 ft SLD reaches on the lot.

The Board reviewed the letter from abutters Susan and Jeff Newcomer in support of the request.

Fales moved to continue the hearing to the next meeting of May 14th. Evans seconded the motion, which carried unanimously.

4. Review March 19, 2013 Meeting Minutes

Fales move to approve the March 19, 2013 minutes as presented. Larkin seconded the motion; which carried unanimously.

5. Other

- **Permeable Paver information from Planning Board.** They would like the ZBA to review and advise if these pavers were used would they be calculated in the coverage percentage.

Dave Bergeron was present to discuss the permeable paver information. He stated they are trying to meet lot coverage in the Residential zone. He advised there are 10 to 15% of voids in the surface depending on the material used in the voids. The infiltration rate is 56 in/hour at the high end and 18

in/hour in the low end. The way you'd look at it you'd do a storm water design and determine what depth the stone layer (holding area) would be necessary below the pavers. He stated pavers are not recommended above a 5% slope. It could be done on a terraced application. A copy of this sub-grade application was presented.

Cay asked what the current rate of infiltration is for a gravel driveway. Bergeron presented a paper of Hydrological Soil Groups for Determining Runoff (by soil series). Paved roads are 98 and gravel is between 76 and 91 depending upon the soil group. Bergeron stated they do a perk test in the areas for the pavers. Cay stated in heavy rain the water won't infiltrate but would run off. Bergeron stated there would be some infiltration. Cay asked if the Hydro Cad showed pavers. Bergeron stated no but they would use the underlying soil type for how deep the storage well depth should be under the pavers.

Fales stated that at a DES session she attended they were more concerned with the velocity of the water flow. DES's Craig Day, of the Shoreland Program recommends projects, such as permeable pavers, to help reduce impacts no matter what percentage of impervious area is on a lot.

Cay stated that paving is 98%, gravel is 76% - 91% (The Board looks at gravel driveways as impermeable) and open lawn is 39% - 89% depending upon soil type. Bergeron advised the infiltration rate for pavers is 40%.

Cay read the definition of Impermeable Coverage in the Zoning Ordinances as, "All that horizontal area of a lot, parcel or tract which because of manmade alterations to the natural surface of the land, including building, parking lot and driveway areas or other development, cannot be penetrated by rainwater substantially the same as the natural surface.

Cay stated pavers should be a presentation to the Planning Board on a case by case basis. Bergeron stated that the Planning Board wanted to know if the ZBA would look at pavers as permeable. Cay stated the ZBA could provide an advisory recommendation and not ruling so the Planning Board can look at a case by case with product installation.

The Zoning Board's advisory opinion

Cay stated the Zoning Board has discussed the possibility of permeable pavers being interpreted under the Zoning Ordinance as permeable coverage areas and not falling under the definition of impermeable coverage areas. Based on the presentation made to us by Dave Bergeron looking at soil perm rates and material perm rates, it appears that these pavers would qualify as a permeable surface (referring to the definition of Impermeable Coverage in the Zoning Ordinance). Evidence presented represented that pavers have an equal or better permeability rate value when compared to grass lawn areas. Mr. Bergeron discussed how hydrologic modeling with software such as Hydro CAD can quantify soil permeability rates with and without pavers thereby quantifying how the use of pavers will affect site permeability rates. It is also apparent to us that the use of pavers as a permeable coverage material needs to be looked at on a case by case basis to make sure that any given paver product being specified for a particular application meets the definition of permeability, that the nature of the site conditions, installation and specifications for the project all when considered together meet the definition of permeable surface. It is incumbent upon an applicant to present evidence in support of their claims regarding permeability. The Zoning Board believes it is

within the Planning Board's jurisdiction to review an applicant's request to have permeable paver materials considered to be a permeable surface and we feel that is within their jurisdiction to make a final determination on a given project.

Fales seconded the motion; which carried unanimously.

- **Notice of Violation from Greenwood** regarding the Truck Camper Warehouse. – This is for the ZBA's information.

6. Adjourn: The meeting adjourned at 10:00 pm.

Respectfully submitted,
Carol Ross
Secretary

Approved

Andy Cay
Vice Chairman, Zoning Board of Adjustment
Date _____