



CHESTERFIELD ZONING BOARD OF ADJUSTMENT
THURSDAY, DECEMBER 10, 2020 AT
6:30 P.M. PUBLIC HEARINGS
BEGIN: 6:45P.M. VIA ZOOM
REMOTE MEETING
MINUTES

Due to the COVID-19/Coronavirus crisis and in accordance with Governor Sununu's Emergency Order #12 pursuant to Executive Order 2020-04, this Board is authorized to meet electronically. Please note that there is no physical location to observe and listen contemporaneously to the meeting, which was authorized pursuant to the Governor's Emergency Order. However, in accordance with the Emergency Order, this is to confirm that we are:

- a) *Providing public access to the meeting by telephone, with additional access possibilities by video or other electronic means;*

We are utilizing the Zoom platform for this electronic meeting. All members of the Board have the ability to communicate contemporaneously during this meeting through the Zoom platform, and the public has access to contemporaneously listen and, if necessary, participate in this meeting through dialing the following phone #1-312/626-6799 or 1-646/876-9923 and password 551940 or by going to the following website address:

<https://us02web.zoom.us/j/85285512931>

- b) *Providing public notice of the necessary information for accessing the meeting;*

We previously gave notice to the public of how to access the meeting using Zoom, and instructions are provided on the Town of Chesterfield website at: <https://chesterfield.nh.gov/>.

- c) Providing a mechanism for the public to alert the public body during the meeting if there are problems with access; If anybody has a problem, please text 603/398-6712 or email at: kmckeonzba@gmail.com

- d) *Adjourning the meeting if the public is unable to access the meeting.*

In the event the public is unable to access the meeting, we will adjourn the meeting and have it rescheduled at that time.

Please note that all votes that are taken during this meeting shall be done by Roll Call vote.

Kristen McKeon opened the meeting at 6:37PM. Also attending were John Zannotti, Richard Aldrich, Lucky Evans, Joe Brodbine, Casey Schnackenberg, Gary Winn, and Jim Smith.

1. Introduction of Board Members & Selectboard Representative to ZBA

2. **Review:** meeting minutes 11/12/2020

- Site Visit minutes 11/24/2020

John Zannotti moved to approve the 11/12/2020 meeting minutes as amended. The motion was seconded by Richard Aldrich and passed unanimously by roll call vote.

John Zannotti moved to approve the 11/24/2020 Site Visit minutes as amended. The motion was seconded by Kristen McKeon and passed unanimously by roll call vote.

McKeon verified with Smith that the alternate board members received all pertinent information. McKeon stated Brodbine would sit as a full member and Schnackenberg would sit as the alternate for this meeting. McKeon outlined the alternate members duties during the meeting. McKeon noted that at the next meeting they will switch and Schnackenberg will participate.

Tricia Lachenal advised McKeon that there were two members of the public calling in on the telephone and would be unable to un-mute themselves and the board should remember that during the Foley-Manter hearing these callers will have public comment to add to discussion.

3. **Motion for rehearing of decision on Joy St. LLC** – Michael Bentley of Lane & Bentley, P.C. requests a rehearing to an Administrative Appeal denied at rehearing held on October 08, 2020. McKeon noted that the amount of coverage for this case was corrected at the November 2020 meeting.

McKeon outlined the previous proceedings for this case so far.

McKeon noted the first five points of the motion have already been seen and have not been changed.

Aldrich stated he had a comment about point 13. McKeon read the point out loud for the board. Aldrich noted that some would say it would be disingenuous to state that this refers to state statute. Aldrich continued, stating that the point stated the applicant followed the rules, which Aldrich states is not true. McKeon agreed and stated the board is referring to the State of New Hampshire RSA, where the stricter ordinance is the one followed and in this instance, it would be the municipality over the state.

Zannotti stated that for accuracy in point number 14, it was October 9th as the board understood it.

Zannotti noted that this motion was written in the assumption that the Zoning Board would re-hear it, also stating that the board has heard this three times and he was not in favor of doing so.

Zannotti would be in favor of moving to deny the re-hearing. McKeon stated she agreed but would like to verify that anything the board feels needs to be addressed can be addressed now. Zannotti noted that the motion is overall regurgitating the previous movements and would suggest there was no further reason to re-hear the case.

McKeon noted the point she is considering is 25A and read from the motion. McKeon noted this is when the board makes decisions; after the public portion of the meeting was closed. McKeon continued, stating it is case law that board members can prepare motions before the meeting. Aldrich agreed with McKeon and noted 25A-L referring to actions the applicants did not take.

McKeon noted the board corrected the error of square footage as mentioned in the motion.

McKeon clarified that the applicants were asking that the board re-hear the case and find that the previous decision made by the Code Enforcement Officer on November 7 was in error.

Aldrich noted that in Fisher VS Boscawen; in an appeal like this the board has a right to

bring up information not brought up before; also stating he would like to discuss what is covered by the Joy Street LLC driveway on Google Maps compared to the application. McKeon noted that if Aldrich wished to discuss this the board would need to re-hear the case.

John Zannotti moved to deny the motion for re-hearing submitted to the ZBA on November 6, 2020, ZBA minutes of 11/12/2020, lines 47 through 62 reflect corrected total square footage of 2,071 of installed pavers which was 1,567 in excess of the NH Department of Environmental Services permit without the Code Enforcement Officer agreement or permit, finding no additional or new information that would cause the board to reconsider. The motion was seconded by Richard Aldrich.

Discussion: Evans stated that the Code Enforcement Officer was correct and the decision stands.

The motion passed unanimously by roll call vote.

McKeon noted the request to re-hear has been denied.

4. **Application for Lyle Foley & Bill Manter-** Jim Phippard (agent) presenting an amended application from the 11/12/2020 meeting. The applicants are requesting variance from **Article V, Nonconformities, Section 503.1, Expansion** of the ordinance to permit construction of a new house in place of the existing house. A variance is also requested from **Article II, Use Districts, Section 203.6b, Setbacks** to allow a single-family residence and three drainage structures within the front, side, and road setbacks. The property is located at 873 Route 63 Spofford, NH 03462 (Tax Map 5B Lot A-5). McKeon summarized what the board has heard from the applicants so far, clarifying that new information has been brought before the board regarding relief from setbacks. McKeon noted that although it is historically called a highway, the state laws called it a private road, which must follow the same rules for setbacks as a right of way. McKeon noted this gave the applicants four 50-foot setbacks, in a narrow lot, which have a five foot by 100-foot opening, which is why the board asked the applicants to add relief from the setbacks.
Jim Phippard, speaking on behalf of Lyle Foley and Bill Manter, stated that the new application included several different changes, which were itemized on the cover letter of the new application. Phippard screen shared new plans dated 11/24/2020 and continued to present the amendments including shifting the residence 10 feet closer to Old County Rd, on the other side, South side, the setback from the private roadway will be 10 feet where 50 feet is required. Phippard stated that the applicants have requested permission to install a drainage infiltration bed near the frontage of the property which is 16 feet from Route 63 where 50 feet is required. Phippard noted his surprise at the ruling on private drives which introduced several more setbacks than expected. Phippard stated that this was deemed as a Right of Way, noting that six different properties must cross the property, and the applicants cannot alter this significantly, creating an unusual and unique hardship. Phippard noted these plans greatly improve the current conditions.
Brodzine noted that he feels Phippard did an outstanding job at presenting the plans. Aldrich stated the house will block the view to Spofford Lake from any part of Old County Road. McKeon noted that before the trees were taken down for the septic, there would not have been a view anyway.
Bill Manter noted that Old County Rd is a walking trail, and he is not sure who would be viewing the lake around them. Lyle Foley stated on the other side of Old County Road the land is not buildable and so would not be blocking the view of any dwelling. Aldrich noted this would be blocking the view for any hikers on Old County Road. Foley stated that

previously it was all forest so the lake would not have been visible anyway. Manter noted that they intended to landscape the property with mostly grass and native conifers. Manter continued, stating that the septic system would remain grassy and he believes they will be improving the neighborhood aesthetically as well as stone water management retention. Phippard noted that he agrees with Aldrich's point and if standing directly in front of the house it would create an obstructed view towards the lake. Phippard continued, stating that looking over the leech fields will present an unobstructed view.

McKeon noted that she looked at the elevations going up the hill and up until the parking area the elevation goes up quickly.

Aldrich noted a 50% grade.

McKeon asked how the applicants will address the slope. Phippard responded that the area would be graded off to a more gradual grade so the area will transition more smoothly down where the bottom of the house was. Phippard noted that this area will be all vegetated, with no gravel or pavement, and grass covered that will slow and direct runoff to the level spreader.

Zannotti asked Phippard how the elevation difference from the front to the back will be addressed. Phippard responded, using the map, noting that the slope will be made more gradual, and there will be the potential for small retaining walls, including that the slopes will be covered in vegetation to reduce runoff.

Aldrich stated that he is concerned the size of the house will change the character of the neighborhood. Jill Diesl responded to Aldrich stating, "You got it!" McKeon stated that the board will open discussion to the abutters after the board completed their questions for the applicants. Aldrich also stated he believes this is a terrific plan, but feels it is much too large and could be done so well with two stories rather than three.

McKeon asked if the proposed house is a full three stories and two and a half or a full two stories and one and a half depending on the point of view. Phippard stated from Old County Road the structure would appear to be a full two-story house.

Manter noted that part of the philosophy of building in this area, although there is a large amount of cubic footing there are not a vast number of rooms. Manter continued, stating that they are trying to build this house as a green project, heating with mini splits supplemented by pellet stove, and hopefully utilizing a large amount of solar. Manter stated they will hopefully be a carbon neutral home.

Phippard noted that Aldrich was concerned about the size of the house, stating that they are hoping to attach the house the current garage which would convey the illusion of size. Zannotti stated before public comment was opened, that the board reserves the right to make comments. McKeon stated that she does not want to close the meeting for the board yet.

Jill Diesl, an abutter to the North, is dead set against the variance for this project. Diesl continued, stating that when people bought into the neighborhood, it was a wooded setting. Diesl stated she does not believe this will raise property values, and the project has already de-valued her property by excavating before achieving a variance, and it has already changed the neighborhood look. McKeon asked how long Diesl had been living there. Diesl noted her father purchased the house in 1980. Diesl stated she did not buy into this neighborhood to have big year-round houses and the only people receiving an increased view are the Barnofski's, otherwise all the cottages have a view because they are close to Route 63. Diesl stated it was interesting that the subject of pass ability for emergency vehicles has not come up yet; also noting that snow plows are inhibited as the road is very narrow. Diesl continued, stating that she agrees with the drainage as that would improve but does not believe this size house would be necessary to do that. Diesl noted the grade steepness, asking how the look of the neighborhood would be preserved

after the old cottage is removed.

Diesl noted her agreement with questions that other abutters wrote. Diesl stated that if the applicants needed plowing done from where Old County Road goes into the Right of Way, it will be very difficult to plow the road. McKeon noted that Old County Road and the Right Of Way are private roads and are plowed at the owner's expense. McKeon stated she has put a note in with the Fire Chief and Health Officer to evaluate and pass judgement on pass ability. Diesl noted that Manter stated he would put wires up to impede plow trucks from pushing snow onto the property. McKeon reiterated her comments on private roads.

John Haligren asked how much land the applicants owned. Zannotti responded .64 acres. Haligren noted the applicants cannot meet any of the requirements as there is not enough land, and the plans would devalue all the front abutter's properties. Haligren continued, stating that these plans will change the historic value of the current neighborhood.

Zannotti asked if Haligren were an abutter. Haligren noted he lives on Pine Tree Circle. John Koopmann stated that setback violations are one of the most inviolate, as it is hard enough to deal with existing structures let alone building a new one. Koopmann stated a precedent would be set if this application were to go through. McKeon clarified that the Zoning Board does not set precedent from any application.

Koopmann asked if there would be a lot of alteration in terrain to lower the house so that it is level with Old County Road, noting that if true, that will affect drainage considerably. Phippard responded the driveway will slope up from Old County Road and the walkway into the house will slope up slightly; the area will be graded flatter than what is there today, and they will not be changing the direction of runoff.

Koopmann noted that when viewed from the lake, this structure will stand out and will be much out of character. Koopmann suggested the board inspect pre- and post-construction drainage vectors be presented to the board.

The board took a 5-minute break.

Zannotti asked, referring to the building coverage calculation sheet submitted, if the driveway is currently at 4,435 and is projected go down to the 3,119, how is that possible when adding the driveway in the front. Phippard responded to Zannotti, stating there are some gravel parking areas that will be removed as well as narrowing the driveway at certain points around the structure.

McKeon asked about the parking space to the left of the current garage facing the lake. Phippard replied to McKeon that this area is owned by the abutters, the Barnofski's, and much of this area will be removed and covered in vegetation.

Manter discussed their intent to be as good neighbors as possible, also noting that they would like to get along with everyone.

McKeon stated she would like to discuss any points of contention or anything that needed to be clarified. McKeon noted she would not be closing the public portion of the meeting. Aldrich reiterated that this plan is terrific, but he struggles with the size of the house and blocking the view of the lake from Old County Road.

Zannotti noted that he sees one non-conforming situation going to another; with the non-conforming amount being built as equal to what is being replaced. Zannotti noted the tax property maps do not match, but it is minor to the other issues with non-conformance and drainage.

Brodbine stated he agrees with Zannotti. Brodbine also stated that the driveway area plans are vague on what is being taken out, but ultimately, he does not have enough data to make an informed decision. Brodbine would like to know how much non-conforming space is being removed from the old cottage and incorporated into the new structure.

McKeon stated she likes the idea of the proposed plans but still has concerns with

elevations and steepness of slope and would like more information on what the plans would do to the character of the neighborhood. McKeon continued stating she also has concerns on drainage and whether these plans were in a more conforming direction. Manter stated that there is a timing issue that goes along with this construction due to the old house needing to be demolished and timing the seasons right. Manter asked that the board continue the hearing until they could provide further information to the board. McKeon noted that she doubted a decision would be made tonight and they could continue to the next meeting.

The board discussed various programs that would allow them to view a three-dimensional elevation of the property. Aldrich and Phippard noted discussion on a program creating a three-dimensional model of the property with various viewpoints. Phippard stated that this request would be expensive to fulfill for the applicant and he does not believe that is very just. Phippard stated a simpler suggestion would be a rendered image looking up to the property from Route 63 or a rendered image from Old County Road towards the house and the lake rather than a three-dimensional model. McKeon asked if there were a static image that could be created. Phippard stated there is, the board could view a cross-section through the side. McKeon asked if this were something that would be easy to generate and if it would help the board in their decision. Phippard noted this would be easy to do. Zannotti stated the Code Enforcement Officer should be inspecting these proposed level spreaders, their functionality, and maintenance.

Evans stated his concerns lay in the ground, and the ability to take rain and runoff. McKeon asked the board if there were more concerns that needed to be addressed before they decide. Aldrich noted he would like the applicants to come back with further answers to the board's questions.

McKeon stated the board would like the applicants to address the drainage vectors, an idea of slope steepness, a cross-section of the property, paths going in and out, and parking that will be removed.

Phippard stated he had been taking notes and would like the opportunity to respond to the board's questions with further plans and a cross-section as well as a more detailed drainage plan.

Kristin McKeon moved to continue this public hearing to the next Zoning Board meeting on January 14, 2021 at 6:45PM. The motion was seconded by Richard Aldrich.

Discussion: Zannotti asked that Phippard address maintenance to the level spreaders in the following meeting. Phippard stated he would.

The motion passed unanimously by roll call vote.

5. Other Business

Zannotti noted that Smith should have the passwords correct for the next zoom meeting.

James Corliss stated Old County Road is a class six road and asked if it were legal to construct these plans on such a road. McKeon responded that she has consulted with legal counsel who determined that if there were records of housing on that road, the plans would not need to go before the Board of Selectmen for approval to build there.

Winn noted discussion on the Right to Know class on 12/09/2020 and that Smith has the recording in case any board members would like to view it.

Winn complimented the ZBA on being on their cameras during the meeting.

6. Next Meeting Schedule – January 14, 2020

7. Adjourn no later than 10:00 pm unless board votes to continue meet

Lucky Evans moved to adjourn at 10:04PM. The motion was seconded by Richard Aldrich and passed unanimously by roll call vote.

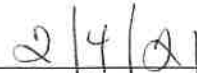
Respectfully submitted,

Jim Smith
Secretary to the Zoning Board of Adjustment

Approved by:



Kristin McKeon, Chairperson



Date