

October 18, 2022

Dear Zoning Board:

At the September 21, 2022 Zoning Board meeting, the Zoning Board considered the waiver application submitted by TSB Construction LLC (TSB) for Map 234 Map 25.1. TSB was represented by Berry Surveying and Engineering (Berry). We are submitting this letter to the Zoning Board as abutters to this parcel, and we are requesting the Zoning Board rehear the merits in granting the waiver.

At the September 21st meeting, TSB submitted a waiver requesting a variance to the 200-ft minimum lot frontage requirement for a 9.44 acre property located in the Village District Zone and a Special Exception request to access the third lot from the shared driveway. The proposed development is for a backlot subdivision with a shared driveway onto Route 9 to access the proposed two residential lots and a single duplex lot.

In granting a variance, Zoning Ordinance, Section 15.2.3-Criteria for Granting Variances, states the Zoning Board shall be guided by the following specific criteria in determining whether the granting of a variance is appropriate under the terms of this Ordinance. Below, the Ordinances are stated with our responses. To keep the letter concise, we have not included the entirety of Berry's responses to the waiver requirements, but the Zoning Board can review the meeting minutes for more information.

15.2.3(1)(a)Special conditions exist such that literal enforcement of the Ordinance will result in unnecessary hardship to the applicant as defined under applicable law.

Zoning Ordinance 4.1.3 allows a back lot subdivision with a maximum of two lots, so if the applicant was to propose a two lot, back lot subdivision, the applicant would not require a variance to construct the project. Because the applicant is proposing a third lot, they have a self-imposed hardship which should not be the basis for granting a waiver on the hardship basis.

15.2.3(1)(b)Granting the variance would be consistent with the spirit of the Ordinance. ***The applicant states the town's frontage requirement is for land use control and to limit curb cuts to maintain the rural character of the community. The applicant goes on to say the proposed waiver would reduce density. These statements are untrue because by granting the waiver, an additional lot can be formed, thereby increasing the density.***

15.2.3(1)(c)Granting the variance will not result in diminution of surrounding property values.

The applicant states this style of development does nothing to diminish property values of abutting property values and is superior to a development of larger density that is otherwise permitted. The applicant has stated an opinion on the proposed development's affect on abutting property values, but the applicant does not provide information to support the opinion. The applicant should provide this information to the Zoning Board and public. Additionally, for reasons stated below in this letter, it is not clear that a larger subdivision could be constructed that complies with the Town's Subdivision Regulations.

15.2.3(1)(d)Granting of the variance would do substantial justice.

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We feel this is a subjective requirement to meet, and we do not feel that we have been granted substantial justice as compared to the applicant in the hearing of our issues regarding the proposed development.

15.2.3(1)(e)Granting of the variance would not be contrary to the public interest. **The applicant states that a larger lot density is permitted within this zone, which may be true; however, the Town's Subdivision and Site Plan Regulations would need to be met in calculating the site's development potential. With the presence of wetlands, and their associated wetland buffers, and the steep grades of Oak Hill on most of the property, it is unclear how a larger subdivision could be constructed while meeting the town's requirements.**

Additionally, the Zoning Board granted the Special Exception to allow the third lot's access from the shared driveway, and we agree with this decision because it would be better to have a single driveway onto Route 9 instead of two driveways near each other. However, the lot does not support a three-lot subdivision for the reasons stated previously, so the Special Exception is not needed.

For the reasons stated above, we feel the applicant has not properly met the requirements to be granted a waiver from Zoning Ordinance Article 4, Section 4.1.1 Table 2 Dimensional Standards. We respectfully request the Zoning Board reconsider the waiver that was granted and rehear the application.

Respectfully,

Lisa Smith

Lisa Smith

Paul Kent

Paula Kent

Thomas Kent

Thomas Kent

Paul Kent

Jared Marinell

Priscilla Pinzari

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