

MEETING MINUTES
ZONING BOARD OF ADJUSTMENT PUBLIC MEETING
**MEETING LOCATION—EARLY CHILDHOOD LEARNING
CENTER
77 RAMSDELL LANE**
Barrington, NH
November 15, 2017
7:00PM

Members Present

Karyn Forbes, Chair
Meri Schmalz
Cheryl Huckins
Raymond Desmarais
Dawn Hatch

Alternate Member Present

George Schmalz

Alternate Member Absent

George Bailey

ACTION ITEMS

1. Request by applicant for an extension for the following case:
121-40-GR-14-ZBA (Owner: David Newhall) Request by applicant for a variance from Article 4, Section 4.1.1, Table 2 to demolish both structures and allow the proposed house and garage to be located within the front and side setbacks. Also, from Article 11.2 structures constructed within 75' of the shoreline from Swains Lake located on a .22 acre site on Rosemary Lane (Map 121, Lot 40) in the General Residential (GR) Zoning District. By: Christopher R. Berry-President, Berry Surveying & Engineering; 335 Second Crown Point Road; Barrington, NH 03825.

R. Desmarais recused himself.

G. Schmalz sat as voting member.

David Newhall explained that it had taken 18 months to receive a Shoreland Permit from NHDES and he was now ready to build.

A motion was made by C. Huckins and seconded by D. Hatch to give a one year extension. The motion carried unanimously.

2. **236-24-GR/SDAO-17-Var/SpExp-(Owners: Lysle J. Brown & Kim Evans Brown)** Request by applicant for a variance from Article 4.2.1 (1) to allow a single family lot to contain less than 80,00 s.f. and a special exception from Article 4: Dimensional Requirements; 4.1.2 lot frontage to use a different side of the property for access rather than along the frontage on 5.5 acre site at 17 Orchard Hill Road (Map 236, Lot 24) in the General Residential (GR) and Stratified Drift Aquifer Overlay

(SDAO) Zoning Districts. By: Joel D. Runnals, LLS, Norway Plains Associates, Inc.; PO Box 249; Rochester, NH 03866-0249.

James Connick explained he was before the Board for two items. A Special Exception to allow him to use a side not the frontage in order to take access for a proposed lot that fronts on Tolend Road and for a Variance in order for the creation of a lot that has less than 80,000 sq. ft.

Mr. Connick expressed he had been working with the Town in order to give them a 50' Right of Way. The current road configuration, which had been established as part of a court decision was as little as 14' wide at one point. His goal was to be able to give the Town the necessary width they needed in order to maintain the road appropriately and be able to make the acquisition work financially. In order to give the 50' ROW he would need to demolish the existing home.

Mr. Connick read the five conditions for the granting of a Variance.

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

Providing the Town with the requested 50-foot ROW reduces lot 24 to 72,090 sq. ft. without lot 24 remaining a buildable lot it may not be feasible to purchase the property, demolish the existing home and to provide the Town with the 50-foot Right of Way.

2. Granting the Variance would be consistent with the spirit of the Ordinance.

Reducing the lot size will benefit the Town, make Orchard Hill Road safer and still allow enough square footage to build a new home with proper setbacks.

3. Granting the Variance will not result in diminution of surrounding property values.

Removing the existing home and widening Orchard Hill Road would make the road safer and easier to travel on which should have a positive effect on property values.

4. Granting the Variance would do substantial justice.

Granting the Variance would resolve the road issues now facing Kim and Lysle Brown, the Town, myself and all those who travel on Orchard Hill Road.

5. Granting of the Variance would not be contrary to the public interest.

Granting the Variance would ultimately eliminate the safety issues now facing the Browns, and all those who now travel that portion of Orchard Hill Road and will allow me to provide the 50-foot ROW requested by the Town.

Mr. Connick read from the requirements for a Special Exception.

K. Forbes questioned which section of the Ordinance they were requesting relief from where both 4.1.2 Lot Frontage and 15.2.1 were sited.

M. Gasses expressed 4.1.2 permitted the ZBA to grant a Special Exception, that a different side of the property be used for access because site constraints make using the otherwise required frontage inconsistent with protecting the safety, health and welfare of the public. 15.2 was the standards for granting a Special Exception.

Mr. Connick explained that the frontage along Tolend Road was very wet and he would need a wetland crossing in order to use the frontage for access.

Mr. Connick read the requirements for granting a Special Exception.

15.2.1(1) No detriment to property values in the vicinity of the proposed development will result.

This proposed subdivision should improve this section of Orchard Hill Road.

15.2.1(2) No hazard will be caused to the public.

This will be a residential subdivision and no storage of toxic materials is being proposed.

15.2.1(3) No creation of a traffic hazard will occur.

The location of the shared driveway and the improvements to the road will need to be permitted through the Highway Department.

15.2.1(4) No excess demand on municipal services will occur as part of this subdivision.

No new roads are to be created for this single family three lot subdivision.

15.2.1(5) *Granting the Special Exception for the proposed shared driveway will allow the subdivision without any wetland disturbance.*

C. Huckins asked if Mr. Connick was donating the right of way.

Mr. Connick stated, "Yes".

Mr. Connick explained the Town preferred to straighten the road.

K. Forbes asked if there was anyone to speak in favor.

Kim Connick of 136B Orchard Hill Road spoke in favor. She explained that sometimes they had to back up and the steepness was dangerous.

Fred Bertone spoke in favor.

K. Forbes asked if there was anyone to speak in opposition.

Barbara Morris of Orchard Hill Road explained that the steepness would not help the situation when extra lots were added.

Kurt Bertram expressed concern that there would be degradation of existing ground water. He was concerned that the runoff would go into the brook. Mr. Bertram believed the request was more about inconvenience than a hardship.

Peter Cook, Barrington Road Agent explained he was not taking sides, but speaking to the road. The intent was to straighten the road and make the condition of the road better. Everything that would be done would need to be permitted including any wetland permits from the State that would be required. Currently there was runoff; permitted drainage work would improve the situation.

K. Forbes stated they had a letter in favor and a letter opposed.

K. Forbes expressed John Scruton, Town Administrator's e-mail read, "It would be good for the Town to permanently acquire a wider Right of Way. The current road is too narrow and hard to maintain.

K. Forbes read the letter in opposition from abutter's Jeff and Sarah Pluta of 28 Orchard Hill.

Kim Evans Brown explained that she agreed with abutters that it was difficult to have people drive by their home. She also explained that in her case, all of them were driving right by her front door. The current road was a few feet from her door.

K. Forbes closed public comment.

K. Forbes expressed she did not see the hardship. She did not believe the proposal would cause a diminution in property values.
Barbara Morris asked to speak.

K. Forbes reopened the public comment.

Barbara Morris expressed she was not concerned with losing improvements to the road.

K. Forbes closed public comment.

R. Desmarais expressed he did not see the hardship for the variance. The Special Exception would likely be approved. The applicant could get two lots.

C. Huckins believed the proposal was a good thing.

Mr. Connick asked to continue the application.

A motion was made by R. Desmarais and seconded by Meri Schmaltz to continue to the December 20, 2017 meeting. The motion carried unanimously.

MINUTES REVIEW AND APPROVAL

3. Approval of September 20, 2017 Regular Meeting Minutes.

A motion was made by R. Desmarais and seconded M. Schmaltz to approve the minutes of September 20, 2017. The motion carried unanimously

ADJOURNMENT

A motion was made by R. Desmarais and seconded M. Schmaltz to adjourn at 8:00 p.m. The motion carried unanimously.

Respectfully submitted,

Marcia J. Gasses
Town Planner & Land use Administrator