

Zoning Board of Adjustment
July 26, 2018 6:30 PM
Board of Selectmen's Room/Municipal Building
15 Sunapee Street/Newport, NH

PRESENT: Melissa Saccento Chairman; David Lain, Vice Chairman; Ben Nelson, Beth Cassorla, Jeffrey Kessler, BOS Representative

ABSENT MEMBERS: Tim Beard, Alternate; Virginia Irwin, Alternate, Scott McCoy, Alternate

VIDEOGRAPHER: Nancy Meyer, NCTV

STAFF PRESENT: Liz Emerson, Acting Zoning Administrator

COMMUNITY MEMBERS PRESENT: Meredith Lunn (abutter)

CALL TO ORDER: Chairman Saccento called the meeting of the ZBA to order at 6:30 p.m. and introduced the sitting Board members.

ADMINISTRATION: Election of Officers

Chairperson Saccento informed the ZBA members that the Election of new Officers was required at the July 26, 2018 meeting. A new Chairman and Vice Chairman for July 2018-June 2019 needed to be elected. Mr. Kessler made a motion *to elect Ms. Melissa Saccento as Chairperson*. It was seconded by Mr. Lain. Ms. Emerson called for a vote. *The motion passed 5-0-0.*

Chairman Saccento took over the meeting.

Mr. Kessler made a motion *to elect Mr. David Lain as Vice Chairman*. It was seconded by Mrs. Cassorla. *The motion passed 5-0-0.*

MINUTES: April 26, 2018

April 26, 2018

On a motion by Mr. Kessler, seconded by Mr. Lain; *the Board voted to approve the minutes of the April 26, 2018 meeting as presented. The motion passed 5-0-0.*

Chairman Saccento reviewed the ZBA format for the applicants and public present.

Case #1066: Virginia Bruton (Owner): request a Variance from the terms of Article II Section 206.3 of the Zoning Ordinance to reduce the required frontage of at least 200 Ft. The property is identified as Map 211 Lot 042 and is located at 21 Fletcher Road in the Rural (R) Zoning District.

Chairman Saccento opened the hearing. She then acknowledged Ms. Emerson.

Ms. Emerson read her Administrative Review into the record. She stated that staff had no concerns with the application.

Ms. Emerson explained the procedure the applicants would need to take in order to subdivide their property. Acquiring a variance from the ZBA to reduce the required road frontage was step one in the process.

Chairman Saccento addressed Mr. Tom Dombroski (agent) and asked him to read the application into the record. He complied with her request.

Chairman Saccento asked if there were questions of the Board members.

Mrs. Virginia Bruton addressed the Board and stated that she had spoken to all the abutters. They were all in favor of the requested variance.

Chairman Saccento again asked if there were questions of the Board members.

Mr. Nelson addressed Mrs. Bruton and asked if the dotted lines on the map provided to the Board members was the current driveway. He was told yes. Mr. Nelson then reviewed the various parts of the property shown on the map and had Mr. Dombroski and Mrs. Bruton explain them.

Ms. Emerson addressed Mr. Nelson and stated that the TOPAZ mapping program did not show any flood zone.

Chairman Saccento addressed the abutter in attendance and asked if she had any questions or comments.

Mrs. Meredith Lunn, abutter, addressed the Chair and stated she was in support of the applicant's variance request.

Mr. Donald Bruton (applicant) stated that granting the variance will reduce the work on the property. They would be able to downsize and build a home at the front of the property, reducing the maintenance work. He thanked the Chair for allowing him to speak.

Mr. Nelson asked if the applicants had surveyed the land. He was told no.

Mr. Nelson stated he was asking to see if the Brutons could get a 75' and 200' frontage instead of 50'.

Mrs. Bruton gave the history of the land and previous subdivisions and annexations.

Mr. Kessler and Mrs. Bruton discussed the original variance to the lot. Mrs. Cassorla clarified that the original variance carried over to the present lot. Mrs. Bruton thanked Mrs. Cassorla for her explanation.

There was a general discussion by the Board members on the lot and all aspects of the case.

There were no further questions by the Board members.

Chairman Saccento then closed the meeting to the public. On a motion by Mr. Kessler, seconded by Chairman Saccento; ***the Board voted to go into Deliberations for Case #1066. The motion passed 5-0-0.***

Chairman Saccento explained the rules of Deliberation to the applicants.

Variance Statement of Reasons and Discussion

Chairman Saccento asked for motions on each of the five questions (prongs).

On a motion by Mr. Kessler, seconded by Mr. Lain; that:

Granting the variance would not be contrary to the public interest because the property already has sufficient area for septage.

In discussion, Mrs. Cassola stated there was plenty of room for access for utilities and emergency vehicles. Continuing, she stated it was considered a hammerhead lot. There was a general discussion on the lot. Chairman Saccento called for a vote. ***The motion passed 5-0-0.***

On a motion by Mr. Kessler, seconded by Mrs. Cassorla; that:

The spirit of the ordinance would be observed because the rural character of the neighborhood will be maintained. There was no discussion on the question. Chairman Saccento called for a vote. ***The motion passed 5-0-0.***

On a motion by Mr. Nelson, seconded by Chairman Saccento; that:

Granting the variance would do substantial justice because it is creating a conforming lot. There was no discussion. Chairman Saccento called for a vote. ***The motion passed 5-0-0.***

On a motion by Mr. Kessler, seconded by Mrs. Cassorla; that:

For the following reasons, the values of the surrounding properties would not be diminished: there will be new construction. Chairman Saccento called for a vote. ***The motion passed 5-0-0.***

Unnecessary hardship

Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:

On a motion by Mrs. Cassorla, seconded by Chairman Saccento; ***there is not a fair and substantial relationship between the general public purpose of the ordinance provision and the specific application of that provision to the property because in order to make the subdivision (which was the existing subdivision already) we have to create a nonconforming road frontage. One will have 50 feet; the other will have 226 feet. There is no way to make either lot conforming to the zoning ordinance.***

AND:

that the proposed use is a reasonable one because not only will it allow the property owners to use their property in a more effective manner, it will also make a new housing unit in Newport.

There was no discussion. ***The motion passed 5-0-0.***

Chairman Saccento addressed the Board members and asked if there were any conditions to the memorialization. Mr. Kessler stated no.

Chairman Saccento called for a motion to memorialize the decision of the ZBA to grant the variance. On a motion by Mr. Kessler, seconded by Mrs. Cassorla; ***the Board voted unanimously to grant a Variance for Case #1066 as presented.*** Chairman Saccento called for a vote. ***The motion passed 5-0-0.***

Chairman Saccento addressed the Brutons and stated their Variance was granted. Because there were no conditions on it being granted, the Notice of Decision was signed at the July 26, 2018 Zoning Board of Adjustments meeting and given to the applicants.

Chairman Saccento explained to the Brutons that there was a 30 day appeal period for a Zoning decision. She explained what it would entail and also that the Brutons could apply for a building permit before the 30 days at their own risk.

Mr. Kessler addressed the Board members and stated that the Board of Selectmen (BOS) has had a resident in to their meetings twice complaining about the action of the ZBA last year. On July 27, 2017;

Case 1049; the food truck at the Newport Motel. He read from the minutes of the minutes of the ZBA meeting... “Mr. Lain asked for the size and decibels of the generator. He was told it was 42 decibels. Mr. Spydell said he researched and bought the quietest one he could find. He was going to be on site all day long; he wanted it quiet...”

The BOS have had noise complaints from a neighbor; the neighbor cannot be outside when it is running due to the noise.

Mrs. Cassorla asked if there was anything actionable that the ZBA could do.

Addressing the Board, he stated that he believed an administrative letter will be sent. Town Manager Rieseberg will be talking to Ms. Emerson.

Mr. Kessler stated the minutes stated that the applicant had stated he had a generator that was 42 decibels and was the quietest he could find.

There was a general discussion between the Board members and Ms. Emerson concerning the generator, the noise it made, how the ZBA (if they had known) would have put a condition on the use of the generator and the permit to get a drop off the electrical pole for power to his food truck and other aspects of the case.

Mrs. Cassorla stated that they had required that he put up fencing and he has not. She asked that a letter be sent from the Zoning Administrator’s office.

Ms. Emerson told the Board members what she would do as Zoning Administrator to try and help the situation until Mr. Spydell has electricity provided from a pole.

There being no further business, on a motion by Chairman Saccento, seconded by Mr. Kessler; ***the Board voted to adjourn at 7:10 p.m. The motion passed 5-0-0.***

Respectfully submitted,

Maura Stetson, Scribe

Approved: August XX, 2018