

**ZONING BOARD OF ADJUSTMENT
TOWN OF PETERBOROUGH
Monday, February 3, 2014 – 7:00 p.m.
1 Grove Street, Peterborough, New Hampshire**

Board Present: Jim Stewart, Bob Lambert, Sharon Monahan, Peter LaRoche. Loretta Laurenitis and Peter Leishman

Staff Present: Laura Norton, Office of Community Development and Dario Carrara, Code Enforcement Officer

Chair Stewart called the meeting to order at 7:00 p.m. “Good evening and welcome” he said adding “this is the February 3rd stated ZBA meeting. I am Jim Stewart and I am the Chair.” Chair Stewart went on to introduce the members and staff.

Chair Stewart then read the applicant’s request: “Case No. 1201 – 161 Wilton Road LLC requests a Special Exception to install a forced main sewer line in the Shoreland Conservation Overlay Zone, as regulated by the zoning ordinance in Chapter 245, Article III, Section 12 E. The properties are located at 133 and 161 Wilton Road, Parcel ID Nos. U019-004-000 and U019001-000 in the Rural and General Residence Districts.

Chair Stewart reviewed the process of reading the application followed by a presentation by the applicant; questions from the Board; questions/concerns from the audience (in favor then opposed); rebuttal and closure of the hearing followed by deliberation and decision. He concluded by noting anyone interested in speaking to the case please state their name, address, and relationship (abutter, agent, concerned citizen) for the record.

Peter LaRoche recused himself for the case and sat in the audience.

Chair Stewart then asked the applicant to proceed. Jack Belletete introduced himself and asked the members if they had received the narrative he had submitted (the criteria on the application). The members replied they had. Mr. Belletete continued with “OK, good so I will give you a brief overview of what we would like to do.” He continued by pointing out the property lot known as the old Lobacki Egg Farm. He explained the lot would be subdivided into two parcels, one to be purchased by Divine Mercy Church for their new church and the other retained by him to build 30 condominium units. He added “this plan is based on using town water and sewer” adding “and we have an agreement with Twin Elm Farm for an easement for a forced main to cross the Highway and go 15-20 feet inside their property line, under the stream and back up to the pump station.” He told the members the line would be 3 inch in diameter and be placed 6-feet under the ground. Mr. Belletete noted they would dam the spring in the summer when the flow is low and set the pipe. He noted a 5-foot diameter manhole at the low point “for access to the pipe for any problems in the future.” He also briefly explained how the pipe would be sleeved to avoid any future disruption to the stream if replacement of the pipe is necessary. “You won’t have to re-dig” he said.

He concluded by noting the plan had been worked out with the Department of Public Works and an easement has been offered to cross their land that would enable sewer hook-up with Lobacki Drive. He noted the Town would take over the maintenance of the system.

Ms. Monahan asked if Lobacki Drive was currently on town water and sewer with Mr. Belletete replying “no.” He reviewed a prior approval to extend the sewer up (Route) 101 noting “part of this is economical.” Ms. Monahan replied “I understand, it’s OK. That is not a dirty word.”

Mr. Belletete briefly described the original plan particularly noting the discovery of 350 feet of ledge 7 feet down. “The economics really end up being hard to make this thing work” he said adding “so part of the thought process was this idea.” He went on to assure the members the

system would be built to town specifications “as the town will take it over.” Ms. Laurenitis asked if the piping would be 3 inch diameter and 6 feet down all the way with Mr. Belletete replying “yes, to keep it from freezing” adding “it does not depend on gravity.” Ms. Monahan asked about clearing efforts and blasting in the area as well as the Town’s Department of Public Works noting “I just want to make sure they were on board.” Ms. Monahan also asked about a portion of asphalt left by a prior development in the Shoreland Conservation Zone. After a brief discussion about removing the asphalt both Mr. Belletete and Mr. LaRoche stated they were happy to do what the Board thought best with Mr. LaRoche noting “but we would like to do that work while we are laying the pipe if you want us to remove it.”

Ms. Laurenitis asked about the need for electricity with Mr. Belletete replying “yes, we will have a 3-phase pump.” He went on to tell the members the pump station would be built to town standards with Mr. LaRoche adding it would also have a generator installed.

Chair Stewart pointed out the criteria that was the basis for decisions on granting Special Exceptions. He noted Section 245-12 B and E and briefly read the purpose of the Shoreline Conservation Zone as well as factors that may adversely affect it including no undeveloped property encroachment, no new pavement encroachment to existing developed property with desecration of wildlife habitat, aesthetic beauty of the shore and pollution and soil erosion. He asked if Mr. Belletete would like to address any of that criteria. He noted “you kind of got some of that but do you have anything to add?”

Mr. Belletete noted a lot of overlay between what Chair Stewart had mentioned and the Special Exception criteria of *Location, Activity type and mix, Visual consequences, Access and Process*. He went on to address each criteria in 245-12 E by applying his prepared Special Exception criteria to each issue. Mr. LaRoche interjected “it will all be done with Best Management Practices.”

When Mr. Belletete was finished Chair Stewart opened the public hearing up to the audience. David Labnon introduced himself as an

abutter (Twin Elm Farm) and noted his approval with the project. “We are for it” he said.

With no other comments Chair Stewart looked around the table and with a smile asked “do we need a site visit?” Mr. Leishman replied “I wish they were all this easy, Mr. Chairman.” Ms. Laurenitis asked the code Enforcement Officer (Dario Carrara) if he thought they had anything else to consider. Mr. Carrara replied “no” adding “they have been in to solidify the details of the process.”

Chair Stewart noted he would entertain a motion to close the public hearing and move to deliberation. A motion was made/seconded (Leishman/Monahan) to close the public hearing and move into deliberation with all in favor.

Chair Stewart appointed Alternate Bob Lambert to sit for permanent member David Sobe and read the Rules of Procedure for deliberation (the Board was moving into a deliberative session and that no additional information or testimony would be heard, but the Board reserved the right to ask for additional information at their discretion if necessary).

Deliberation

Chair Stewart continued with “I guess we should take a straw poll” adding “I think they meet the requirements, I am in favor with the conditions that the Conservation Commission suggested.” He looked to Ms. Monahan and asked “what do you think, Sharon?” Ms. Monahan replied “I am for it, I vote in favor” Ms. Laurenitis, Mr. Lambert and Mr. Leishman all were in favor as well with Mr. Leishman concluding “it was a good presentation.”

In writing the Notice of Decision Ms. Monahan suggested they be general “and then refer to the specific criteria.” Chair Stewart suggested

incorporating the conditions spelled out in the Conservation Commission letter. "Make it conditional it be in substantial compliance with the document submitted" he said. Mr. Leishman was not in total agreement interjecting "we have the letter, your statement and the plan" adding "and the minutes will reflect this conversation." Ms. Monahan replied "it is more accessible and it is a public benefit to have it, not to mention the removal of the impact to the ledge."

A motion was made/seconded (Lambert/Monahan) to approve the Special Exception with all in favor.

Minutes:

No meeting in January 2014

A motion was made/seconded (Stewart/Leishman) to approved the Minutes of December 2, 2013 with all in favor.

Other Business:

Chair Stewart noted he had one item and proceeded to note "we have control over our Rules of Procedure and also our application and checklists." He also noted the importance of having any application before the Board be complete and signed by the property owner. Ms. Monahan agreed noting "we cannot hear an application if it is not complete and it is a disservice to the applicant to postpone the hearing if it is not complete." Chair Stewart interjected "the property owner thing drives me nuts" adding "and there have been times when a developer creates leverage with the property owner by making applications without owner permission." A brief discussion on the public process and public hearing necessary to make procedure changes followed. During this discussion the members realized their application did not have a checklist. Chair Stewart suggested they develop one and add it to the

application. Ms. Monahan agree noting “that would be helpful.” Mr. Leishman interjected “I think that would be a good job for you Sharon” while Chair Stewart followed with “I think it would be a good job for *you* Peter.” Ms. Laurenitis suggested they look at what other towns are doing and discuss it. Mr. Lambert asked about the time frame involved when a proposed amendment becomes the regulation until approved or denied at Town Meeting and a brief discussion followed.

The meeting adjourned at 8:35 p.m.

Respectfully submitted,

Laura Norton
Administrative
Assistant



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ZONING BOARD OF ADJUSTMENT

NOTICE OF DECISION

Case Number 1201

February 3, 2014

You are hereby notified that the request of 161 Wilton Road LLC, for a **Special Exception** to Article III, Section 245-12 E of the Zoning Ordinance, to install a forced sewer main in the Shoreland Conservation Zone, on properties located at 133 and 161 Wilton Road, parcel numbers U019-004-000 and U019-001-000 is hereby **GRANTED**.

In reaching the special exception decision, the Board finds that:

The applicant meets the special exception criteria in 245-41 as well as the Special Exception criteria in 245-12 E. There will be no substantial environmental damage from construction within the Shoreland District. Disturbances in the Shoreland district will be returned to their natural state as part of the construction effort. This proposal is the least disruptive to the adjoining premises and neighborhood, as well as Route 101. This proposal will be a public benefit as it will provide for future sewer system access for Lobacki Drive.

In granting this special exception, the Board imposes the following conditions:

1. All work shall be conducted during low flow or no flow times of the year.
2. Appropriate erosion controls shall be put in place and maintained until the site is stabilized.
3. To achieve soil stabilization the area will be seeded with conservation mix approved by the NRCS.
4. Substantial compliance with the documents and plans submitted.

Signed,

James Stewart, Chair

