

MINUTES
ZONING BOARD OF ADJUSTMENT
TOWN OF PETERBOROUGH
Monday, December 6, 2010 – 7:00pm
1 Grove Street, Peterborough, New Hampshire

Present: Chair Matt Waitkins, Maude Salinger, Vice Chair Loretta Laurenitis, Jim Stewart, Joanna Eldredge-Morrissey

Also Present: Tom Weeks, Code Enforcement Officer, Dan Failla, Nicole MacStay, Assistant to the Town Administrator

Chair Waitkins called the meeting to order at 7:00pm and read the notice:

Case No. 1162 Sharon Monahan for Diamond Pond Trust request for a Variance to Article III, §245-12 C of the Peterborough Zoning Ordinance. Applicant requests the Board's approval to install a dry hydrant, with routine maintenance dredging of a fire pond, within the Shoreland Conservation Overlay District, on property located at 432 Carley Road, parcel number R006-051-000 in the Rural District. There was no objection to the notice.

Ms. Monahan explained that she is here as agent to the property owners. She distributed copies of the dry hydrant detail and explained that the project is to install a dry hydrant in the Shoreland Protection District. She explained that Diamond Pond is man-made and completely within the Staples' property, so no abutter will be impacted. The installation has been approved by the DES Wetlands Bureau. Once the dry hydrant is installed it will become an official fire pond and will be exempt from the state for future dredging. Also included with the packet was a letter from the fire inspector which explained that the dry hydrant will serve three properties. These properties are remote and have no other access to water for fire protection.

The request will impact fifty-two linear feet of the Shoreland Protection District, and will extend about ten feet into the pond. The proposed installation will occur where there is already lawn, so no vegetation will be impacted. Ms. Monahan noted that this use would be allowed in the Wetlands Protection District without a variance. Ms. Salinger asked if there was any fire protection on Carley Road; Mr. Failla said that at this time the tanker must shuttle water from Old Street Road. Ms. Monahan then read through the application.

Chair Waitkins asked if anyone present wished to speak for or against the application. Heather Peterson, abutter, said that she is in favor of this application. Chair Waitkins then read the email from the Shovans who are in favor of the application and the email from the Conservation Commission who are not opposed to the application into the record. As there were no further comments, Chair Waitkins closed the public hearing portion of Case 1162.

Chair Waitkins then read the notice for the next case:

Case No. 1163 Monadnock Community Hospital request for a Variance to Article IV, §245-18 D (11)(b) of the Peterborough Zoning Ordinance. Applicant requests the Board's approval to install a wall sign larger than the allowed twenty square feet in size, on property located at 452 Old Street Road, parcel number U007-001-000 in the Monadnock Community Health Care District. There was no objection to the notice.

Peter Goseline, CEO of Monadnock Community Hospital, introduced the members of the board present and Attorney Beth Fernald, and presented the case. He explained that the sign recognizes the support of a private donor towards the reconstruction of the emergency room. Mr. Goseline then spoke at length about the importance of highly visible signs directing people to the emergency room.

Laura Gingras of MCH also spoke, saying that the sign they are requesting in this application is subtle, classy, and not lit. She explained that they did not ask for the variance first because they viewed this as donor recognition, not as a 'sign' under the sign ordinance. She spoke at length about the importance of donors to the long term success of the hospital, and then she and Tom Humphries, also of MCH, presented a number of pictures to the Board.

Atty. Fernald then reviewed the variance criteria, emphasizing particularly that the sign does not endanger health or safety, and in fact adds to health and safety by providing another sign directing people to the emergency department. It is also important to the philanthropy efforts; the hospital must be able to show appreciation to its benefactors. In regards to substantial justice, the gain to the public is far outweighed by the loss to the hospital. There would not be any impact to surrounding properties, given that it creates no noise or traffic, and cannot be seen except briefly at a distance from the Old Street Road/Parmalee Drive rotary. Literal enforcement of the sign ordinance on the hospital property would impose a serious hardship. She noted that this is a large piece of property in a residential area, the topography is unusual and the approach to the hospital is from the back of the property. Atty. Fernald distributed handouts to the Board which cited a number of cases including one in New Hampshire where the sign ordinance was shown to create an unnecessary hardship for institutions like hospitals.

Ms. Salinger asked if Atty. Fernald could speak to the burden of a twenty square foot sign. Atty. Fernald explained that on a property this size with long sight distances, it would be a burden. She added that since there are no other properties in this district there is no property to compare the hospital to. Ms. Salinger said that the Health Care District Ordinance is similar to the Commercial District; Mr. Weeks said that the Health Care District allows up to a twenty square foot sign, the Commercial allows up to forty square feet. Ms. Laurenitis said that it would be clearer to her if it said "Emergency Services" at the front, which is more important. Atty. Fernald said that emergency departments often have multiple signs and other directional signs. Ms. Salinger asked if there were plans to put additional emergency services signs on the building. Mr. Humphries said that a red and white sign will be over the walkway, and another on the canopy. Mr. Weeks asked how large the sign on the canopy will be; Mr. Humphries said that it will be twenty square feet. Mr. Weeks said that will require another variance. There was further discussion of the limitations on signs in the ordinance, and what is currently on the building.

Chair Waitkins asked if any one wished to speak either in favor of or against the request. George Sterling said that as an abutter he was in favor of the proposal. Charles Siegel said that he is also in favor of the proposal, and added that it is for the public good and not advertising. As there were no further comments, Chair Waitkins closed the public hearing.

Motion:

In a motion made/seconded (Waitkins/Morrissey) in **Case No. 1162 Sharon Monahan for Diamond Pond Trust** request for a Variance to Article III, §245-12 C of the Peterborough Zoning Ordinance. Applicant requests the Board's approval to install a dry hydrant, with routine

maintenance dredging of a fire pond, within the Shoreland Conservation Overlay District, on property located at 432 Carley Road, parcel number R006-051-000 in the Rural District is hereby **GRANTED**.

The Board finds:

1. The variance will not be contrary to the public interest because fire protection is one of the purposes of Zoning and installation of dry hydrants and fire ponds are a permitted use in the Wetlands Protection District.
2. The spirit of the ordinance is observed because it is not contrary to the purposes of the Shoreland Conservation District set forth in the Peterborough Zoning Ordinance. The Conservation Commission and the Department of Environmental Services – Wetlands Bureau and the Peterborough Fire Rescue Department have approved of the use.
3. Substantial justice is done because it provides fire protection and public safety to three residential properties without deterring from the intentions and purposes of the Shoreland Conservation District.
4. The values of surrounding properties are not diminished because the purpose of the variance is to provide for their fire protection, which adds to the value of the surrounding properties.
5. Special conditions of the property distinguish it from surrounding properties because Carley Road is a Class VI road. All three residences are at the end of the Class VI road and are remote within the rural district. The Class VI road width limits the ability of two fire protection vehicles to pass each other, limiting the ability for a tanker truck to access any of these properties.
6. Owing to those special conditions, no fair and substantial relationship exists between the general public purposes of the ordinance and the specific application of that provision to the property because a dry hydrant cannot be installed 100' outside of a fire pond and meet AHJ Standards. The fire department has approved the dry hydrant location and elevations to meet these standards and DES and the Conservation Commission have approved the project as the least impacting to the pond.
7. The proposed use is a reasonable one because it is a permitted use in the Wetlands Protection District and a permitted use by NH DES.

The Board imposes the following conditions:

1. There will be substantial compliance with the plan submitted with the application dated October 12, 2010 and revised November 9, 2010.
2. Subject to approval from the New Hampshire Department of Environmental Services, Wetlands Bureau.

Vote:

Chair Waitkins, Ms. Eldredge-Morrissey, Ms. Laurenitis, Ms. Salinger and Mr. Stewart voted in favor of the motion; the motion carried.

Chair Waitkins opened deliberations on Case 1163 and said that a lot of information has been introduced that the board has not had an opportunity to review. Ms. Morrissey said that the "Emergency Care" portion of the sign is still oversized, and there are perhaps other ways to recognize philanthropy, but she felt that hospitals should have exceptions to these things; most people will see that hospitals are different from other businesses. Mr. Stewart said that considering the size and use, he thought the sign was too small. Ms. Salinger said that she does not think that

the sign is meeting the purposes of showing where the Emergency Services Department is located, whereas the red and white sign that Mr. Humphries described will meet that; in fact, it is a dark sign and is not visible. She said that her concern is that the philanthropic concern does not meet the hardship criteria. If this is a precedent to allow a seventy-two square foot sign, would that mean that if the Mariposa Museum gets a big donor, do they get a seventy-two square foot sign as well. Mr. Stewart said that he does not think it is the same. Ms. Salinger said that the district was set up to specifically meet the needs of the hospital, and yet they have been granted many variances. Ms. Laurenitis said that she does not find the sign helpful in finding the Emergency Services Department, but a recognizable roof sign would. She said that she has mixed feelings about the sign supporting philanthropy.

Mr. Stewart asked if either Ms. Salinger or Ms. Laurenitis felt that this is different or similar to other institutions such as colleges and universities or other hospitals. Ms. Salinger said that there are other institutions that rely on philanthropy; this is different in regards to emergency services, but she did not see that it met the criteria for a variance. If this were an application for a thirty square foot red and white emergency services sign, that would be a different issue. Ms. Eldredge-Morrissey said that she thinks that there is a precedent for this across the country, and she wished that the Planning Board had taken that into account when establishing the Health Care District. Ms. Laurenitis asked if this sign were naming a different department, would Ms. Eldredge-Morrissey feel the same. Ms. Eldridge-Morrissey said that she probably would; this is a standard thing on any medical building, and she did not find issue with it. She added that she thought the Planning Board should revisit the Health Care District.

Ms. Salinger asked how far it is from the rotary to the building; Mr. Weeks said between five hundred and six hundred feet, a large distance. Chair Waitkins said that he can't speak as an authority on philanthropy for sure, and he didn't know why he would accept this as necessary, however as far as the aesthetics are concerned, it is difficult to see from the rotary, and it is not an unattractive sign. He said that he did not see this sign as a problem; and since the hospital is in its own district, he would not look on the same application for the Mariposa the same way, since it is in the middle of downtown.

Motion:

In a motion made/seconded (Waitkins/Stewart) that **in Case No. 1163 Monadnock Community Hospital** request for a Variance to Article IV, §245-18 D (11)(b) of the Peterborough Zoning Ordinance. Applicant requests the Board's approval to install a wall sign larger than the allowed twenty square feet in size, on property located at 452 Old Street Road, parcel number U007-001-000 in the Monadnock Community Health Care District is hereby GRANTED.

The Board finds:

1. The variance will not be contrary to the public interest because the proposal does not alter the essential character of the neighborhood or threaten health, safety or general welfare.
2. The spirit of the ordinance is observed because the sign has minimal impact on community appearance and aesthetics, and poses no threat to the health, safety or welfare of citizens.
3. Substantial justice is done because there is no gain to the general public by denying this application.
4. The values of surrounding properties are not diminished because the sign is minimally visible from abutting properties and the public road and therefore does not diminish the value of surrounding properties.

5. Special conditions of the property distinguish it from surrounding properties because the property is in its own healthcare zoning district and the sign helps to identify the Emergency Services building.
6. Owing to those special conditions, no fair and substantial relationship exists between the general public purposes of the ordinance and the specific application of that provision to the property because the Emergency Services building is a large building set well back from the public roads, the main entrance to the hospital, Parmelee Drive, affords no view of the Emergency Services Building. Allowing the sign will make the Emergency Services Building easier to locate without any detrimental effect on the public.
7. The proposed use is a reasonable one because signs are permitted in the healthcare district, and this sign creates minimal negative impact because it is hardly visible from any public right of way or any private residence.

The Board imposes the following condition:

1. The sign will be in substantial compliance with the proposal submitted.

Vote:

Chair Waitkins, Mr. Stewart and Ms. Eldredge-Morrissey vote in favor of the motion; Ms. Laurenitis and Ms. Salinger voted in opposition; the motion carried.

As there was no further business, the meeting adjourned at 9:25pm.

Respectfully Submitted,

Nicole MacStay, Assistant to the Town Administrator