

ZONING BOARD OF ADJUSTMENT
TOWN OF PETERBOROUGH
Monday, December 5, 2016 – 7:00 p.m.
1 Grove Street, Peterborough, New Hampshire

Board Present: Jim Stewart, Sharon Monahan, Loretta Laurenitis, Peggy Leedberg and Seth Chatfield

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” he said “this is the December stated meeting of the Zoning Board of Adjustment.” I am Jim Stewart and I am the Chair.” Chair Stewart went on to introduce the members and staff. Ms. Monahan told the members as a wetland scientist she had done a septic design for the 2-bedroom house located at the front of the lot in 2004. “I don’t know if that constitutes a conflict of interest” she said. Chair Stewart asked “do you feel it causes a conflict?” Ms. Monahan replied “actually it might” and recused herself. Chair Stewart then appointed Ms. Leedberg to sit and noted “we have a quorum but not a full Board” adding “with this situation the applicant has the choice to continue and reconvene with a full five-member Board.” He looked up and said “it is your choice but once we start, we start.” Applicant representative Sam Ingram of Meridian Land Services agreed to continue.

Chair Stewart read the request:

Case No. 1229 Louise and George Gardos are requesting a Variance to allow more than 50% of the wetland, excluding the wetland buffer, to be used to satisfy the minimum lot size requirement when creating a new lot, as regulated by Chapter 245, Article III, Section 15, Paragraph I, 1 of the zoning ordinance. The property is located at 121 Old Town Farm Road, Parcel No. R004-006-200, in the Rural District.

Chair Stewart looked up and asked “are there any corrections or changes to the notice?” With none Chair Stewart reviewed the Rules of Procedure and invited the applicant to present his case.

Sam Ingram of Meridian Land Services stood and introduced himself as the representative for Louise and George Gardos. As he reiterated the application request

he noted “approval would allow us to use more than 50% of the wetland on the lot to be used to satisfy the minimum lot requirement.” He went on to note several unique circumstances of the lot (subdivided from the surrounding Taylor Farm in 1984 and having two primary residences on the lot making it difficult to sell). Mr. Ingram told the members the new lot (front lot) would be conveyed back to the Taylor Family who wished to retain the gate house and as much of the hayfield as possible. “It is a dead-end road surrounded by the Taylor Farm” he said. With the subdivision the Gardos Family has offered the Taylor Family the opportunity to buy some of the lot back. “They cannot buy both lots” he said adding “but they would like to buy the front lot.”

Mr. Ingram reviewed the characteristics of the 6.01 acre lot. He noted two homes (both renovated) that share a driveway, each with its own septic system, a shared well and a plan to create an additional well. “They have tried to sell this as a single lot but have been unsuccessful” he said adding “clearly it is the intent of the ordinance to give the Taylor Family the opportunity to buy this land back.”

Mr. Ingram then read the five criteria for a Variance to the members. Chair Stewart asked about the setback requirements to both the wetlands and the boundary lines. Code Officer Dario Carrara reviewed those dimensional requirements (frontage of 200 feet, front setback of 50 feet and side and rear setbacks of 30 feet). He told the members “the house is not moving, it is already a non-conforming situation.” As he pointed out the new front and sides for each lot Mr. Carrara cited *Chapter 237-19 Lots* paragraph “C” (which states “within all newly-created lots it must be possible to place a square box whose sides are equal to the minimum lot width for the district) and told the members it was his understanding this had historically interpreted the language to mean “you have to be able to put a 200 by 200 square foot box everywhere on the lot and you can do this here. It is a bit gerrymandered but you have two residences on one lot right now.” “It doesn’t look normal” replied Chair Stewart. Pointing out the Staff Report Mr. Carrara noted “the lot has some wetland on it and only 50% of it can be used to satisfy the minimum lot size requirement. Given the lot size and wetland size, it is numerically impossible to satisfy the zoning regulation.”

Mr. Chatfield inquired about the actual percentage of wetlands that would be used to meet the minimum lot requirement size. “What percentage of the three acres is wetland?” he asked adding “I think that is important.” Referencing the Variance application Chair Stewart noted an application that involves wetlands “shall be delineated by a wetland scientist for reference by the Conservation Commission and the Office of Community Development Staff.” He went on to note applications

involving wetland shall meet with the Conservation Commission to discuss the proposal and receive a written report that will be forwarded to the Zoning Board of Adjustment prior to the *final* public hearing.”

Mr. Ingram reiterated the problem of having two houses on a single lot. He also noted “technically these are jurisdictional wetlands on a hayfield and do not have high functionality.”

Ms. Ingram concluded by reading the Special Conditions that distinguish it from other properties in the area.

Ms. Laurenitis asked for some sense of background on the property. “How long have there been separate homes on the lot?” she asked adding “are they rented now?” Mr. Ingram noted the two homes were currently rented, one as a single family home the other as a two-family home. When Chair Stewart asked about the septic systems Mr. Ingram pointed them out on a graphic. From the audience Bill Taylor stood and introduced himself and suggested he could assist with any questions the member may have. “The applicants are my aunt and uncle” he said.

Ms. Leedberg asked about any potential view easements on the proposed front lot with Mr. Taylor replying “there will be no construction or improvement in that area.”

A brief discussion about the total percentage of wetlands involved in the request followed. Mr. Ingram noted the lot had been delineated but he did not have those specific numbers.

With no other questions from the members Chair Stewart opened the hearing up to the public. Once again Mr. Taylor stood and went to the graphic, “I believe I can shed a little light on this” he said. Mr. Taylor proceeded to give a brief history of the family farmland and the original subdivision in 1984. Pointing to the hayfield he told the members “this does not look like wetland, it is a hayfield” adding “and we will keep everything exactly like it is, preserving the open space for us and minimizing any impact of the other house being sold. We would like to buy both lots but we cannot. We would use the rent from the house to pay the mortgage.”

Sharon Monahan introduced herself and told the members “I did not know until I saw the site plan that I had done work for this lot.” She went to ask “have you gone to the Planning Board with this request and asked for waivers?” Mr. Ingram noted he had started with the Planning Board (noting primary discussions with Planner Peter Throop and ZBA Liaison and Code Enforcement Officer Dario Carrara) and

it was discovered a Variance was necessary. "I need to have your approval first" he said. Ms. Monahan asked "so you have not applied for state subdivision approval yet?" "No" replied Mr. Ingram.

Ms. Monahan presented a sewage disposal system design she had created for the proposed front lot in October 2004 that showed wetlands in a different location than the graphic Mr. Ingram showed. "There is a conflict with the two plans" she said. As Mr. Ingram pointed out the delineated wetlands on his graphic he said "this is what we found for wetlands." Chair Stewart interjected "alright, for the record that is what they are saying." He then looked at Ms. Monahan and asked "and so what?" why does that matter?" Ms. Monahan replied "it changes the Variance and it is at the entrance." Chair Stewart asked her "so if you had this situation with two houses, if you had to subdivide the lot would you have a better way?" Ms. Monahan replied "I am just pointing this out" reiterating that granting relief without hearing from the Conservation Commission was premature. Mr. Chatfield noted the time difference (2004 to 2016) and asked if wetlands change over the years. Mr. Ingram replied "yes, it happens all the time. We did two test pits (in the area Ms. Monahan pointed out as wetland in 2004) and we did not see it." Chair Stewart concluded the discussion by noting "they have a survey of the property and this is what is on there." He then asked "how are we feeling?" Mr. Carrara suggested the members wait for the Conservation Commission's input prior to making a decision.

Addressing Mr. Ingram Chair Stewart replied "I hate to do it, what you presented was well written but our rules are our rules and they dictate what we must have to make our decision. I propose we continue this to a date and time certain so we can receive and review the Conservation Commission's input." Ms. Laurenitis asked "why not continue to our January meeting?" Mr. Taylor interjected "I can speak to that." He briefly reviewed the almost one-half percent increase in interest rates since the presidential election.

"I love due process" said Chair Stewart adding "and we have an obligation for it here. We do not want to prolong this any longer than we have to but our process states applications involving wetlands shall be delineated for reference by the Conservation Commission and OCD Staff." He then suggested they continue the meeting to the time and date certain of Monday, December 12th noting "that should give you enough time to get a letter from the Conservation Commission."

Consequently the meeting was continued to Monday to December 12, 2016 at 4:00 p.m. “This is still a public hearing, it is still open to the public” said Chair Stewart. “We will meet, review additional information and if we feel we have enough to enter deliberation we will and make a decision in this case.”

The meeting adjourned at 7:45 p.m.

Respectfully submitted,

Laura Norton

Administrative Assistant