

SANBORNTON ZONING BOARD OF ADJUSTMENT

P.O. Box 124
Sanbornton, New Hampshire 03269-0124

MEETING MINUTES

July 27, 2010

PUBLIC HEARING

Chairman Jim VanValkenburgh called the meeting of the Zoning Board of Adjustment to order. In attendance were members Tim Grant and Jim Wells, and alternates Wayne Elliott and Ann Littlefield (acting clerk). *Public Notice* was posted, abutters were notified by certified mail, and the notice was published in *The Citizen* on July 20, 2010.

CASE #453 – A request from Donna and Vasile Beluska for a Variance from Article 7, Section A(7) of the zoning ordinance. Applicant seeks permission to reduce the required 35-foot side setback to allow a 15-foot side setback. The property is located on Stage Road in the Forest Conservation District (TM 9 Lot 41).

Donna Beluska presented her application to the board. With her was Rick Lepene, her septic system designer. Mrs. Beluska stated she was seeking permission to reduce the side setback requirement for the property. She indicated that the lot has been under development since 2005 and referred the board to the submitted timeline for the lot. During these years of planning and development, the Beluska's plan met side setback requirements as set forth in the ordinance. At the May 2010 town meeting, there was a voted upon change to the district (zoning ordinance Appendix B: elimination of the Recreational District surrounding Cawley Pond) which consequently changed the side setback requirement from 10 feet to 35 feet. The Beluska's plan sites the home with a 15-foot side setback. It was stated that the lot itself is grandfathered. Mrs. Beluska stated that a building permit had not yet been applied for.

Mrs. Beluska went on to explain that they have obtained a driveway permit, a septic system permit, a Shoreland Protection permit and a PUC Energy permit. Rick Lepene and Mrs. Beluska showed the board a map of the lot and relative placement of the well, leech field, driveway, and house. It was explained that the leech field placement was at the Route 132 end of the property, downhill and away from the pond(s). Further, the well placement makes it such that for future access, the house location cannot be shifted away from the side property line at this point because well access would be compromised.

Jim VanValkenburgh stated that he does not believe the setback requirement can be applied to an ongoing development that earlier met requirements. Zoning Enforcement Officer, Bob Ward, indicated he had consulted with Town Counsel who affirmed his impression that any permit requests must comply with the most current ordinance regulations in order for a building permit to be issued.

Abutters John and Dorothy LaBrecque were in attendance and spoke in favor of the Beluska application. With no further discussion, the chairman closed CASE #453.

Reopening CASE #453 - Wayne Elliott stated that he felt the plans are very practical for the lot. Jim Wells stated he felt the home location and the overall plan is excellent. Ann Littlefield commented that for the length of time planning has been going on for this property with the care and expense the Beluskas have devoted to it, it feels somewhat punitive that the town vote that altered the setback requirement would negatively impact the plan. The chairman moved the board to review the Finding of Fact statements for the Variance application. Voting was to be all members in attendance.

	JimVV	Jim W	Wayne	Tim	Ann
1. Granting the variance will not diminish surrounding property values. comment: similar to surrounding properties	Y	Y	Y	Y	Y
2. Granting the variance will not be contrary to the public interest. comment: no negative pond impact	Y	Y	Y	Y	Y
3. Granting the variance would do substantial justice. comment: longstanding project	Y	Y	Y	Y	Y
4. If the variance were granted, the spirit of the ordinance would be observed.	Y	Y	Y	Y	Y
5. Denial of the variance would result in unnecessary hardship. comment: hardship caused by ordinance change	Y	Y	Y	Y	Y

Jim Wells made a motion to grant the Variance. Wayne Elliott seconded the motion. A vote was taken and the motion passed unanimously.

Jim VanValkenburgh indicated to Mrs. Beluska that her Variance request had been granted and she could now secure a building permit. There was a point of clarification that she could now apply for a building permit. Zoning Enforcement Officer, Bob Ward, indicated that the zoning ordinance states that only manufactured housing is allowed in the Forest Conservation District, citing Article 7(A4) and Article 4(D). There was discussion as to the interpretation of the wording for Article 7(A4).

Request for Rehearing – Received from Mark E. Beaudoin, Esq. as agent for Mark Robitaille

Re: Case #447 – Originally heard March 23, 2010 (Variance granted); Rehearing held at the request of the Christopher L. Boldt, Esq. as agent for the Sanbornton Board of Selectmen June 22, 2010 (Variance denied)

Original Public Notice - (Feb. 2010 snow cancellation) A request from Mark Robitaille for an Area Variance from Article 15, Section F(1) of the zoning ordinance. Applicant seeks permission to allow home construction into the required buffer zone setback for wetland. The property is located on Bay Road in the Agricultural District (TM 18 Lot 12).

Jim VanValkenburgh stated that in order for the board to grant a rehearing, it had to be shown that new evidence is now available that had not originally been reviewed or that the board had originally committed a technical error. Further, Jim stated that the board had once granted the Variance and subsequently denied the Variance at a rehearing. Jim also made the comment that he felt the issue should go to court because he wonders if the board can act fairly; there have been enough 'red flags' thus far that Superior Court should be alerted.

A rebuttal document submitted by Attorney Christopher Boldt, as agent for the Sanbornton Board of Selectmen, was discussed. Tim Grant stated he felt this document submission to be out of order and inappropriate and, as such, should not be considered by the board. Further, he reminded the board that it is just the Request for Rehearing documentation that the board is to consider (Attorney Mark Beaudin's submission).

Tim Grant suggested there was nothing new and/or substantive brought to light in Attorney Beaudoin's request nor that there was any indication of a technical/procedural error.

Tim Grant made a motion to deny the rehearing. Jim Wells seconded the motion. Wayne Elliott withdrew from voting, stating that he did not think it appropriate to vote because he had not been at any of the previous hearings for this matter. A vote was taken and the motion passed unanimously. Voting was Jim VanValkenburgh, Tim Grant, Jim Wells, and Ann Littlefield.

OTHER BUSINESS

Meeting minutes of May 18, 2010 were reviewed. It was noted that CASE #448 – Lisa Conway was misnumbered and should be #449.

Meeting minutes of June 22, 2010 were reviewed. It was noted that on p. 7, Other Business, paragraph 2, the first sentence should read, "Regular member Bill Whalen has removed himself from the board."

With changes noted, Tim Grant made a motion to accept the minutes. Jim Wells seconded the motion. A vote was taken and the motion passed unanimously. All board members present voted.

The next scheduled public hearing date is Tuesday, August 24, 2010 at 7:15 p.m.
Respectfully submitted, Ann E. Littlefield, Clerk.

These minutes are subject to the review and approval of the Zoning Board of Adjustment. Until such time as approval by vote is recorded, posted and/or website minutes are representational of the Public Hearing and are for informational purposes only.