

SANBORNTON ZONING BOARD OF ADJUSTMENT

P.O. BOX 124

Sanbornton, NH 03269-0124

MEETING MINUTES

August 25th, 2020

GENERAL BUSINESS

Present: Tim Lang, Chair, Doug Rasp, member, Steve Cobb, alternate, Melissa Anderson, member, Don Bormes, member, Glenn Frederick, alternate, Don Bormes, member (absent for minutes/Case 2020-5 voting, Steve Cobb seated in his place).

The meeting took place both in-person at Old Town Hall, 19 Meeting House Hill Rd, as well as through telephone conference. Roll call votes were required.

Doug Rasp made a motion to approve the draft minutes of 2/25. Steve Cobb seconded the motion and the motion passed unanimously, with votes as follows: Rasp/Yes; Cobb/Yes; Lang/Yes; Anderson/Yes; Frederick/Yes

Melissa Anderson made a motion to approve the draft minutes of 4/28. Doug Rasp seconded the motion and the motion passed unanimously, with votes as follows: Rasp/Yes; Cobb/Yes; Lang/Yes; Anderson/Yes; Frederick/Yes

PUBLIC HEARING

Chair Tim Lang announced he was rearranging the order of the agenda to hear Case 2020-5 first. Steve Cobb seated as voting member in absence of Don Bormes.

a. Application for Zoning Variance (2020-5) - Sanbornton Zoning Ordinance Article 15, Section F.1(b) - Applicant: Tyler Girardin, 140 Upper Bay Rd, Tax Map 16, Lot 11. Applicant seeks construction of a deck 62' at closest point to wetlands whereas a minimum of 75' is required per the ordinance.

Tyler Girardin explained that he has recently built a house and had already started constructing a 14' x 24' deck on the house when he learned he was too close to the wetlands per the ordinance. He stated that Zoning Enforcement Officer Steve Laurin measured the wetlands setback and found that it was 62' to the deck; Tyler measured it as 72' but either way it does not meet the 75' requirement. He explained that a wetlands scientist looked at the property and deemed that area to be "poorly drained soil". No part of the deck will be over the septic system. Glenn asked how far the leach bed is from the deck, Tyler responded that it is about 30'. Glenn also asked what was used for the footings, and Tyler responded that precast concrete footings are in place.

The ZBA reviewed the variance application against the five variance criteria and voted as follows:

Criterion #1: The variance will not be contrary to the public interest

Rasp/Yes; Cobb/Yes; Lang/Yes; Anderson/Yes; Frederick/Yes

Criterion #2: The spirit of the ordinance is observed

Rasp/Yes; Cobb/Yes; Lang/Yes; Anderson/Yes; Frederick/Yes

Criterion #3: Substantial justice is done

Rasp/Yes; Cobb/Yes; Lang/Yes; Anderson/Yes; Frederick/Yes

Criterion #4: The values of surrounding properties are not diminished

Rasp/Yes; Cobb/Yes; Lang/Yes; Anderson/Yes; Frederick/Yes

Criterion #5: Literal enforcement of the ordinance would result in an unnecessary hardship

Rasp/Yes; Cobb/Yes; Lang/Yes; Anderson/Yes; Frederick/Yes

Sub-Category A: "The Relationship Test" or "The Reasonable Use Test"

Rasp/Yes; Cobb/Yes; Lang/Yes; Anderson/Yes; Frederick/Yes

Sub-Category B: "The Strict Conformance with the Ordinance Test"

Rasp/Yes; Cobb/Yes; Lang/Yes; Anderson/Yes; Frederick/Yes

Melissa Anderson made a motion to grant the variance to Article 15, Section F.1(b) of the Sanbornton Zoning Ordinance Tyler Girardin. Steve Cobb seconded the motion and the motion passed unanimously with votes as follows: Rasp/Yes; Cobb/Yes; Lang/Yes; Anderson/Yes; Frederick/Yes

Chair Lang noted that there is a 30-day period when any abutter can appeal the ZBA's decision in this case.

b. Application for Special Exception (ZBA 2020-4) - Sanbornton Zoning Ordinance Article 18, Section B(3) Applicant: Timothy F. Bernier on behalf of owner R.D. Edmunds Land Holdings, LLC, Johnson Rd, Tax Map 15, Lot 58. Applicant proposes earth excavation and gravel pit operation.

Tim Bernier explained that this property was previously owned by Bull Fish Investments and was brought to the Board originally in 2015 for a special exception application. Some parts of the plan have changed since then; the applicant proposes to remove 750,000 yards of material to a depth of 40 feet. An Alteration of Terrain permit was granted as part of the original application and he plans to use that same permit as part of this project. The operation of the gravel pit will be 7:00am-4:30pm Monday through Friday, with occasional Saturdays until only 12:00pm.

There will be no crushing or blasting on-site at all, whereas the previous application had proposed blasting once a year. Trucks weighing approximately 30 tons will drive out of the site, down Johnson Rd and then south on I-93 to one company purchasing all the material. The project would last three to seven years depending on how much material is trucked at once, heavier loads could last three years or they could do lighter loads for seven. A refueling pad will be on-site only to refuel loaders, not trucks. A geotechnical study was completed as part of this new application which found that there is not an aquifer under the proposed excavation site. After the duration of the excavation the property would be converted to a use compatible with the zoning ordinance.

Chair Lang stated that this project was part of an application which was denied without prejudice in November 2017 due to lack of communication and lack of requested items being brought forth by the applicant; the ZBA had requested borings to bedrock as well as a third-party real estate study of homes located around a gravel pit and these items were not completed. He added that the items being referenced as part of the previous application need to be submitted as part of this new application. Tim Bernier responded that he will bring forth the other studies from the original application such as the noise and traffic study.

Don noted that one side of the gravel pit comes right up to one of the property lines according to the map and asked if an abutter would be looking straight down or at a vertical slope at this point; Mr. Bernier responded that there would be a 2:1 gradual slope. Melissa Anderson asked where Salmon Brook is in relation to this location and Mr. Bernier responded that it is west of the proposed site. Glenn asked how the edges of the slope will be supported if there are no longer trees there, and Mr. Bernier responded that there will be a berm that can be planted; Glenn stated he would be worried

about erosion. Chair Lang asked if there would be a reclamation plan in place after the life of the project that would include planting of more trees to mitigate erosion and Mr. Bernier responded Yes.

Attorney Chris Seufert provided the Board with copies of a national study stating that there was a negligible price difference between properties located near a gravel pit and those that were not. He also provided a study from Kaitlyn Nash of Gold Coast Realty who analyzed home sale prices within two miles of gravel pits in Boscawen, Bow and Pembroke and found that there was a negligible price difference (.007%, .0037%) and an actual increase (15.02% in one area. Chair Lang noted that even though the price difference isn't much in those that decreased, they did still decrease. Glenn noted that these are in areas that are a mix of commercial and residential whereas Johnson Rd is only residential.

Chair Lang opened the meeting to the public calling in who mainly had questions about noise and traffic; Tim reiterated that there will need to be road and noise studies submitted before answering questions about those items. Mr. Bernier noted that the applicant will put up a bond with the Town in the case of road damage. Chair Lang opened up the meeting to the public attending the meeting in-person. Abutter Julie Lonergan explained she is concerned about fugitive dust and provided handouts to the Board about this. Donna Ledgard stated that the application does not address specifics on how dust will be controlled, it just says that water will be used. Julie noted that there is a map in the Town Offices that shows there is an aquifer in this area and she is worried that the material currently filtering well water for the neighborhood will be removed. She is also worried about her pond on her property. Donna stated that excavation in this area will damage Salmon Brook and she is concerned about the refueling pad filling up and spilling over into the brook. She also stated that the Alteration of Terrain permit was provided to the previous landowners on August 25, 2015 and expires in five years, so it is expired as of today.

Harry Weatherbee from Geotechnical Services Inc provided the new hydrological study for the applicant to see if there was a high-yield aquifer and found that there was not even a low-yield aquifer. He explained that he measured at three test wells and measured saturated thickness; the previous Terracon study suggested that borings to bedrock would be needed but Mr. Weatherbee found this to be unnecessary and costly. He stated that he followed USGS methodology to test for an aquifer by drilling until he hit glacial till. Chair Lang stated that the Board is put in a difficult situation because they had a previous study conducted by a third-party firm which said more testing was needed, but now the applicant's paid for a study which says it is not. Mr. Bernier noted that his firm checked with other hydrogeologists who all said that borings to bedrock were unnecessary. Chair Lang noted that there could be differences in the water table depending on time of year these wells were tested; Mr. Bernier responded that there will be changes throughout the seasons but they are not drastic and the wells were sampled over a large area. He also noted that Terracon did request borings to bedrock but that would only be needed if you would be feeding a municipal water supply in that area.

Mary MacMahon asked what the benefit to the Town would be to allow this project, as there seem to be many drawbacks. Chair Lang noted that the Board does not look at impact to taxes; they are tasked with making sure a project adheres to the ordinance. Abutter Tracy Seavy stated that she has tried to have surveyors look at her property to determine where the boundaries are but this is a complicated and costly project; she stated that according to her records the proposed refueling station is either on or at her property line. She noted that four out of five of her family members have asthma and she is concerned about dust. She is concerned about water quality changing and stated that she would find it hard to believe that it would be difficult to sell her home with a gravel pit next door.

Highway Department Director Johnny Van Tassel explained that Johnson Rd was reclaimed and repaved two years ago but was not built for having heavy truck traffic; he would need to see a new traffic study to determine the wear and tear on the road.

Chair Lang stated that the Board needs more studies with this application; Mr. Bernier can work with Steve Laurin to find a third-party hydrogeologist to do a peer review on the hydro study. Don suggested water quality testing before, during and after the project if this is approved.

This public hearing will be continued and scheduled when more information is submitted.

OTHER BUSINESS

a. HB 1129; online posting of notices allowed in lieu of newspapers effective 9/8/2020 (amends RSA 675:7, I) – Chair Lang explained that this new regulation allows for posting meeting notices online versus in the newspaper, but he would still like to use the newspaper as some people aren't tech savvy. All members were in agreement to continue posting newspaper ads for public hearings.

b. ZBA membership – Memberships are expiring for Audry, Glenn, Melissa and Steve. Audry will reach out to Town Administrator Trish Stafford about this; members may need to go to a BOS meeting to be reappointed or may be able to just go to the Town Clerk to be sworn in.

c. Joint Land Use Boards meeting – This meeting is scheduled for Thursday, September 3rd at 7:00 at Old Town Hall.

d. ZBA FY22 budget – Chair Lang proposed level-funding the budget for FY22 with the exception of the Advertising line; which will be reduced by half (\$500 instead of \$1,000 as it has been historically underspent). Audry stated that the ads are now cheaper than in previous years. Members were in agreement to make this one change to the budget.

e. Application 2020-2 from New England Solar Garden continued to next meeting – no discussion

Meeting adjourned at 9:10pm.

Respectfully submitted, Audry Barriault