

BOARD OF ADJUSTMENT

DECEMBER 6, 2006

MEMORIAL BUILDING

7:00 P.M.

The following are to be considered draft minutes only until approved by the Board at their next meeting.

Present: Chairman, Bernard Manning; John Graham, Cynthia Hayes, Andy D'Amico, Marc O'Halloran and Alternate, Gene Hayes.

Absent: Bob Anderson.

Don Gobin, President of the Grantham Area Chamber was also present.

The meeting was called to order at 7:00 p.m.

Minutes: It was determined that the minutes board members downloaded from the website were different from the minutes that were mailed from the office. The Board discussed spelling errors in the mailed minutes. John Graham requested a correction on page 5 (paragraph 1), *"John had walked the property years previously when Mr. Gestay first built his house, and said that he would not be present for this viewing"* **John requested correcting the sentence to read: "John had walked the property years previously when Mr. Gestay first built his house."**

Cynthia made a motion to not approve the minutes until all members received a copy of the edited minutes. She indicated that the errors corrected were only spelling and grammar errors. Marc stated that if there were only spelling and grammar errors, and no substance changes, he was comfortable standing behind the minutes as edited by Cynthia.

B. stated that there was a sentence missing on page 8, (paragraph 2) and requested addition of one of the key points that he was making. The paragraph was corrected to read *"The Board feels it approached this entire issue in a very logical manner, recognized the application would need a Special Exception and move forward with that in mind. One of the reasons stated in the motion to rehear is that the business does not meet the criteria of a home business. Add: **The ZBA agrees with this and is the reason they required the applicant to seek a Special Exception.** The action of the board was not unlawful, but rather the proper procedure as outlined in the ordinance."*

Cynthia moved to accept the edited minutes as posted online, with the deletion requested by John, and the addition requested by B. The motion was seconded by Andy and unanimously approved.

Literature and Correspondence: B. indicated that the Planning Board is looking at some changes to the Zoning Ordinance again this year. In reviewing the section on appeals to the ZBA he has found some discrepancy between the ordinance and state statutes. He reviewed amendments with the board as follows:

*Page 19, Appeals to Board of Adjustment. 1. Appeals to the board of adjustment concerning any matter within the board's powers as set forth in RSA 647:33 may be taken by any person aggrieved or by any officer, department, board, or bureau of the municipality affected by any decision of the administrative officer. Such appeal shall be taken **within a reasonable time***... Our ordinance says 15 days.*

*Page 20, Motion for rehearing of Board of Adjustment, Board of Appeals, and Local Legislative Body Decisions. - **within 30 days***... Our ordinance says 20 days.*

*Page 21, Rehearing by Board of Adjustment, Board of Appeals, or Local Legislative Body, ...II Upon the filing of a motion for a rehearing, the board of adjustment, a board of appeals or the local legislative body shall **within 30 days***... Our ordinance says 10 days.*

B. felt this information should be shared with Kevin Lee for the planning board to review.

Andy indicated that the planning board is trying to make standards and definitions between the zoning ordinance and the subdivision regulations in sync with one another. He will bring the discrepancies between the RSA's and the ordinance to the board's attention. Cynthia questioned whether they should go by what the RSA says and make changes accordingly.

The Board reviewed the proposed changes, and agreed that Page 19 should remain as 15 days, page 20 should be 30 days and page 21 should be 30 days. These changes could be substantiated by what is found online regarding the RSA's.

Gestay – Continued Gestay Variance Hearing: At 7:20 p.m. the continued hearing for Allen Gestay was begun. Allen Gestay and abutter Bob Baker were present.

B. indicated that the Board had walked the site to review concerns with issues with the property line and potential wetlands. He had taken pictures at the site visit and had them available for review. Mr. Gestay was to see about getting the property line more clearly defined and the wetlands delineated.

Mr. Gestay presented a property line survey prepared by Allen Wilson. Mr. Gestay indicated that he had requested the addition to be within 27 feet of the property line, but the survey shows 26.5. The survey plan also shows the addition to be 24 feet but it actually is 20 feet. He is requesting that the variance request reflect a 22 foot setback to allow for any discrepancies. He has eliminated the plan to have a deck off the addition. The addition is 20' from the original footprint on the gable end of the house.

Mr. Gestay indicated that he had spoken to Mr. Wilson about getting a letter to cover the possible wetlands issues but he hasn't gotten that.

Andy questioned where the wetlands were on the property. B. explained the layout of the drainage area that travels through the development. The Board would like a clearer idea of where the drainage and wetlands areas are for indication as to the potential impact to the wetlands on the property.

John Trachy, Chairman of the Conservation Commission encouraged the Board to look closely at the area as there appears to be criteria that indicate forested wetlands, within the 100 foot buffer.

Mr. Gestay indicated that there has never been any flooding in that area, even with the particularly high amount of rain fall there has been over the past two years.

The Board discussed that the site visit indicated that there was uncertainty of the property line and the Board determined that it was difficult for the Board to make a decision without a clearly defined property line to show the setbacks that they are dealing with. During the site visit identifiable forested wetlands seemed to be apparent and the Board had asked Mr. Gestay to have someone make an identification of the wetlands situation.

B. stated that he has information on how to identify forested wetlands for the lay person.

Cynthia indicated that she is more comfortable now that the property line has been identified, but is not comfortable with the wetlands unless someone has made that determination. Marc explained that a wetlands scientist should be the one making the determination. John suggested that the wetlands should be flagged.

B. explained the hearing procedure to Mr. Gestay. Mr. Gestay agreed to a continuation of the hearing to allow the wetlands to be delineated.

The Board discussed that the contours of the property may have changed the natural drainage of the area since the cul-de sac was put in. The Board discussed the drainage, watercourse, and changing wetlands.

Cynthia read from the regulations that indicated that the area needs to be delineated by a certified wetlands scientist. Marc informed Mr. Gestay that Allen Wilson was not a certified wetlands scientist, but he works closely with people who can do this for him. Mr. Gestay was concerned regarding the costs of wetlands mapping.

Marc asked whether the abutters had any objection to a wetland's scientist being allowed to enter their property to do the research for the wetland's mapping. Mr. Baker stated he would give his permission.

After discussion, a final motion was made by Cynthia to continue the variance hearing to January 3, 2007, seconded by Marc. (7:15 p.m.) Gene Hayes clarified that the wetlands delineation should be done by a certified wetlands scientist and the wetlands should be shown on the plan. The Board unanimously approved the motion.

Mr. Gestay questioned whether it would be possible for him to continue to February if he is unable to get the work required done by the January meeting. He was told he could request a postponement in January.

Matarazzo – Special Exception Hearing: At 8:00 B. turned the meeting over to Vice-Chairman Cynthia Hayes. B. stepped down as he has just purchased the property that abuts the Matarazzo property.

John Graham stated that he doesn't think that B. or any other abutter has to step down or refuse to say anything about this application as a member of this committee. He believes that just because a member is an abutter to a property in question, that does not make them ineligible to speak as a member of the committee. He does not agree that B or Mr. D'Amico need to step aside. Board members are here to help the community.

Andy stated the issue is not about helping the community, but not wanting to create a conflict of interest for the Board or the town.

Cynthia stated these are personal decisions these board members have made.

Marc O'Halloran stated that he also would be stepping down due to business affiliation with Mr. Matarazzo. He stated that he is doing so to protect Mr. Matarazzo's investment in this project and to protect the town.

Cynthia Hayes took over as chair. Cynthia appointed Gene Hayes to step in. Cynthia Hayes, John Graham and Gene Hayes were the Board members remaining to open the hearing. Cynthia explained to Mr. Matarazzo that an affirmative vote on his application would be required from all three Board members. The Board has no other alternates available to call on at this time. She gave Mr. Matarazzo the choice to continue with the three members, or to postpone the hearing to allow the board time to find 2 more alternates to make a full board. She informed Mr. Matarazzo, that if he chose to go forward, even if more alternates were found, the hearings would proceed with the three members present. She explained that if Mr. Matarazzo did not receive an affirmative vote of all 3 members on this request, that Mr. Matarazzo could not appeal the Board's decision based on the fact that there were only three eligible members. Mr. Matarazzo would have to prove that a decision was either unlawful or unreasonable to request a motion for rehearing.

After careful review, Mr. Matarazzo agreed to proceed with the hearing, since he cannot continue the subdivision planning without this vote from the ZBA.

Cynthia opened the hearing. Abutters Donna & Ed Abair and Amanda & Ryan Peterson were present.

Cynthia explained that the board would be reviewing whether the proposed wetlands crossing are feasible, or if there were any other feasible alternative.

Mr. Matarazzo introduced himself to the Board. He presented his proposal, currently before the Planning Board for subdivision review to subdivide 125 acres with access off Town Farm Road and Four Corner's Road. The property also has frontage on Route 4A and Hazzard Road. He is seeking a Special Exception under Article 4, Section H, 2, for driveway and road crossings through wetlands. The Town initiated these setbacks in the zoning regulations approved last March. He indicated that there is no other way to get into the site. The crossings involve two wetland areas off Four Corner's Road, and 1 off Town Farm Road. He is proposing two neighborhoods. One off Four Corner's Road with a proposal for a loop road, serving 21 single-family homes. The other road off Town Farm Road is proposed to service 6 cluster homes.

Wetlands areas are mapped and shown on the plan he presented. They have been flagged and delineated in the field by a wetlands scientist. He indicated that topographically these are the best locations to bring a road into the property. He reviewed the locations where the road crosses wetlands that are greater than 10,000 square feet.

Mr. Matarazzo reviewed the delineation on the proposal for home, well and septic locations. He stated that they would be applying for State permits for these wetlands crossings. Lot 2 will require a special exception for a driveway crossing. A small area of Lot 1 crosses a small portion of wetlands.

At Town Farm Road, they are proposing using the location of the existing logging road which they feel is the best way to access the site to the cluster homes.

Mr. Matarazzo stated that his intent is to design a nice neighborhood, tucked back away from view. He described the power easement area. He is hoping to keep the open space currently maintained by the snowmobile club open for snowmobiles and cross country skiing.

Mr. Matarazzo addressed the points reviewed in the Special Exception Application. Copy of Application follows:

November 17, 2006

*Town of Springfield New Hampshire
Zoning Board of Adjustment*

RE: THE MATARAZZO SUBDIVISION OFF FOUR CORNERS ROAD AND TOWN FARM ROAD

We request a Special Exception to the Zoning Ordinance as Amended Article 4 Section H2 Paragraph 2 related to crossing a wetland and the adjacent 100 foot buffer with a roads and driveways.

Paragraph H2 "Road, driveway and utility right of way or easement crossings only if there is no feasible alternative location and subject to approval of wetland permits by the New Hampshire Wetland Board if required."

For the purpose of the Ordinance, the following are established as general conditions for the granting of a special exceptions, subject to further conditions as may be defined elsewhere herein as to the uses concerned:

- a) The use will not be detrimental to the character of the enjoyment of the neighborhood by reason of undue variation from the character or appearance of the neighborhood, because the proposed homes will be set back from the existing Four Corners road and Town Farm Road to minimize the visual impact on the neighborhood. .The crossings of the wetland and setbacks as shown on the site plan are the only feasible locations for the crossings.*
- b) The use will not be injurious, noxious, or offensive, and thus detrimental to the neighborhood; because the proposed residential use for the property is in keeping with the existing zoning and is less density that the existing zoning would allow, the average lot size will be 4.8 acres vs. the allowable size of 1.5 acres.*
- c) The use will not be contrary to the public health, safety or welfare by reason of undue traffic congestion or hazards, undue risk to life and property, unsanitary or unhealthful emissions or waste disposal, or similar adverse causes or conditions; because the proposed use is not overburdening the land. The density is less than the allowable; the traffic is being disbursed to two town roads, Four Corners, and Town Farm Road and all the lots are being designed to meet all the state and local requirements for size, the septic systems and wells are designed with the required areas and setbacks .The roads and driveways will be designed for a residential subdivision and as such will be similar in character and appearance and not detract from the surrounding neighborhood.*
- d) The location and size of the use, the nature and intensity of the operation involved the size of the site in relation to the proposed use and the location of the site with respect to*

the existing or future street giving access to it shall be such that it will be in harmony with the orderly development of the District. The location, nature and height of the buildings, walls, and fences shall not discourage the appropriate development and use of the adjacent land and buildings or impair the value thereof. The location and size of the proposed housing development will be in harmony with the orderly development of the District, because the homes in the proposed development will be sited well back from the existing roads and their height and locations on the lots would have minimal impact on the adjacent properties, also there will only be 2 road cuts visible, 1 from Town Farm Road and the other off Four Corners Road

e) The operations in connection with the proposed housing development will not be more objectionable to nearby properties by reason of noise, fumes, odor, or vibration, than would be the operation of any permitted uses in this District which are not subject to special exception procedures.

Mr. Matarazzo stated that he feels that he is trying to build a nice road in a nice location, taking advantage of the natural beauty of the land. Springfield has some of the largest setback requirements in the State. The buffers and setbacks are creating a tremendous amount of land left open and not being used. Mr. Matarazzo explained that the road has been designed to planning board specifications, and will be built to roadway standards. Subdivision regulations limits road length to 1500 feet before an additional access/egress or cul-de-sac needs to be designated. The proposed entrance off Four Corner's Road is approximately 1400 feet, before the beginning of the cul de sac. Mr. Matarazzo indicated that the proposed layout of the road is the best way to come into the site.

Cynthia asked if there were any people present who wished to speak in favor of the proposal.

Ed Abair addressed his concerns with the access off Town Farm Road. There is an area of the road, near the property entrance that is under water during heavy storms. That section of the existing town road should be built up.

John Trachy, Conservation Chairman indicated that the Commission has a number of concerns with regards to the wetlands. They feel the number of wetlands crossings is extreme and would like to see if there is some other way to access the property.

Board members discussed using Hazzard Road. Mr. Matarazzo stated that Hazzard Road is a Class VI road. He had been told by the Planning Board that he could not use Hazzard Road. He is unsure of the reason for not using that as an access. Mr. Matarazzo indicated that the intersection of Hazzard and Four Corners Road is very congested with residences and it would not make the best entrance to serve the site.

Mr. Matarazzo presented the board with a concept of what he would like the character of the neighborhood to be developed to. He described the layout of the land, the proposed road, and the location of houses on the site.

Cynthia stated that she would like to hear why Hazzard Road is not an option for access.

Ed Abair indicated that there are areas of Hazzard Road that flood as well.

Cynthia stated that she would like to propose:

1. The Zoning Board participates in the planned site walk on Saturday, December 9th
2. Have the Board check to be sure there is no other option for road access.
3. Would like information from the applicant of the aquifers at the entrance to the site. She has reviewed copies of a State map that show that these wetland areas are stratified aquifers.

Amanda Peterson stated that she agrees with Ed and his concerns that Town Farm Road may not handle additional traffic well.

Cynthia asked Mr. Matarazzo if there were other wetland crossing issues if Hazzard Road were to be an option. Mr. Matarazzo stated that there would be road crossing and driveway crossing issues in order to recapture the lots that would be lost if the proposed road were to be redesigned.

B. Manning stated that he is not sure that they wouldn't have wetlands issues if the access were required off Hazzard Road.

Mr. Matarazzo responded that he hasn't looked further at Hazzard Road. He stated that he is not out to destroy wetlands. They are respectful of wetlands and setbacks and they have the ability to make beautiful sites.

Cynthia stated that she would like to have the applicant address how the wetlands crossings are going to be done.

John Trachy would like opinions on the wetlands impact. Mr. Matarazzo stated that there would be minimum impact in terms of wetlands. He indicated that he had requested a waiver to build the roads narrower, but the Planning Board was not in favor of that.

B. indicated that narrow roads would be less expensive to the developer, and could have less impact on the wetlands, but they could create maintenance issues.

Gene questioned the 1500 foot road distance and construction requirements. Marc reviewed the subdivision regulation requirements and road building specifications.

Cynthia asked for additional comments. There being none, the Board unanimously agreed to continue the hearing to January 3, 2007 @ 7:45 p.m.

Cynthia then turned the meeting back over to B. Manning.

There being no further business, motion by Gene and unanimously approved to adjourn at 9:15 p.m.

Respectfully Submitted,

Janet Roberts,
Recording Secretary