

Zoning Board Minutes & Decisions 10/05/2016

ZONING BOARD OF ADJUSTMENT

Meeting Minutes
Recorded by Janice Pack
October 5, 2016

Members Attending: John Gryval, Loren White, Conrad Dumas, George Rainier, Gil Morris, Kevin O'Connell

Mail:

Planning Board Comment on Paradise Building Permit Request, R1-33
10 copies of Zone Map of Greenfield (Property Lines Current to 4-1-16)
6 copies of revised page 7/8 of Zoning Ordinance (revised 3/8/16)
Set of Property Maps (April 2016)
Copies of ZBA Budget Reports (one 9/22/16 and one 6/8/16)
Town Listings (one revised 8/24/16 and one revised 5/27/16)
Flyer from SWRPC
3 certified mail receipts and return receipts from Paradise case (total of 3 sent)

Meeting opened at 8:00 PM

JGryval called the meeting to order. Six members of the Board were present; only 5 can vote. It was decided that no one needed to recuse themselves. GMorris stepped down; he will not vote unless needed as an alternate in a subsequent meeting. JGryval has spoken to the Planning Board Chairman, Paul Renaud, and he stated that PREnaud was present, and willing to provide information relative to the case.

PREnaud spoke about the 3 nonconformities that the Planning Board had found, and the determination that the minimum lot size and minimum frontage length were grandfathered, but there was no savings clause for a lack of frontage on a nonconforming road.

The Board spoke about the minimum frontage length being grandfathered, and why John Paradise had gone before the Planning Board, and why he had been referred here to the ZBA tonight. PREnaud said "If there is a building permit that goes before the Select Board on a Class 6 road, the Select Board has the final say as to whether or not to issue the permit." CDumas said that up until now the Town has not issued any building permits in over 20 years on Class 6 roads. PREnaud said that the history of the Class 6 road was not part of the purview of this case. GMorris asked how long the road had been a Class 6 road. PREnaud said "at least since the late 60s."

GMorris read from the Planning Board minutes where JParadise had been referred to the ZBA. PREnaud said that JParadise cannot build on a Class 6 road because our ordinance does not allow it. So if he does not get the variance, he cannot build.

Copies of the 4 pages consisting of the letters to and from the Town of Bennington, the Planning Board comment to the Select board, and the Planning Board comment to the ZBA were handed out. JGryval asked if after reading the copies, anyone had a comment.

GMorris said "Did you read what the Planning Board wrote to the Select Board? The reason why we are here is that this was referred to the ZBA for the variance." LWhite asked if the Planning Board was convinced that the lot was conforming in all other aspects.

PREnaud said that if the variance was approved, his letter to the Select Board would be to proceed.

JParadise mentioned that when he had bought the property in 1997 he was told that he could build on it. CDumas said that he was on the Select Board back then and does not remember saying that. PREnaud showed the ZBA the file kept by the Planning Board and the letter referred to. CDumas said that there was no mention of permission to build, but JGryval read another letter saying that there was permission to build. JParadise came to the ZBA back on 1997, and they granted permission if he entered his property via Dodge Road. However, that permission expired after 2 years, in 1999.

JGryval asked if we were going to hear this case. The Planning Board has said that the only issue is the frontage on a Class 6 road.

JGryval said that he felt it had been properly noticed. JGryval asked for a motion for jurisdiction to hear the case. KO'Connell made a motion and GMorris seconded. There were 3 Yes votes (KO'Connell, GMorris, LWhite). JGryval abstained. GRainier voted No.

The Board discussed the fees associated with the hearing (postage, noticing, and application fee) but the Recording Clerk did not have the invoice for noticing so although JParadise was prepared to pay, the Recording Clerk will need to get that figure to him.

The Board asked JParadise to state his case. He explained that he wanted to build a small ranch house, and the portion of road he would be coming in on. CDumas clarified that Dodge Hill Road was a Bennington road, and Dodge Hill Road when it comes to Greenfield Road (class 6) is a Class 5. JGryval asked if JParadise owned the property adjacent to it, and he said no. JGryval said that in the application he was asked to speak to 5 points. He was asked to go through them.

- JParadise said that the Town of Bennington agreed to do the services for fire, police and emergency. JGryval pointed out the letter from the Town of Bennington and he wondered why the Town Administrator had the power to send that letter rather

than it coming from another governing body. He wondered what would happen if the Town Administrator was no longer there. P Renaud spoke to the letter and felt that the letter was sufficient. G Morris said he felt we could move forward based on that letter. C Dumas said “the driveway will exit on what road?” J Paradise said Muzzey Hill Road. J Gryval said that according to the letter written by the Town Administrator, there was no time frame that the letter was going to be valid for. P Renaud said that there was email correspondence between the 2 town administrators, something to do with a site plan, and needing to be done within the timeframe.

- J Paradise said that he was waiting for a draft from the Town of Greenfield that he was going to bring to a lawyer to put into the deed.
- J Gryval asked who gave him the assurance that he could build on the property. J Paradise referred to the letter from the ZBA which granted permission to enter the property on Dodge Road – not Muzzey Hill road – and which had expired. It was determined that perhaps someone else had been acting in his interests, but none in the room recalled him coming before the ZBA 20 years ago, or that decision.
- J Paradise reiterated that he just wanted to build a home there.
- J Paradise said that he would put into the deed the arrangements for maintenance of the road. J Gryval asked if there been any particular discussion about the upkeep of Muzzey Hill Road, but it was decided that it may have been with the Select Board. L White feels that the Town will grant permission to J Paradise to make any necessary improvements to Muzzey Hill Road, which will eliminate the Town’s responsibility for maintaining it.

J Gryval asked P Renaud if there was anything else that he wanted to add. P Renaud said he felt that the applicant had gotten the original variance since it happened within a few weeks of the auction. G Morris asked about the paper J Paradise had mentioned receiving at the time of the auction, and whether or not it said anything about building. J Gryval read a document which was essentially a receipt for \$4,600 signed by Adele Gagnon who was the Town Administrative Assistant at the time. This will be entered showing proof of ownership. J Gryval asked J Paradise to confirm the tax card, and J Paradise did confirm that it was a current one. It is listed as 2.1 acres currently valued at \$6,100, and the tax card shows that the property is undeveloped.

At this point J Gryval asked if anyone had anything else to add. Hearing nothing, he made a suggestion. Generally, at this point we would look for a motion to close and move into deliberation session. He said that he would like to research further, keep this part of the meeting open and gather some more information. C Dumas wanted to find the record of the ZBAs previous decision. G Rainier moved to adjourn and keep the meeting open until 10/12/16 at 8:30 PM. J Gryval explained further to J Paradise the reasons for what the Board was doing.

Budget

\$5150 is the total budget figure. J Gryval felt we should keep it the same, and the Board agreed.

L White wanted to draft a warrant article to ask for permission to retain up to 50% annually in a capital reserve account which could perhaps earmarked for legal expenses. C Dumas was opposed. G Morris liked the idea of having a legal cushion. L White said this would encourage and reward a department head for being frugal.

A motion to adjourn was made by K O’Connell and seconded by G Rainier.

This meeting was adjourned at 10:01 PM.