

**ZONING BOARD OF ADJUSTMENT**

Meeting Minutes

Recorded by Janice Pack

January 31, 2018

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8 **Members Attending:** John Gryval, Gil Morris, Jarvis Adams, George Rainier, Craig Pettigrew

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10 **Public Present:** Colleen O'Connell, Paul Renaud, Dave and Tammy Blanchette, Chad Branon, Carol Irvin, Neal  
11 Brown

**Meeting opened at 8:00 PM**

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13 JGryval called the meeting to order.

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15 **Continuation of Public Hearing, ZBA Case 2018-02, for the property located at 295 Sawmill Road (Map 1, Lot**  
16 **29) for a Variance to permit a reduced setback as specified in the Zoning Ordinance, Section III, Article F,**  
17 **Paragraph 3 and a Special Exception in the Wetland Conservation District from Section III, Article J(2)(d) to**  
18 **permit upgrading an existing driveway culvert which crosses a wetland area on behalf of Dave Blanchette**  
19 **began at 8:00 PM.**

20 The ZBA held a site walk on Saturday, January 27, 2018. JGryval, GMorris, JAdams, GRainier, CPettigrew, Clrvin,  
21 Neal Brown, and Chris Guida from Fieldstone Consultants were present. No votes were taken. JGryval read the  
22 site walk notes. CBranon from Fieldstone spoke to the questions addressed in the notes. He said they did agree  
23 to do something more with the buffer to prevent impact. The design currently does not account for that; it's a  
24 sloped surface and the areas are self-contained, but if the Board makes a decision tonight, it could  
25 accommodate the fact that if there was a retaining wall, there would be less impact. Regarding the vegetation,  
26 the area of mature forest in the front left will remain, as well as the jurisdictional wetland. There is woodland  
27 area toward the center front.

28 They are requesting the variance from the front setback, and noted that the setback is consistent with what  
29 exists; similar to other locations in the area. He said they propose a much less intense use than industry, and  
30 pointed out the neighboring businesses which have much larger buildings and are close to the road. They want  
31 to point that out as a major point of consideration, as not only are they proposing a clean site, but adding  
32 buffering as well. There is a panel back where the slope starts on the access way where they could put some of  
33 the boulders that are excavated. The fence is optional; it's only going to be constructed if there is a security  
34 need. JGryval said that the guard rail and retaining wall would be part of the purview of the Planning Board.  
35 GRainier asked CBranon to return to the page with the aerial view, and asked where the vegetation would be  
36 left. CBranon outlined those areas again on the drawing. They are looking for setback relief, but they are  
37 proposing an aesthetically pleasing project. The regulations don't say that you need to maintain buffering but  
38 they think that is a good design.

39 JAdams went to the site after work today and measured some of the neighboring setbacks. New England Forest  
40 Products office is 82' from the edge of the road not counting 7' entry stairs, meaning the entire office is within  
41 the setback. American Steel is 70' from the road, so also in the setback. He feels that is important to note.

42 Clrvin noted that this lot is within the Groundwater Protection District. The Conservation Commission has a  
43 Natural Resource Inventory that they are working on with SWRPC. Looking at this particular project, she wanted  
44 to note that this lot is shown as having steep slopes of 30' or more. We do not have a steep slope ordinance but  
45 she wanted this to be on record.

46 The brook is actually called Alexander Brook, and on the northern side where it makes it way into Otter Brook, it  
47 is noted as part of the National Wetlands Inventory.

48 Clrvin questioned the steepness of the “new” slope that would be made after the area was widened to create  
49 access around Building A. CBranon said that because you can’t stabilize a slope that steep, it would be  
50 reinforced with erosion control fabric, and a 2% slope. Going into a retaining wall, it may be a little steeper.  
51 They may use a wildflower mix there; it will grow back over time.

52 Clrvin asked what kind of equipment will she see in that wetland area during construction. CBranon said they  
53 would put in silt fencing and erosion control material before they began construction. They would put a  
54 construction access in, and cut the trees that needed to be cut. They are aware that the site is in the  
55 Groundwater Protection District. Clrvin said that she feels this area could act as a spillway. If the one area that  
56 the water used to go isn’t there anymore, where will it go? Will the water in the brook be higher? CBranon  
57 feels that since the entire site is self-contained it would offset impacts that would be associated with the fill.

58 JGryval asked if ConComm had any kind of opinion on that project. Clrvin said that she agrees with a lot of  
59 what’s been said about the proposed use of the project. She said it is about as low impact for the area as you’re  
60 going to get, and very creative. She doesn’t like that the one building is completely within the setback area. She  
61 feels we need to respect the will of the town in having a setback. She could be on board with a variance if at  
62 least part of the building was in the buildable zone. About a year ago ConComm did a survey and one of the  
63 questions was “Tell us what you think about preserving land for water quality protections” and 90% of the  
64 respondents felt that was very important. She wished the project could be shaped so that there wasn’t a  
65 building completely in the setback. She feels the applicant was doing a great job at trying to reduce impact. She  
66 said that in her opinion, she hoped that the Board would not grant the variance for Building C.

67 CBranon said when it comes to water quality, he feels they have addressed that. They don’t believe anything  
68 they are doing will have any negative impact on the water quality. They have tried to minimize the impact on  
69 the wetlands. The biggest issue with the property is that there is just no way to locate all the buildings within  
70 the area. He said he feels it is most important to look at the intent. Looking at the Industrial Overlay Section, 6.  
71 says that no building shall occupy more than 60% of its frontage. He feels that speaks to the intent of the  
72 ordinance. He said again that they need 18,000 square feet to be successful, and he feels that it’s important to  
73 the community to have a successful business.

74 CPettigrew asked if when the buildings were designed, were other design options considered? CBranon said this  
75 type of buildings are standardized. The issue is the topography of the site. Other designs didn’t really fit with  
76 the lot.

77 NBrown asked about flooding. CBranon said that the erosion control fabric will retain the materials on the site.  
78 NBrown asked about a rapid flow and CBranon said they didn’t think that would be a problem.

79 GRainier said that when CBranon mentioned regrading the area, he was concerned that while trees were going  
80 to remain, they may not survive the regrading efforts. He mentioned the shelf of ice he encountered during the  
81 site walk that proves that the water does rise up quite a bit. GMorris asked if the topography has been created  
82 from previous work; Clrvin said she didn’t think you could say it was manmade. Some of the back area was  
83 compiled from piles of rocks. GRainier asked about the use of gravel in the roadway around the buildings.  
84 CBranon pointed out the catch basins, and said that property compacted and connected, you wouldn’t get the  
85 erosion and run-off. Clrvin asked if they had calculated what percentage of the property would be covered by  
86 impervious material; the answer was 42.6%; leaving 57.3% of open space.

87 **At 9:10 PM John motioned to close the Public Hearing for Case 2018-02, and GMorris seconded it. All were in**  
88 **favor; motion passed.**

89 The Board decided to look at the Variance for Use first. This is in the residential district and the industrial  
90 overlay.

91 GRainier directed all to Q on page 23 of the Zoning Ordinance regarding storage containers. On page 3 under  
 92 Definitions it defines a storage container under X. There was discussion as to whether or not this definition  
 93 pertained to this project. It was also pointed out that Storage Containers did not exist under the definition of  
 94 Industry. JGryval asked if the Board thought that at some point, the town did not want to allow such a use.

95 The Board continued down the list of criteria and voted:

- 96 1. Granting the variance would not be contrary to the public interest: Yes-4, No-1
- 97 2. If the variance were granted, the spirit of the ordinance would be observed: Yes-3, No-1, Abstained-1
- 98 3. Granting the variance would do substantial justice: Yes-3, No-1, Abstained-1
- 99 4. If the variance were granted, the values of the surrounding properties would not be diminished: Yes-5
- 100 5. Denial of the variance would result in unnecessary hardship: Yes-5

101 **GMorris motioned to pass the use variance; JAdams seconded the vote. Yes-4, No- 0, Abstained -1.**

102 **Motion passed.**

103 Moving to the next variance for setback relief, JAdams opened the discussion by saying that this is why he went  
 104 out and measured the site and those of American Steel and New England Forest Products. JAdams feels this is a  
 105 great use for an odd shaped property. CPettigrew directed all to J:C.6 regarding frontage (can't occupy more  
 106 than 60% of the frontage, not setback). They do meet that criteria. The discussion for #5 showed the difficulty  
 107 the Board was having in justifying this. Under section 5 of the handbook it talks about the term hardship and  
 108 when it results in unnecessary hardship. Voting began:

- 109 1. Granting the variance would not be contrary to the public interest: Yes-3, No-2
- 110 2. If the variance were granted, the spirit of the ordinance would be observed: Yes-3, No-2
- 111 3. Granting the variance would do substantial justice: Yes-3, No-2
- 112 4. If the variance were granted, the values of the surrounding properties would not be diminished: Yes-4,  
 113 No-0, Abstained-1
- 114 5. Denial of the variance would result in unnecessary hardship: Yes- 3, No-2

115 **JAdams moved that we pass the dimensional variance. CPettigrew seconded. Yes-3, No-2. Motion passed.**

116 Moving to the Special Exception in the Wetland Conservation District, JAdams started the discussion by saying  
 117 that the items they were asking for were allowed according to D2. CPettigrew agreed that E3 stated you can't  
 118 be in the 25' buffer except for what is listed in B, so it would comply.

119 **JAdams made a motion to grant the Special Exception as requested. CPettigrew seconded it. Yes-3, No-2.**

120 **Motion passes.**

121 **The items requested on their application have been Approved.**

122 The Recording Clerk will send the letter of Approval. GMorris motioned to adjourn the meeting, and CPettigrew  
 123 seconded. All were in favor, and the **meeting adjourned at 10:25 PM.**

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