

**Town of Goshen
Zoning Board of Adjustment
Minutes of June 26, 2013**

Members Present: Doug O'Clair, Chair; Ray Porter, Vice Chair; Mike Chilson; Keith Hall; Mark Rissala

Chair O'Clair called the meeting to order at 7:05 p.m.

MINUTES

The Board reviewed the minutes of April 10, 2013 and made corrections.

Mr. Chilson made a motion to accept the minutes of April 10, 2013 as corrected. Mr. Porter seconded the motion. All in favor.

UNFINISHED BUSINESS

Chair O'Clair informed the Board that the agreement required as a condition of approval for Barbara Paronto's request for special exception has been received and signed by both parties and is on file at the Goshen Town Hall.

PUBLIC HEARINGS

John and Bonnylee Hooper – 190 Rand Pond Road – Tax Map 209 Lot 063 – Special Exception.

Mr. Hooper paid the public hearing fees, and Chair O'Clair read the public notice.

You are hereby notified of a Zoning Board of Adjustment hearing to be held at 7:15 p.m. on Wednesday, June 16, 2013 at the Goshen Town Hall concerning a request by John and Bonnylee Hooper for a special exception from section VI. D. of the zoning ordinance to reduce the 40-foot side setback requirement to 20 feet.

Chair O'Clair read section IV. D. Non-Conforming Land and the criteria for a special exception approval.

Mr. Hooper presented his application. He explained that he would like to build a larger home on the property. He stated that he has applied to the state for approval to work around the water front, as long as he stays 50 ft back from the shore. The lay of the land provides a natural drainage system. The only way to conform to the Town regulations would be to change the natural lay of the land, which would cause greater disturbance. The application for special exception is to reduce the setback on one property line to 20 ft. and 30 ft. on another property

line. Setback from Rands Pond Road would be 52 ft. There is no road frontage for this property, but a deeded right of way exists from the property to the North. The lot was developed before 1970 with no existing road frontage. The garage is oriented to the driveway as is in order to keep impervious areas to a minimum.

Mr. Hooper presented the Board with a copy of the deeded right of way for their review.

Mr. Hooper explained that there is an approved state septic system which will run out in mid August 2013. He stated that he would like to have the foundation in place in order to lock in the approval for the septic system. At this point the foundation would just be capped and further construction would take place within the next two years. The foundation footprint would not be larger than 32 ft. x 30 ft., probably less. The State will not allow any more than that for non-permeable surface. The camp that is on the water's edge will have to be removed, per condition of State approval.

The Board reviewed the Special Exception Criteria. There will be no adverse effect upon:

1. *The character of the area in which the proposed use will be located because the lots around Rands Pond existed pre 1950, which predates March 1970 when this lot was developed.*
2. *The highways and sidewalks or use thereof located in the area because there is a deeded access to the property through Chase-Fountain lot. The closest abutters' building would be more than 50 ft. from the proposed building.*
3. *Town services and facilities because the buildings would be 50 ft. from the highway right of way. The setbacks would be more than 20 ft. from any lot line.*

There were no members of the public present for comment. No written communications for the application or against were received.

Chair O'Clair commented that the only property that would be affected is not wide enough to build on, it is only 36 ft. wide, and so there would be no interference with abutters' structures.

Mr. Porter asked for clarification of the property boundaries. Mr. Hooper explained the map presented with his application.

Mr. Hall commented that this project would be an improvement on the property since it would consist of a new septic and the cottage would be away from the water's edge.

Mr. Rissala asked the Board to review the criteria for special exception. The Board agreed that this plan has no adverse impact as presented.

Chair O'Clair closed the meeting to further public input. The Board began deliberations.

Mr. Porter commented that he does not see anything negative in the application.

Mr. Rissala commented that he agrees with Mr. Porter and all of the requirements have been met.

Mr. Hall commented that he has no issues of concern with the application.

Mr. Chilson agreed with the other Board members.

Mr. Chilson made a motion to grant the special exception as requested. Mr. Porter seconded the motion. All in favor.

Chair O'Clair informed Mr. Hooper that a formal notice of decision will be sent to him in the mail, and he informed Mr. Hooper of the 30-day appeal period.

Jeff Volkers – 180 Lempster Coach Road – Tax Ma 201 Lot 3.11 – Variance

Mr. Volkers paid the public notice fees, and Chair O'Clair read the public notice.

You are hereby notified of a Zoning Board of Adjustment hearing to be held at 7:30 p.m. on Wednesday, June 26, 2013, at the Goshen Town Hall concerning a request by Jeff Volkers for a Variance from Section III, Article D.4 of the zoning ordinance per permit a shared driveway at 180 Lempster Coach Road in relief of the 175-foot road frontage requirement.

Chair O'Clair read the definition of variance and the criteria that needs to be met.

Mr. Volkers presented his application. He explained that he is asking for a shared driveway in anticipation of a potential 3-acre subdivision. There is another three acres near the LaRose property that may be sold to the abutter, Mr. LaRose. The variance is necessary in order for the subdivision to be considered.

Chair O'Clair explained to the Board and to the public that the subdivision regulations limits minor subdivisions to only two lots, three lots or more are considered a major subdivision. There is also a 175-ft. road frontage requirement per lot. The proposed back lot would not have road frontage, only a deeded right away across the front lot. The Board needs to give careful consideration for their reasons to approve or deny the application. There has been a precedent set in the past which allows a right of way in lieu of road frontage, but the Board needs to decide if this practice is appropriate for this particular location. The intent of the ordinance was to avoid long slivers of land for access purposes only.

Mr. Porter asked how much road frontage was on the whole parcel.

Mr. Volkers stated approximately 75 feet.

Mr. Hall commented that that the actual variance request references the 3-acre parcel near the road. There is no set location for the proposed shared driveway. The application simply seeks to use one driveway to access two house lots.

Alan LaRose, abutter, commented that the previous testimony has answered his question. He is an abutter and was wondering how many lots were going to be created. He asked if there would be any restrictions on a potential new owner from subdividing multiple lots.

Chair O'Clair commented that the Board can only rule on the zoning and subdivision regulations that are in place at the time of application. However, the subdivision regulations at this point in time restrict this parcel from being further subdivided for another 10 years. If this parcel comes before the Planning Board prior to ten years for further subdivision, it would then be considered a major subdivision.

Mr. Volkers commented that because of the wetlands on the parcel, there could only ever be two lots of record.

Mr. Hall commented that each building lot requires three acres per dwelling. In addition to the lot size, the character of the land needs to be considered such as steep slopes and wetlands. A major subdivision would require road construction built to town specifications as well as engineering plans. He pointed out that a shared driveway does not mean a major subdivision in the future.

Chair O'Clair read correspondence from abutter Rick Costello. Mr. Costello has no objection to the variance application.

The Board reviewed the variance criteria.

1. *The proposed use would not diminish surrounding property values because there would be very little change in vehicle traffic and if the subdivision is granted, a small new home would be built which should enhance the area.*
2. *Granting the variance would not be contrary to public interest because it would enhance the tax receipts from one more home and lot.*
3. *Denial of the variance would result in unnecessary hardship to the owner because a. the zoning restriction as applied to the property interferes with the reasonable use of the property, considering the unique setting of the property in its environment such that it is reasonable to create one more buildable lot to share the beautiful setting of the property; b. there is great privacy in the area and there would be little or no impact on the traffic in the area; c. there is minimal impact to the area and the subdivision will be done in a professional manner.*
4. *Granting the variance would do substantial justice because it would provide one more beautiful living residence in the town and enhance the tax revenue.*
5. *The proposed use is not contrary to the spirit of the ordinance because it promotes reasonable and positive growth for the town.*

Mr. LaRose commented that he does not see any reason to oppose the application since all of the requirements are met.

Chair O'Clair closed the meeting to further public input. The Board began deliberations.

Mr. Hall commented that he is not in need of more information that he is pretty clear about what is being asked.

Mr. Rissala commented that the application looks fine and pointed out that all decisions require subjectivity.

Mr. Porter commented that he does not see anything controversial in the application, which meets all the regulations requirements.

Mr. Chilson commented that he does not see any reason to object. He is comfortable with moving forward with the application.

Chair O'Clair commented that knowing that there are other situations such as this, and the fact that the applicant has over 18 acres and is not on a busy road, he has no problem with approving the application.

Mr. Chilson made a motion to grant the variance as requested. Mr. Porter seconded the motion. All in favor.

Chair O'Clair informed Mr. Volkens that a formal notice of decision will be sent to him in the mail, and he informed Mr. Hooper of the 30-day appeal period. He also informed the group that there is a new ruling by the State that gives only a 3-year window of time for the variance to be vested. After three years, the variance approval expires.

NEW BUSINESS

COMMUNICATIONS

OTHER BUSINESS

Chair O'Clair informed the Board that the Planning Board is in the process of considering zoning regulation updates including potential expansion of the light commercial district, addition of a new overlay district: Recreational Overlay District, a regulation for in-law apartments, a historic and a village district with unique regulations to those districts, a change in the steep slope grade, apartment building density requirement or new construction, and a fence setback from the public right of way. The rationale for these changes is to make compliance with the regulations easier for the property owners, to soften the regulations. There is a strong feeling in the community that the regulations were overwritten to protect the character of the town against Okemo impact.

Mr. Porter commended the work done by Newport Sand and Gravel to the entrance of their gravel pit off Route 10.

Chair O'Clair commented that he participated in a site visit of the gravel pit, and it appeared to be an excellent operation.

Mr. Chilson made a motion to adjourn. Mr. Porter seconded the motion. All in favor.
Meeting adjourned at 8:15 p.m.

Next meeting: July 10, 2013 unless notified otherwise.

Respectfully submitted,

Linda Plunkett
Recording Secretary