



BELMONT LAND USE OFFICE

ZONING BOARD OF ADJUSTMENT

Wednesday, May 28, 2008
Belmont Corner Meeting House
Belmont, NH 03220

Present: Chairman P. Harris (7:14pm); Vice Chair P. Oberhausen; Members L. Couture and M. Ford; Alternates E. Hawkins and P. Palombo.
Absent: Member N. Patten.
Staff: C. Daigle.

The Vice Chairman opened the meeting at 7pm, welcomed everyone in attendance and appointed E. Hawkins and P. Palombo as voting members for the first application.

ABUTTERS' HEARING – John Gervais: Request for a Variance of Article 4 of the Wetlands Ordinance to permit an existing deck closer (25.4') to the highwater mark than allowed (50'). Property is located at 204 Gardners Grove Road in an "RS" Zone, Tax Lot 119-019, ZBA #1008.

Mr. Gervais was present for this application. He explained that there had been a water leak and the deck had to be taken off. When it was replaced it was lengthened so that the deck extended over the two retaining walls on either end of the dwelling. This allowed him to tie into the walls making the deck sturdier.

He reported he had a permit for the entire deck in 1984. However at that time he had to put the deck on right away to allow access to the doors on that side of the dwelling. But the earth work and retaining walls could not be finished that season as the contractor recommended it sit for compaction through the winter. When the retaining walls were erected he never extended the deck to its full permitted length.

M. Ford confirmed that the deck was just made longer; the depth remained at 8'. Mr. Gervais acknowledged that was true and that it is on the water side of the dwelling. P. Harris asked if the Town has a copy of the 1984 permit. C. Daigle said that Mr. Gervais hadn't supplied one or made that information available and staff had not searched as permits are only valid for 6 months. She noted the extended deck is closer to the highwater mark due to the angle. That is why a variance was required. The extension has already occurred and DES permits up to a 12' extension for an open deck on a preexisting dwelling.

The chairman opened the public hearing. There being no further questions or comments the chairman closed the public hearing.

BOARD ACTION – John Gervais:

MOTION: M. Ford moved to grant the application for a Variance of Article 4 of the Wetlands Ordinance to permit an existing deck closer (25.4') to the highwater mark than allowed (50') on property located at 204 Gardners Grove Road in an "RS" Zone, Tax Lot 119-019, ZBA #1008 on the following basis:

1. A Variance will not decrease surrounding property values, because it will add value to the house.
2. A Variance is not contrary to the public interest because there was no objection from abutters.
3. Denial would result in unnecessary hardship to the owner because:
 - A. the variance is needed to enable the applicant to construct the development as designed due to special conditions of the property, because the deck is in the back of the house and cannot be seen from the street;
 - and
 - B. the benefit sought by the applicant cannot be achieved by some other reasonably feasible method, because the deck is attached to the existing house.
4. A Variance will result in substantial justice being done; because the expansion is very minor in nature.
5. A Variance will observe the spirit and intent of the ordinance.

And with the following conditions:

1. No structures or additions that do not meet setback, except for those approved herein are allowed.
2. Deck to remain open unless applicable NH DES permits are obtained.

The motion was seconded by L. Couture and carried. (5-0)

P. Harris arrived and P. Palombo stepped down.

ABUTTERS' HEARING –Donald Morin and Jason Drouin: Request for a Special Exception of Article 5 Table 1 of the Zoning Ordinance to allow a contractor's yard (building contractor) including cabinet shop in the rural zone. Property is located at 15 Durrell Mountain Road, Tax Lot 212-008, ZBA #1108.

Three members have viewed the site. Georgie and Ronald Johnson and Jason Drouin were in attendance.

Ms. Johnson explained that there was an existing 8,100sf steel building on the property, part of which included a concrete walled area. There have been two commercial uses in the past, a winery and water bottling plant, but the property has been unused in excess of one year. The lot is 15.2 acres in size, is in the Rural zone and has frontage on both Durrell Mountain and Cotton Hill Roads. There is a large gravel parking area.

Ms. Johnson continued on to explain that Mr. Drouin is a building contractor and his intent is to have trailers and autos of his own business parked there when they are not on a job site. The inside of the building will be sectioned off into a work/cabinet shop and storage areas. The work/cabinet shop will be less than the 2,500sf and therefore not require a sprinkler system. He will be addressing other things that are necessary for upgrades within the building. They have met with the Code Enforcement Officer, Steve Dalton, and talked about what will be necessary. They have agreed that all work within the building will be contained within the cement block area. They will be required to install a fire detection system. The Board received an updated memo from Mr. Dalton regarding these changes to the requirements.

Ms. Johnson went over application noting that the site is appropriate because the structure is existing and improvement to the site will be made. Traffic in and out will be minimal and the use will not be detrimental as it will occur primarily inside the building. The driveway is within 300' of Province Road and will not add additional traffic to Durrell Mountain Road. The structure is existing and Mr. Drouin will improve both the building and site which will improve the neighborhood.

The site is surrounded by trees and Mr. Drouin will plant more as a screen for the house located behind the site. The use will not bother the neighbors as it will be inside the building and traffic will be minimal. Only vehicles and trailers will be outside.

No nuisance will be created again as the use will occur within the building. The hours of operation will be 7am to 7pm although generally Mr. Drouin will not operate after 5pm. The most noise that will be generated will be from woodworking tools such as table and chop saws, but they will be located within the cement walled area inside the building.

Adequate and appropriate facilities including septic are existing. The structure is existing. An abutters list was attached.

P. Oberhausen asked how many vehicles and trailers would be on site. Mr. Drouin answered up to 2 trailers and 4 vehicles, with all but probably 1 trailer (which does not fit into the building) and 1 vehicle being stored inside the building. M. Ford asked about the storage trailers. Mr. Drouin answered that they are used to store and transport building supplies and equipment. They are usually on job sites for that purpose. Nothing else will be stored outside of the building. P. Harris asked about transporting finished products (cabinets). Mr. Drouin said a trailer could be used for that but often they are shrink-wrapped and transported by pickup truck. Mr. Drouin explained that the work/cabinet shop would get only sporadic use. There may be 1 or 2 employees there for a full week and then maybe not again for a month. Truck deliveries are not frequent as most material is delivered to the job site.

P. Oberhausen asked about the underground spring that is on the site and was once piped directly to the building for bottling. Mr. Drouin said it was his understanding that it was no longer piped into the building. He has no plans to do anything with the spring or water. There is an artesian well supplying the building now. Mr. Johnson showed the spring line location on the 1992 Steven J. Smith plan that was submitted as part of the application.

R. Johnson noted the location of the spring and pump house on the map. He acknowledged that a current site plan, specific for this proposal, will be drafted as part of the required Site Plan application to the Planning Board if the ZBA grants the Special Exception for the use. L. Couture asked about improvements, site cleanup and barrels stored behind the building. Mr. Drouin explained that everything outside will be removed by the current owner, Mr. Morin, before Mr. Drouin closes on the property.

The chairman opened the public hearing. Mr. Mike Newall asked if Mr. Drouin would own the property. Mr. Drouin answered yes. Mr. Newall noted the spring water is currently hitting the back of the building and ending up in his yard. He asked whether there would be dumpsters on the site. Mr. Drouin said he only planned to have them during the initial cleanup. C. Daigle noted the Planning Board may require a dumpster. Mr. Newall asked what happens to waste materials. Mr. Drouin noted he puts them into a dump trailer and removes them. P. Harris noted the Planning Board will look at the physical characteristics of the site and needs of the use. Mr. Newall pointed out his concern that development would occur on the Cotton Hill Road side of the property. Any disturbance such as an access road out to Cotton Hill Road would affect the pond which is on his property. That area is also very wet. P. Harris noted that level of detail would be on the site plan, but that any such future proposal would have to come back before both Boards. If the use gets approved through a special exception then a more detailed plan will be drawn for the Site Plan review, adding a lot more information. Typical concerns under a special exception review may include such items as noise, visual impact, hazardous uses/materials, road traffic, etc. He asked what was in the barrels. Mr. Drouin answered he did not know. It was all Mr. Morin's property.

Mr. Thibodeau stated there are also paint cans on site. He has gathered some of them to be disposed of.

Ms. Haley Dearborn asked about the cabinet making process; whether a planer, router or evac system would be utilized. Mr. Drouin answered that he had not planned on getting into it that level of operation. Ms. Dearborn stated that from their home they could already hear vehicles stopping along Durrell Mountain Road. They built at their location for quiet and the sound of wood processing activities would be very irritating.

Mr. James Caldwell noted there is a utility and access ROW over the Morin property serving his property. There is underground power in the ROW, unsleeved, owned by PSNH. He would like to make sure that is documented on the new plan. Mr. Drouin said he has no plans that would impact that power.

P. Harris asked if the property is located in the aquifer zone. C. Daigle answered that it is not.

Ms. Suzanne Bard asked how the proposal will improve the values in the neighborhood; or will it decrease those values. Ms. Johnson suggested that the commercial building already exists and this proposal will clean up the site to the benefit of the neighborhood. Ms. Bard went on to state that there is already a dump on the road that the Town does nothing about. Why should she believe that this site will be improved or that the Town will do anything if it gets out of hand?

P. Harris explained the Special Exception and Site Plan process. How conditions can be applied to any approval that may be given. The Special Exception is specifically for the use. The Planning Board typically gets into more detail with the Site Plan looking at issues such as landscaping, dumpster, fencing, etc. Any issues that can not be regulated by the Town would be civil in nature.

P. Oberhausen noted there is grandfathering that goes with the property. This use seems minimal in nature compared to what might otherwise be proposed. E. Hawkins reminded everyone that a contractor's yard is a use specifically allowed by Special Exception. This is not a variance. The special exception either gets approved or denied. If approved it still has to go through out steps and get other approvals. The proposed cabinet shop is under 2,500sf in size and is and totally within the concrete section.

Mr. Newall noted he was more concerned about the future of the land around the area. P. Harris reiterated that Mr. Drouin can only do what he represents as part of this proposal.

Mr. Newall noted he is very happy with the way the property looks today. He doesn't see any containers. It looks good right now and he doesn't think it needs improvement.

Mr. Dave Burnell of Vineyard Way said what was being proposed now was fine, but when the whole site then gets developed the abutters won't have any say. C. Daigle explained that Mr. Drouin is restricted to the use that is proposed during the public hearings and on the approved plans. Any expansion requires reapplication to the Boards and renotification of the abutters. The property is not being "rezoned". In addition, if the impact of the approved use differs significantly from what is proposed the Planning Board also has the right to reopen the project.

M. Ford noted that 3-phase power has recently been brought up Province Road in close proximity to this site. That would permit uses of much greater impact to be proposed for this site. The current proposal is preferable and probably a very good compromise. The use can only be operated in conformance with what is represented and what is approved. Expansions have to come back for subsequent approvals.

P. Harris noted that the Board appreciates everyone who comes out to these public hearings. It is important to know what issues impact the neighborhood and to also take advantage of the historic information that abutters have. The Board needs to hear from everyone.

Ms. Bard noted that now she understands the process she will contact the Code Enforcement Office with her concerns about other uses on Durrell Mountain Road. Ms. Johnson reiterated that this site is grandfathered for non-residential uses and that this is a small operation without full-time employees on site. P. Harris added that the Fire Department will make sure all safety

standards have been met. A lot of steps and improvements will be required. This proposal gives the Town a chance to address cleaning up the site that's there today and a chance under today's regulations which are better at conditioning approvals to assure good development. It's important to acknowledge the quality of life for the neighbors in the area. It was good to bring up the noise issue.

Mr. Newall asked if there was any fencing involved. He's concerned about wildlife in the area and the enjoyment of his deck. P. Harris noted that screening was proposed only for the rear abutter. The Planning Board can regulate fencing as part of the Site Plan. Any permanent on-site dumpster would need to be fenced or screened. Mr. Newall was concerned that vegetation, but not fencing is used as screening.

P. Harris noted that if approved, inspections will be done. Mr. Drouin has talked with Public Works Director Fortin and has agreed to recrown the driveway. One gentleman explained that he had worked for Don Morin who had 5-9 trucks in the yard most of the time and he put all the junk around and every year he would have tractor trailers coming in with water. So this is a much smaller use as far as impact.

P. Oberhausen asked if there was any future plan to access only Cotton Hill Road or Vineyard Way. Mr. Drouin answered that there was no such plan.

Ms. Bard wanted to request that the planer, router and evac system not be allowed because of the impacts to wildlife and the atmosphere. Ms. Johnson reiterated that there will be hand tools such as chop and table saws used. M. Ford explained that he has a woodworking shop and that woodworking tools have become much quieter in response to OSHA decibel standards. Ms. Bard suggested that the OSHA standards be incorporated as a condition of approval.

Ms. Dearborn asked if it was 7am to 7pm seven days a week. She explained that she moved off Durrell Mountain Road because of a wood processing business. Mr. Drouin stated it will be Monday through Saturday, but not Sundays. Mr. Johnson noted the use is small but the approval can't restrict every tool or Mr. Drouin couldn't function. He reminded everyone that the cabinet building use will occur entirely within the cement block area. There will be electrical equipment used. L. Couture noted that if he complies with the OSHA standards that would seem fair.

Mr. Newall noted the deck on the back of his house looks right out at that back line. His father can see people drive in and out all day long. There's not much action there now so he doesn't want to see a lot of action.

There being no further comment or question the chairman closed the public hearing.

P. Harris noted that this is a chance for the property to be cleaned up and used in a controlled manner. The concerns seem to be traffic and noise. Mr. Drouin is here to hear those concerns. L. Couture asked how long it takes to make a cabinet. Mr. Drouin answered that some of the custom work is easier to do with more room than he has on the job site. That why some cabinets are built at his shop. He builds two or three houses per year and there are maybe two built-ins

per house. They'll be using the same hand tools at the shop that they'd use on site. Nothing more sophisticated. Sometimes he just needs room to make them and doesn't have that on site.

BOARD ACTION – Donald Morin and Jason Drouin:

MOTION: P. Harris moved to grant the application for a Special Exception of Article 5 Table 1 of the Zoning Ordinance to allow a contractor's yard (building contractor) including cabinet shop in the rural zone on property located at 15 Durrell Mountain Road, Tax Lot 212-008, ZBA #1108 on the following basis:

1. The use is grandfathered
2.
 - a. The specific site is appropriate for the use. There were preexisting commercial uses. This use should be less intrusive than previous uses.
 - b. No factual evidence is found that property values in the district will be reduced. In fact by the applicant's proposal would improve the aesthetics and the area for visual impact and safety to water.
 - c. There is no valid objection from abutters based on fact.
 - d. No nuisance or hazard is involved. There is no need for such materials and there will be no large machinery installed.
 - e. Adequate and appropriate facilities will be provided. They are on site.
 - f. There is adequate sewage disposal existing.
 - g. Structures otherwise meet all dimensional requirements of the Ordinance.
 - h. Planning Board to address OSHA decibel and other required standards.

The motion was seconded by P. Oberhausen and carried. (5-0)

OTHER BUSINESS:

1. **Minutes:**

MOTION: On a motion by P. Oberhausen, seconded by L. Couture, it was voted unanimously to accept the minutes of March 26, 2008 as written. (4-0-1 E. Hawkins abstained)

2. **Elections:**

MOTION: On a motion by P. Oberhausen, seconded by L. Couture, P. Harris was elected as chairman. (4-0-1 P. Harris abstained)

MOTION: On a motion by P. Harris, seconded by M. Ford, P. Oberhausen was elected as vice chairman. (4-0-1 P. Oberhausen abstained)

3. **Tax Lot 211-62:**

P. Oberhausen asked about the status of the contractor's yard which is not in compliance with the approvals. C. Daigle answered that it has been referred to Counsel.

4. **Member Training:**

P. Palombo inquired about training. C. Daigle noted that all notices of training are forwarded to each Board member. The Town will pay expenses. Usually it is available twice annually, spring and fall.

5. **Motion wording:**

P. Oberhausen reminded the members of the importance of including all the necessary points in any motions to approve or deny.

6. **Adjournment:**

MOTION: On a motion by P. Harris, seconded by E. Hawkins, it was voted unanimously to adjourn at 8:15pm. (5-0)

Respectfully submitted,



Candace L. Daigle, Town Planner