

Approved January 11, 2021

NEWMARKET ZONING BOARD OF ADJUSTMENT

NOVEMBER 16, 2020

MINUTES

Present: Bob Daigle (Vice Chairman), Wayne Rosa, James Drago, Steven Minutelli, Al Zink (Alternate)

Absent: Jonathan Sack (Alternate)

1. Pledge of Allegiance

2. Review and Approval of Minutes

a. 09/28/20

b. 10/05/20

c. 10/19/20

Action

Motion: James Drago made a motion to approve all of the minutes as above

Second: Wayne Rosa

Vote: Al Zink abstained

Steve Minutelli abstained for 9/28

Steve Minutelli aye for 10/5 and 10/19, Wayne Rosa, James Drago, Bob Daigle in favor all three dates

Diane Hardy stated the meeting time on 10/5, the adjournment time was 7:40 pm.

Action

Motion: James Drago made a motion to amend to include the above

Second: Wayne Rosa

Vote: Steve Minutelli, Wayne Rosa, James Drago, Bob Daigle in favor

3. Regular Business

a. Election of Officers

This will be taken up after the applications.

b. William Baillargeon - Public hearing for an application for a Variance, reference Section 32-89 Dimensions Table (R1 Zone) to permit the replacement and enlargement of a portico. The existing structure is 41 feet from the front property line and the new structure will be 37 feet from the front property line, where a minimum 40-foot setback is required. The property is located at 368 Wadleigh Falls Road, Tax Map R5, Lot 75-1A, R1 Zone.

William Baillargeon stated the portico was starting to collapse and they were putting on a new roof. They would like to put an 8' x 8' porch on. The existing structure is 41' from the property line. The new one will be 37' from the property line, where 40' is allowed. This is important, because the current structure needs to come down. The new one will be ADA compliant and will stay within the spirit of the ordinance. It will increase the property values and make the house more in line with others in the area.

Bob Daigle opened the public hearing.

No comments.

Bob Daigle closed the public hearing.

Bob Daigle asked about hardship. William Baillargeon stated parts of the structure were built in the 1820s to 1870s prior to the road being there. In order to do any work at the front of the house, you are going to run into setback issues. It is the main access for the Fire Dept. If they put the portico back the way it is now, it would detract from the house. The measurements were taken from granite markers.

Steve Minutelli stated the relief is de minimis he did not have a problem with this.

Action

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| Motion: | James Drago made a motion to grant the variance and use the testimony as findings of fact |
| Second: | Wayne Rosa |
| Vote: | James Drago, Wayne Rosa, Steve Minutelli, Bob Daigle, Al Zink in favor |

c. Leo Manseau - Public hearing for an application for a Variance, reference Sections 32-51(b) Permitted Uses B3 District, of the Newmarket Zoning Ordinance, to permit a residential use in the B3 zone where residential uses are not allowed. The property is located at 435 Wadleigh Falls Road, Tax Map R3, Lot 4-1, B3 Zone.

Leo Manseau stated the lot is about 14 acres. He considers the B3 zone to be a failed zone. He has owned the property for a number of years. He is looking to build a residential structure. There is 10.08 acres in current use. He has mapped out a 4-acre lot. He went over the criteria. He stated the residential use would enhance the tax base. The spirit of the ordinance would be observed with a residential use. The ordinance was written to promote commercial business in that area. Only two commercial uses have been developed in 24+ years. This would extend the tax base and not alter the character of the neighborhood. The proposed use is consistent with current uses in the B3 district. Out of three abutters, two are pre-existing nonconforming uses. The third was granted a variance to allow a residential use. The purpose of this ordinance is to provide land, where commercial businesses can thrive. Since the Town has limited the use of truck traffic on Ash Swamp Road where this lot has frontage, it has limited its commercial use to thrive. The proposed use is reasonable because there are residential abutters on three sides. The property cannot be reasonably used in strict conformance of the ordinance, because of its unique shape and it is surrounded by residential uses. It is directly affected by trucks not being allowed on Ash Swamp Road.

Diane Hardy stated the Town Council and Planning Board have been working on some Gateway proposals and Route 152 is a Gateway. They are looking at the area zoned as B3. The question came up whether it makes sense to have land on Ash Swamp Road zoned B3. One recommendation is for that area to be rezoned residential. It would be consistent with what the Planning Board is considering at this time.

Bob Daigle opened the public hearing.

Cas Bennett, co-owner of Seacoast Materials at 421 Wadleigh Falls Road, stated he was not in favor of this. There is a reason why residential is not in that zone. There are three abutters that have construction equipment. Backup alarms make noise, there is blasting. Commercial development brings in more tax dollars. Leo Manseau stated it borders areas that are active commercial uses, but there are times a variance is necessary, and this is one of them. Cas Bennett stated, if the Zoning Board is looking for the best interests of Newmarket, keeping it commercial is the bigger tax base and less impact on the community. If he gets this approved, what is stopping him from turning the remaining acres into residential. Leo Manseau stated it was access.

Diane Hardy stated the assumption that every single-family house is going to draw two kids to the school and cost \$20000 is overestimated. If you look at the current demographics, it

is a fraction of that. School enrollment is down. Some of these taxes will be offset by residential impact fees.

Leo Manseau stated access will keep him from turning the rest into house lots. The frontage is 175' on Ash Swamp Road. It would not be suitable for a road. There is 43' frontage on Wadleigh Falls Road. The remainder will remain in current use.

Chris Bennett, co-owner of Seacoast, stated he did not get any plans or elevations with the certified notice. Diane Hardy stated there are online agendas with the materials. Rather than mail the entire application to each abutter, it is on the website. There is also a letter of support there from the Whitcombs, who also went through the variance process for their home. Chris Bennett stated for the record he was not in favor.

Gabby Brown, 33 Kimball Way, stated she is Leo Manseau's granddaughter and was in support. The plans mentioned would not be presented as part of the application was the point is to bring upon the variance and not the site work. It is not relevant. They followed the requirements of the application.

Bob Daigle closed the public hearing.

Bob Daigle explained the ZBA has to rule on the merits of the application and not on whether it was good for the town.

Wayne Rosa stated Mr. Manseau has a definite hardship. He has been paying taxes for almost 30 years on property. The list of permitted uses is such that he cannot find a use for the property. The hardship is the Town has been charging these taxes and has held RSA 155A over the heads of landowners out there.

Steve Minutelli stated he mentions the unique shape of the parcel, the frontage and trucking restrictions. He meets the hardship criteria well. He has concerns about the other criteria. He is inclined to support this request primarily because of the comments about the Planning Board looking to make changes to this zone. He would approve this if future applications were judged on individual merit.

James Drago asked Diane Hardy to repeat what she had stated earlier about the Planning Board and the B3 zone. Diane Hardy stated the Town Council had been discussing the Gateway project for a while now. They have been looking at B3. It has been long recognized that the character of that road is residential. There have been a couple of proposals for commercial there and abutters have expressed concerns. The truck traffic is an issue. The B3 zone never materialized into what they had envisioned. They had a consultant look at it with the water and sewer extended there. They will come up with some zoning changes to that area. Mr. Manseau has made good points.

Bob Daigle read the Purpose of the B3 zone.

Bob Daigle asked if he was going to subdivide the parcel. Leo Manseau stated no, you would end up with a landlocked parcel. Bob Daigle asked if this was a lot line adjustment. Leo Manseau showed the lot plan and explained portions of it. It is all part of that one lot. No subdivision.

Al Zink stated he supported the variance.

Chris Bennett had a comment, and it was allowed. He wondered why it took Leo Manseau 24 years to come get a variance. Diane Hardy stated this wasn't the first request. Chris Bennett asked why they were denied. Diane Hardy stated they were not denied. One was approved.

Action

Motion: Wayne Rosa made a motion to approve the application of Leo Manseau for a Variance, reference Sections 32-51(b) Permitted Uses B3 District, of the Newmarket Zoning Ordinance, to permit a residential use in the B3 zone where residential uses are not allowed for property is located at 435 Wadleigh Falls Road, Tax Map R3, Lot 4-1, B3 Zone based on the Findings of Fact and representations made.

Second: Al Zink

Vote: James Drago, Wayne Rosa, Steve Minutelli, Al Zink, Bob Daigle in favor

Election of Officers

Wayne Rosa nominated Bob Daigle for Chairman, Steve Minutelli second, all voted in favor.

Al Zink nominated Wayne Rosa, James Drago seconded, all in favor.

4. New/Old Business

None.

5. Adjourn

Action

Motion: James Drago made a motion to adjourn at 8.04 pm.

Second: Wayne Rosa

Vote: All in favor