Town of Dublin

Zoning Board of Adjustment
PO Box 277
Dublin, NH 03444

Meeting Minutes
July 13, 2017

The Zoning Board of Adjustment met at 7:02 PM for a Public Hearing for the Allen Family Revocable Trust Variance Application. Present were Chair Susan Peters, Susan Phillips-Hungerford, Paul Delphia, Mary Langen, and Michelle Knapp. See the attached sign up sheet for others who attended for the public hearing. The board introduced themselves.

Minutes of June 22, 2017 Meeting and July 6 Site Visit
The board reviewed the minutes. Michelle noted a spelling mistake in the site visit. Susan Phillips-Hungerford moved to adopt the minutes of June 22 and the July 6 site visit as amended. Paul seconded the motion. The motion passed.

Third and final reading of the Rules of Procedure
The board proposed a change to page 3, item 3 to read: “When there is uncertainty as to whether a member should be disqualified to act on a particular application, that member or another member of the board, the applicant or the public may request that the member recuse themselves. Any such request shall be made before the public hearing gets underway.” The last two sentences are deleted so there is not to be a vote. This is the third and final reading. Michelle moved and Mary seconded the motion to adopt this change. The motion passed unanimously.

The board reviewed the summer schedule. Jerry Bird was introduced to the board as someone willing to serve as an alternate. David Wolpe may also be willing to serve as an alternate. Susan Phillips-Hungerford explained to Jerry the ZBA meeting schedule.

Public Hearing for Allen Family Revocable Trust Variance Application, Map 8, Lot 47
At 7:15 PM Susan Peters opened the public hearing. She reviewed the procedures for everyone. The secretary read the Public Notice and where they were posted. He informed the board that all abutters received certified letters sent to the addresses in the Dublin’s tax system. Some of the cards have not come back, but there is proof that they were sent.

Janice Allen shared how they have owned the property and paid taxes for many years.

Sharon Monahan, a certified wetland scientist, shared her experiences for the applicant. She was hired to determine the building envelope for potential buyers. She determined that because of the 100 foot wetland setback, the site is unbuildable. She explained the confusion in her letter between her suggestion of 20 feet and the 50 foot setback that the applicant requested. Mary asked whether the soils were considered poor drainage where the State requires a 50 foot setback or very poor drainage requiring a 75 foot setback. Sharon replied that the soils are poor drainage and only require the 50 ft setback. The secretary noted that Article IV.B requires a 100 foot wetland setback for septic
systems and perhaps the application should also reference that ordinance. The chair determined that it was not necessary to amend the application since it was written broadly enough to include a variance for both building and septic system. The board discussed the possible building site. The question was asked as to whether the property line is the stone wall or the middle of the old carriage road. Sharon answered that it was the stone wall.

Mary suggested that the board needs to go through the five criteria. Janice read the answers she had put on the application.

**1. Granting the variance would not be contrary to the public interest.**  
When the lot was created and approved in 1980 the setback was 50 feet to wetland.

**2. The Spirit of the ordinance would be observed.**  
There are modern technologies in place where the septic systems have less impact on wetlands.

**3. Granting the variance would do substantial justice because:**  
The owner has been taxed on a building lot created in 1980 and approved as a building lot by the Dublin Planning Board and now wish to sell the lot but because of the changed regulations can not sell it.

**4. If the variance were granted, the values of surrounding properties would not be diminished because:**  
One building lot will not impact the neighborhood or take away from the rural character.

**5. Unnecessary Hardship:**  
The owners have been waiting for the time to sell and now is the time. They in good faith paid their taxes on a building lot and would have undue hardship if not allowed to sell it after all these years.

Sharon Monahan reviewed each of the five criteria as well. She pointed out that the NH Department of Environmental Services inspects for wetland septic setbacks, and that as long as there is erosion control in place during construction no wetlands would be impacted. She also enumerated five special conditions of the property that would lead to unnecessary hardship with literal enforcement of the ordinance: (1) the triangle shape and size of the lot; (2) the location of the wetlands crosses the lot in the center; (3) the topography and slope; (4) the location of a culvert beneath Route 137 discharges onto the lot: and (5) the area with the most upland are in the corners of the lot where two property line setbacks overlap.

Susan Phillips-Hungerford asked Sharon about what was being proposed. The building would be at least 50 ft from the wetland, and there would be a 20 feet vegetative buffer that would be undisturbed in construction or by landscaping or lawns. The area between 20 feet and 50 feet from the wetland could be for lawns, driveway or other landscaping.

Tracey Kalvaitas from the Conservation Commission shared a recommendation from the Conservation Commission. They recommend the 50 foot setback, but were concerned about the possibility of a 20 foot setback. They support the variance as long as it is only on the East side of the wetland and not the West side toward Route 137.

The chair read a letter from Neil R. Sandford, as a citizen supporting the variance. Jennifer Bungert spoke in favor of the variance but had nothing to add. Sharon Monahan spoke in favor of the variance.
Steve Parenteau asked how this was allowed with Dublin’s 4 acre minimum lot size. Susan Peters explained a letter from the town counsel that indicates lots that are lots of record are buildable lots even if subsequent regulations call for larger lots. Susan Phillips-Hungerford explained what aspects are required with changes in regulations like property line setbacks and which are not. Steve Parenteau shared that he did not think there was any place to put in a driveway. Susan Peters explained that there appear to be a few possible places for a driveway, and the buyer might need to come back for another variance if they could not put in a driveway.

Ronald Lamontagne shared that according to his knowledge the old class six road is in Peterborough.

Another opportunity was given for any public input. The board reviewed their notes and several questions were asked about the setback and driveway process with the Planning Board. Susan Peters summarized the application and the input that was received during the public hearing. She noted that while there had been some questions there was no one speaking in opposition.

At 8:14 PM Susan Phillips-Hungerford moved and Paul seconded a motion to close the public hearing. The motion passed.

Mary shared how important the site visit was in getting an accurate idea of the topography, including delineation of the wetlands. She felt that the state requirements could be met for a septic system as well as a place for a small house. The board discussed the idea of only waiving the wetland setback on the East side.

The board took the worksheet of the statement of reason to be sure that everything was thoroughly covered. The board worked to craft a motion to vote on.

Mary made a motion to grant the variance, “The motion is to grant a variance (a) from Article XIII Section F.1 for Map 8, Lot 47 to allow for a reduction in the wetland buffer from 100 feet to at least 50 feet, measured horizontally from the edge of all wetlands, and (b) to reduce the 100 foot minimum requirement for septic in Article IV.B to 50 feet.” It was seconded by Susan Phillips-Hungerford. The motion passed with a vote of 5-0.

The board discussed the process the new owner would go through with the Planning Board concerning a driveway and areas around the building.

At 9:00 PM Mary moved and Michelle seconded a motion for adjournment. The motion passed.

Respectfully submitted,

Neil R. Sandford, Secretary