

ZONING BOARD OF APPEALS
WEDNESDAY, MARCH 1, 2023
RESOURCE ROOM

Attendance: Chair Daniel Heney, vice chair Mike Fitzpatrick, Jim Palmer, Ron Forget, John Bombara, Ken Frasier Building Inspector

Chair Daniel Heney called the meeting to order at 7:00 PM.

1. (7:00 PM) (0:12 TS) 7:00 PM Public Hearing: Barbara & Seth Van Essendelft (#2023-03) 83 Island Rd

Date of Application: 1/26/2023

Decision Date for Special Permit: 90 days after close of Public Hearing

Applicants are requesting a special permit in a RA zone district pursuant to MGL chapter 40a section 9 in the Douglas Zoning bylaws section 9.3, section 3.4.5, non-conforming single and two family residential structures to request a relief of lot area and road frontage requirements to build a single family located at 83 Island Road assessors map 174 parcel 2. Jack Kemper with Kemper Associates in Farmington, CT, Jason Clough with DiPrete Engineering, and the applicant joined the meeting remotely for the discussion. This is an existing parcel on a private way and has no public frontage; there is an existing cottage on the property with 2 accessory structures. The proposal is to remove the cottage and one shed and replace it with a new home, septic, driveway and well, and they have approval for a new septic and they have received approval from the Conservation Commission for work that is proposed within the jurisdictional area. The proposed house is 3000 square feet. Mr. Heney mentioned for the record that all the abutters were notified by certified mail, and an abutter, Mr. Aldridge, stated that they have no issue with the proposed plans.

(7:09 PM) (9:25 TS) Motion to close the public hearing made by Ron Forget, seconded by John Bombara. Roll call vote – Dan Heney, Jim Palmer, Ron Forget, Mike Fitzpatrick, John Bombara all in favor.

(7:09 PM) (9:55 TS) Motion to approve the plan as presented made by Ron Forget, seconded by Mike Fitzpatrick. Roll call vote – Dan Heney, Jim Palmer, Ron Forget, Mike Fitzpatrick, John Bombara all in favor.

2. (7:11 PM) (11:00 TS) 7:15 PM Public Hearing Continued: Philip & Donna Michaelson (#2023-02) 212 West St

Date of Application: 1/9/2023

Decision Date for Variance: 100 Days of Application (4/19/2023)

Mr. Heney recused himself from the discussion.

Margaret Bacon with Civil Site Engineering representing the applicants and to show plans to the board. The applicant is asking for relief from the area requirements of the lot size instead of the 90k square feet he is asking for it to be 83k square feet. This plan was before the board in 2016 and it was approved but due to health issues and COVID, it has expired.

(7:17 PM) (17:05 TS) Motion to close the public hearing made by John Bombara, seconded by Ron Forget. Roll call vote – Jim Palmer, Ron Forget, Mike Fitzpatrick, John Bombara all in favor.

(7:17 PM) (17:32 TS) Motion to approve the plans as presented made by John Bombara, seconded by Jim Palmer. Roll call vote – Jim Palmer, Ron Forget, Mike Fitzpatrick, John Bombara all in favor.

3. (7:29 PM) (29:18 TS) 7:30 PM Public Hearing: Pollard Pension Plan & Trust (#2023-04) 48 Glen St
Date of Application: 2/6/2023
Decision Date for Variance: 100 Days of Application (5/17/2023)
Applicant is requesting a variance pursuant to MGL chapter 40a, section 10 and section 9.2 of the Douglas bylaws to request relief of road frontage requirement appendix B to build a single family home in a VR zone district, but because of the proximity to the water resource district the dimensional requirements of the VR zone district must be met. The certified mail has been sent out and received back. Attorney Henry Lane stated that this 12-acre parcel of land that they would like to divide into 3 lots, and they are 5.23 feet short for the frontage requirements for the third lot. They are asking the board to reissue the variance that was originally approved in 2003.
(7:35 PM) (35:00 TS) Motion to close the public hearing made Jim Palmer, seconded by John Bombara. Roll call vote – Dan Heney, Jim Palmer, Ron Forget, Mike Fitzpatrick, John Bombara all in favor.
(7:35 PM) (35:30 TS) Motion to grant the variance as submitted made by Jim Palmer, seconded by John Bombara. Roll call vote – Dan Heney, Jim Palmer, Ron Forget, Mike Fitzpatrick, John Bombara all in favor.

Discussion:

- a. (7:39 PM) (39:35 TS) Approve Minutes: February 1, 2023 – Possible Votes
(7:40 PM) (40:35 TS) Motion to approve the meeting minutes of February 1, 2023, as written made by John Bombara, seconded by Jim Palmer. Roll call vote – Dan Heney, Jim Palmer, Ron Forget, Mike Fitzpatrick, John Bombara all in favor.
4. (7:44 PM) (44:30 TS) 7:45 PM Public Hearing: McIntyre Materials, Inc. (#2023-05) 118 Davis St
Date of Application: 2/8/2023
Decision Date for Variance: 100 Days of Application (5/19/2023)
Applicant filed for a special permit pursuant to MGL chapter 40a section 9 and 9.3 in the Douglas Zoning bylaws appendix a section c.1, retail establishment for sale of merchandise in an industrial zone district for the addition of retail components to the wholesale construction and landscape materials operation allowed by right. The applicant stated that they are looking for this special permit to be able to sell materials to customers at this temporary location because of the construction of the new warehouse in town interfering. The hours of operation would be Monday through Friday 7-5 (which he thinks might end up being 7-3) and Saturday 7-3 (and 7-12), the site will be staffed with one employee to handle sales and loading and during season peak times a second person. They fully expect to be at their current permanent location by this time next year assuming the roadwork is completed. This special permit will allow applicants to temporarily relocate current operation which in turn is effectively necessary to ensure a safe operation of McIntyre Materials business during the warehouse construction, the retail use is incidental to McIntyre Materials main business of wholesaling and distributing materials but the retail use is consistent with such uses with the neighboring properties and businesses. Jim the landowner of the temporary site proposal stated that they collaborate with McIntyre for many projects and they have sold retail at this site in the past and thought it was grandfathered in but Mr. Frasier had a difference of opinion in that they had to be continuous sales. Therefore, Jim paid \$2,750.00 to get legal advice that stated that if you did it once and paid the property taxes up to date that it would follow along with the property. Jim is advocating for McIntyre because

it is only temporary, and he would hate to see him have to leave town. Mr. Fitzpatrick wanted to clarify Mr. Frasier's opinion on the permit and that it is not something you have to renew daily but if it lapses for a number of years, it loses its use. Mr. Frasier wanted to clarify that the issue was that the property never came before the board, so it was never permitted for that use.

(8:01 PM) (1:01:12 TS) Motion to close the public hearing made by John Bombara, seconded by Jim Palmer. Roll call vote – Dan Heney, Jim Palmer, Ron Forget, Mike Fitzpatrick, John Bombara all in favor.

(8:01 PM) (1:01:42 TS) Motion to approve the special permit for 118 Davis Street as presented made by John Bombara, seconded by Mike Fitzpatrick. Roll call vote – Dan Heney, Jim Palmer, Ron Forget, Mike Fitzpatrick, John Bombara all in favor.

Discussion:

- b. (8:03 PM) (1:03:05 TS) North Brown, LLC

At the last meeting, Mr. Fitzpatrick suggested that the board write a letter to the developer, but Mr. Frasier was able to contact the applicant and the applicant stated that he would get something to the board, which Mr. Frasier has received. Mr. Frasier stated that when he spoke to the applicant he told them they needed to get the board the as built drawings and he has received preliminaries for phase I & II. Mr. Frasier asked the board if the roadway going through that development is considered a public roadway or a private roadway, because he noticed on the plans that some of the underground utilities seem to be going off the edge of the paved surface. There were some concerns brought to Mr. Frasier's attention by a member of the HOA that some of the discharge areas are not completed, and concern about driveways being completed and sidewalks and roadways. Mr. Frasier reassured him that he would not sign off on the project until it is completed. Mr. Frasier did talk to them about the stock piles, all the units they have are on P&S except for one unit. Mr. Fitzpatrick asked if this falls under earth removal and Mr. Frasier stated that it does not fall under the planning and zoning. Mr. Frasier stated that this project, even though it has been a long project, is still in the construction phase and he will have the resident or he himself will reach out to the developer about the driveway concerns. Mr. Fitzpatrick would like Mr. Frasier if he has time to look over the contract from 2009 because he wants to make sure the milestones at the 50% mark are being met and he believes that the Homeowners Association would be turned over at that point. Mr. Frasier stated that if the board desires it he would get ahold of Town Council and have them review the order of conditions for the 50% homeowner's approval takeover. Mr. Fitzpatrick stated that he would like to reach out to Jay to find out what needs to be done at this point and review before they have him come before the board. Mr. Frasier will contact the developer and have him get all the board's questions answered.

Upcoming Meetings: April 5, 2023 & May 3, 2023

(8:33 PM) (1:33:08 TS) Motion to adjourn the meeting made by Mike Fitzpatrick, seconded by John Bombara. Roll call vote – Dan Heney, Jim Palmer, Ron Forget, Mike Fitzpatrick, John Bombara all in favor.

Respectfully submitted,

Stephenie Gosselin, recording secretary