



ZONING BOARD OF ADJUSTMENT

Town of Greenland • Greenland, NH 03840

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MINUTES OF THE BOARD OF ADJUSTMENT PUBLIC HEARING

Tuesday, April 15, 2014 – 7:00 p.m. – Town Hall Conference Room

Members Present: Chair Chris Halligan, Liz Cummings, Ron Gross, Brian Hutchinson, John Samonas

Staff: Myrick Bunker – Building Inspector

Chair Halligan opened the Board of Adjustment meeting at 7:00 p.m. and a roll call was taken. The Chair explained the procedures of the Zoning Board of Adjustment, stating that a quorum was present and the meeting was being recorded.

1. Request for a Variance: 1533 Greenland Road [Map R21, 55 & 55A]
Owners: Adrian Murphy, *et al.* and Clan Murphy Limited Partnership
Applicant: Richard E. Landry, Jr.
The owners and applicant are proposing to construct three buildings with associated parking within the structural setback from wetlands contiguous with surface waters. Article XVIII, Section 18.7.2 of the Zoning Ordinance mandates a 75' structural setback from wetlands contiguous with surface waters.

Chris Mulligan, attorney representing the owners and applicant, addressed the Board. Also present was Richard Landry, Landry Architects, and Ken Mavrogeorge, Tighe and Bond. C. Mulligan reminded the Board they were before them in March. Significant changes were made in the current proposal: all proposed buildings and parking were removed from the rear of the lot; the buildings on the front of the lot were shifted to the north to be as far away from the wetlands as possible; parking was reconfigured to get away from Rt. 33; the sizing of the building was also reconfigured. The project is tighter to the useable space and requires much less relief. Relief is required for parking, structures and other areas of pervious surface within the 75' wetlands setback.

C. Mulligan reviewed the criteria for a variance (copy on file). There are significant physical issues related to the site. Approximately two-thirds of the lot at the southern end are wetlands and can't be built on; utility easements severely restrict the buildable envelope. The minimal incursion into the wetlands setbacks is warranted by the small building envelope. To not grant the variance would severely restrict the rights of the owners and applicant to use the parcel. Property values will not be impacted; Rt. 95 abuts one side of the property and Travel America is the nearest neighbor. The proposed project promotes mixed use and will be a contributing factor to the Town's tax base. The applicant did appear before the Conservation Commission with this plan, and they were encouraged to move forward.

Stormwater management is proposed to be within the 75' buffer because it's a low point. There may be some kind of underground catch basin system which will collect the run off and distribute it to the stormwater area. Pervious pavement is not proposed at this time.

Chair Halligan opened the meeting to public comments. There being none, he closed the public session and returned to the Board for discussion. R. Gross commended the applicant on the changes that were made; J. Samonas was encouraged by the changes. R. Gross was concerned about parking spaces, and would like the applicant go to the Planning Board for a waiver. R. Landry added they had less than required; however, a prospective tenant has real estate requirements for the number of spaces they must have. R. Gross stated that he would prefer not to see any additional parking close to the wetlands.

R. Gross commented that the impact of the current plan is tremendously light in comparison to what the applicant is trying to achieve in that space. Traffic was still a concern, and was very briefly discussed. One building remained the same size, another increased slightly, and the large building was reduced from 11,500 sq. ft. to 8,000 sq. ft.

L. Cummings stated that according to Article 18.2.3 of the Zoning Ordinance man-made structures are not considered part of the jurisdictional wetlands. She suggested that more of those types of structures be included when doing the rear of the property. Man-made structures created for drainage in that area would not be breaking the jurisdictional wetlands. L. Cummings also commended the applicant on the monumental changes that had been made and appreciated the work they were trying to do with that parcel.

MOTION: *L. Cummings moved to grant the Variance as requested and shown on plan C-2, Project No. L-0720, dated March 28, 2014. Second – J. Samonas*

DISCUSSION: J. Samonas stated that this was quite an improvement over the previous plan although he still had a concern with traffic and customer safety. He agreed that the property was difficult to work with, and continued that it was not defined by Travel America as stated by Counsel. Travel America was a non-conforming use; the Board did not approve of the use on that site and is not according to zoning. J. Samonas also stated that the property (1533 Greenland Road) was defined by the wetlands and easements.

R. Gross requested that a condition be added to the motion. He would like no storage buildings or out buildings of any kind, and no snow storage be allowed in areas affected by the Variance.

AMENDED MOTION: *L. Cummings moved to grant the Variance as requested and shown on Plan C-2, Project No. L-0720, dated March 28, 2014. In addition, there is to be no outdoor storage of any kind, including snow storage, in the areas affected by the Variance (see green area on Plan C-2). Second – J. Samonas*

Variance requirements were reviewed by L. Cummings.

- 1) The truck stop cannot, and should not, be used as a comparison. The Zoning Ordinance allows mixed use in that area; what is being asked for in terms of use is allowed in that zone. Areas shown in green (Plan C-2) are not unduly hard or vast.
- 2) The intent is to protect the wetlands; that has been done and is substantial justice.
- 3) Commercial buildings in the surrounding area are allowed; the proposed uses are not contrary to the existing.
- 4) If the small areas in green (Plan C-2) were strictly interpreted, would it prevent total use of the property? The answer would be “no”; however, on this property, it’s a hardship. Easements should not be used as justification for not doing things; the party that granted the easements received something in return. Now that the easements are in place and have to be dealt with, this is a reasonable use and would not be contrary to anything substantial.

DRAFT: SUBJECT TO CHANGE

AMENDED MOTION: L. Cummings moved to grant the Variance as requested and shown on Plan C-2, Project No. L-0720, dated March 28, 2014. In addition, there is to be no outdoor storage of any kind, including snow storage, in the areas affected by the Variance (see green area on Plan C-2). Second – J. Samonas; all in favor. MOTION CARRIED

2. Approval of Minutes: Tuesday, March 18, 2014

MOTION: L. Cummings moved to approve the minutes of Tuesday, March 18, 2014. Second – R. Gross; all in favor. MOTION CARRIED

3. Other Business

There was no other business to discuss.

4. Adjournment

MOTION: Chair Halligan moved to adjourn at 7:30 p.m. Second – L. Cummings; all in favor. MOTION CARRIED

NEXT MEETING

Tuesday, May 20, 2014 – 7:00 p.m., Town Hall Conference Room

Respectfully Submitted: Charlotte Hussey, Secretary to the Boards

Approved: