



# ZONING BOARD OF ADJUSTMENT

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## MINUTES OF THE BOARD OF ADJUSTMENT PUBLIC HEARING

Tuesday, June 17, 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. Application for a Variance: 55/63 Ocean Road [Map R21, Lots 42, 43]

Owner: Carol Hughes

Applicant: Dan Hughes

*The owner and applicant are proposing to build a barn with garage space on the first floor and office space on the second floor. Conditions in a Variance granted on February 21, 1996 included the lot may not be used to augment the restaurant on Map R21, 43 and that Map R21, 42 was to be maintained as a buffer and remain agricultural in nature. Further, "not erect or maintain any building or other structure on Lot 42 as stated in the current deed restrictions".*

John Chagnon, Ambit Engineering, introduced Don Cook (builder) and Frank Quinn (attorney representing the applicant) and Dan Hughes (applicant). J. Chagnon explained that the property was the subject of a variance granted in 1996. They were recently granted a lot line adjustment by the Planning Board, increasing the size of Lot 42 and decreasing Lot 43. Lot 42 is burdened by PSNH and gas easements, leaving a small building envelope. By increasing the size of Lot 42, it allows the applicant to construct a barn/office on the new portion.

The variance granted in 1996 stated that no building could be done on Lot 42; it was to be used as a buffer between the commercial use and residential area. Zoning on the new lot will remain residential and commercial. Approvals are pending from PSNH and the gas company for access over their easements.

There was a discussion whether the new section of Lot 42 was subject to the same variance as the original Lot 42, as well as the deed restriction. F. Quinn told the Board that PSNH has a deed restriction on the land stating a structure cannot be built on the easement. He asked the Board to clarify Item 4 on the variance granted in 1996: "Not erect or maintain any building or other structure on Lot 42 as stated in the current deed restrictions". They were willing to stipulate that no building would be done on the PSNH easement. It was their feeling that when the variance was granted, it was not meant to preclude any building on Lot 42, just on the easement.

D. Cook explained that the applicant wants to build a very traditional, New England style barn. He plans to store his tractors and cars on the lower level and have private office space on the top floor. The leach

field is designed as a 300 gallon per day system; a well may be done rather than connecting to the water line due to the length of the run. Zoning, the requirement for 600' of living space, and returning to the Planning Board for a change of use would prevent the barn from becoming a house in the future.

F. Quinn told the Board that the lot line revision was done; driveway and septic approvals have been received from the State; the site plan will be reviewed at the Planning Board meeting on Thursday, June 19, 2014. He continued that they were seeking a modification to the variance granted in 1996. L. Cummings explained to the Board that the variance granted in 1996 stands unless it's superseded. She continued that the application was very clear and felt comfortable that all points were covered procedurally. Wetlands are adjacent to the brook; the barn will be outside the buffer.

Chair Halligan opened the meeting to public comments; there being none, he closed the public hearing and returned to the Board for discussion. There was a discussion about the original Lot 42 being a buffer and that should not change. The original lot is zoned as residential; the new parcel (after the lot line adjustment) is zoned commercial. The barn is agricultural and will be built on the new section of Lot 42, which is zoned commercial. The driveway permit from the State indicates that it cannot be wider than 12'.

The motion to amend the variance was discussed at length. The entire variance can't be amended; only those items pertaining to Lots 42 and 43.

**MOTION:** *L. Cummings moved to grant the revision to the ZBA variance of February 21, 1996, Items 3 and 4, to allow a structure in the Commercial C Zone of Lot 42 as approved by the Planning Board on February 20, 2014. Further, to continue the buffer and agricultural intent and nature of the residential portion of Lot 42. Second – R. Gross*

DISCUSSION: L. Cummings stated that the application clearly outlined the details relative to changes in the variance. Her concern with not granting the motion as discussed is due to the type of change in use that is allowed in the zoning of that parcel, and could be considered not allowing the applicant to use his property. Once that becomes commercial, the property value increases; to not allow him to use that parcel would be a problem for the Board to defend if the applicant chose to appeal the decision.

**MOTION:** *L. Cummings moved to grant the revision to the ZBA Variance of February 21, 1996, Items 3 and 4, to allow a structure in the Commercial C Zone of Lot 42 as approved by the Planning Board on February 20, 2014. Further, to continue the buffer and agricultural intent and nature of the residential portion of Lot 42. Second – R. Gross; all in favor. MOTION CARRIED*

**2. Application for a Variance: 100 Post Road [Map U3, 12]**

Owners/Applicants: Elizabeth and David Kish

*The owners/applicants are proposing erect a fence 8' in height near the northerly property of their residence. As defined by the Greenland Zoning Ordinance, the fence is considered a structure and must meet the structural setback of 20'. The proposed location is 10' from the property line.*

Elizabeth and David Kish addressed the Board, explaining their property abuts the playground and field areas of the school. There are people using those areas all hours of the day and night. They are requesting a variance for an 8' fence for privacy. The 20' setback requirement can't be met because the lot is narrow and the septic is located between the deck and property line.

There is an existing 6' chain link fence which affords little privacy. There will be 10' between both fences; it was suggested to consider tall evergreens in that space to help with the sound cover. The new fence will be cedar.

Chair Halligan opened the meeting to public comments. Mark Fleming, 96 Post Road: He stated he could vouch for the noise from the playground and fields. He was not opposing the fence, but fully supporting. There being no further comments, he closed the public hearing and returned to the Board for discussion.

R. Gross suggested placing the 8' fence against the existing fence. If granting the 8' fence, it would make sense to allow the fence to be located on the property line. Chair Halligan felt that locating the fence 10' from the property line allowed more elevation. The homeowner preferred to leave the 10' between fences for safety and maintenance reasons.

**MOTION:** *J. Samonas moved to grant the Variance to allow an 8' fence to be located 10' from the property line as shown on the drawing dated May 29, 2014. Second – Liz; all in favor. MOTION CARRIED*

3. Approval of Minutes: Tuesday, May 20, 2014

**MOTION:** *L. Cummings moved to approve the minutes of Tuesday, May 20, 2014. Second – R. Gross; all in favor. MOTION CARRIED*

4. Other Business

L. Cummings told the Board that there was going to be a joint session with the Planning Board and Board of Selectmen on Thursday, June 26, 2014; as a Land Use Board, the ZBA was not invited. The agenda will include a discussion regarding the Circuit Rider and the Roles and Responsibilities of Land Use. L. Cummings suggested that Chair Halligan contact the Board of Selectmen Chair or Planning Board Chair regarding the meeting. L. Cummings continued that when an ordinance change goes to Town Meeting and is recommended by the Planning Board, it should also be recommended by the Zoning Board of Adjustment.

5. Adjournment

**MOTION:** *L. Cummings moved to adjourn at 8:10 p.m. Second – Chair Halligan; all in favor. MOTION CARRIED*

NEXT MEETING

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

Respectfully Submitted – Charlotte Hussey, Secretary to the Boards

Approved: Tuesday, July 15, 2014