

Minutes approved April 3, 2008

Call to order at 7:00 p.m. by Chairman, Timothy Kinnon.

Introduction of Members: Chairman Timothy Kinnon, Marcella Perry, Stephen Hurst, Paul Monzione, Sharon Penney-Town Planner, Stacey Ames-Planning Assistant.

Appointment of Alternates: None to appoint.

Approval of Agenda: No changes.

Motion by M. Perry to approve the agenda as presented. Second by T. Kinnon. No discussion. Vote unanimous.

Statement of Appeal Process: The Chairman read a brief statement of the Appeal process. The purpose of this hearing is to allow anyone concerned with an Appeal to the Board of Adjustment to present evidence for or against the Appeal. This evidence may be in the form of an opinion rather than an established fact, however, it should support the grounds, which the Board must consider when making a determination. The purpose of the hearing is not to gauge the sentiment of the public or to hear personal reasons why individuals are for or against an appeal but all facts and opinions based on reasonable assumptions will be considered. In the case an appeal for a variance, the Board must determine facts bearing upon the five criteria as set forth in the State's Statutes. For a special exception the Board must ascertain whether each of the standards set forth in the Zoning Ordinance has been or will be met.

New Applications:

Case #Z08-07

Map 3, Lot 31 Appeal from Administration Decision

Manette & Karen Frenette

Africa Road

Application submitted by Manette and Karen Frenette for an Appeal from Administration Decision for a denied building permit due to lack of frontage on Africa Road. The parcel is located in the Rural Zone.

Present for this case: Manette and Karen Frenette.

Motion by T. Kinnon to receive this application as complete. Second by P. Monzione. No discussion. Vote unanimous.

K. Frenette noted the frontage on Africa Road is not frontage of property. Blackstock granted right-of-way. Nothing has changed on application. K. Frenette showed Board on map where the original access on the lot. Right of way is worded in a specific deed. The deed mentioned John Davis Road. With the easement they have access to the lot.

P. Monzione asked when they were turned down for the permit were they already granted the right of way.

K. Frenette confirmed yes.

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Africa Road is a class 6 road.

Being a class 6 road only the Selectmen have permission to grant the building permit.

The selectmen did grant the permit and it was pulled after this action by the Code Enforcement Officer.

State Statute 674:41.

Technically this property is not even on a road; only the right of way is on a class 6 road.

T. Kinnon reads the RSA that gives the ZBA the power to issue or authorize the permit.

P. Monziona – II of statute – in the event that a building permit is denied, they can come before the ZBA and they can make an exception and grant the building permit. He feels they are dealing with a further complication as they are dealing with a class 6 road and it is the Board of Selectmen that grant that permit. Now looking at this again with the property not actually fronting on Africa Road, only the right of way, he sees it as the ZBA having authority to grant the building permit.

P. Monziona asked if the applicant has signed the statutory waiver.

K. Frenette informed it is complete and with the building permit.

Open to the public in favor of this application.

Randy Walker – attorney in Wolfeboro, represent abutter to the right of the lot. Have no objection to the application.

Open to the public in opposition to this application.
None seen or heard.

Closed public input.

S. Hurst noted in reading the deed for the driveway easement, does this give adequate width, so many feet away from the abutting property.

S. Ames stated there is not a driveway setback.

K. Frenette stated the driveway is in and the cellar is dug, all this was done before the permit was pulled.

Discussion over plans with applicant showing items to the Board.

M. Perry noted that the plan needs to be corrected.

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T. Kinnon suggested an engineer to correct.

K. Frenette noted that this has been surveyed and recorded at Belknap County.

M. Perry confirmed that what they would like the engineering firm mark up the plans with the driveway.

S. Penney noted if they ever sell this property it will be correct for the next person.

P. Monziona asked if the driveway permit has been revoked since this was pulled.

S. Ames stated the Planning Office would have been notified if it was revoked.

Board went into deliberations.

M. Perry feels this is for the benefit of the town and this is a good plan.

T. Kinnon agreed.

P. Monziona agreed and the statute is in place that enables the Board to do this including some stipulations.

Motion by P. Monziona to grant the application with the following conditions:

1. Require that the waiver, an acknowledgment that the municipality neither assumes responsibility for maintenance of said private nor liability for any damages resulting from the use thereof (Reference 674:41IC2) also that it be required to be recorded at the Registry of Deeds;
2. The right-of-way be a legal right-of-way including a plat that is corrected and demonstrates this for the record;
3. A driveway permit to allow the right-of-way to legally exist.

Second by M. Perry. No discussion. Vote unanimous.

Approval of the minutes to be moved to March meeting.

OEP conference information. Stacey needs registrations forms ASAP. Highly recommends that Board members attend.

Reference letter regarding site walks – technically they are official public meetings. Document distributed to the Board regarding the specifications.

Junk Yard conference documentation.

Agenda for next week's meeting given to the Board.

Motion by P. Monziona to adjourn. Second by T. Kinnon. No discussion. Vote unanimous.

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Respectfully submitted,
Carolyn B. Schaeffner