

Members Present: Chairman; Richard Quindley; Vice Chairman-Marcella Perry; Charles Westen; Keith Chamberlain; Alternate; Timothy Kinnon

Member absent: Lyndon Avery

Others Present: Planner, Kathy Menici; Secretary, Stephanie N, Verdile and others as identified below.

Call to order: Chairman- R. Quindley called the meeting to order at 7:00 p.m. He introduced the members of the Board, Planner and Secretary.

Appointment of Alternates: Chairman R. Quindley appointed Alternate, T. Kinnon to the vacant position in the absence of L. Avery.

R. Quindley read into the record the purpose of the hearings and stated the rules of procedure.

Approval of Agenda:

Motion made by T. Kinnon, seconded by M. Perry to approve the agenda, motion carried with all in favor.

K. Menici read the case into the record as follows:

NEW APPLICATIONS FOR PUBLIC HEARINGS:

Case#ZO5-17

Map 42, Lot 30

Area Variance

James Lund

223 Trask Side Rd

Application submitted by James N. Lund for a Variance from Zoning Ordinance Article 200, Section 227, A, 3 to permit the construction of an addition and garage within the 10-foot setback.

The applicant is requesting a Variance to build 3' 8" from the property line. The property is located at 223 Trask Side Road in the Lakeshore Residential Zone and within the Town of Alton's Shoreland Protection Overlay District and the State of New Hampshire's Shoreland Protection District.

Before the Board began discussion on the acceptance of the application, K. Chamberlain explained that he has done work with the applicant and how it could be considered a conflict of interest and he asked how the Board felt about him participating on the case. He said he believes he can remain fair when discussing the application. The Board decided there was no conflict.

K. Menici said the applicant is asking for 2 waiver requests: Section 7.2.9 – Survey Accuracy, Section 7.2.11 – Certification. She explained that the plat that was submitted with the application was prepared and submitted by a Professional Engineer; it is not a surveyed plat, it is a plan that is relying on a deed reference.

R. Quindley asked about the boundary line between Irving property and the Lund property. He said based on the plot plan submitted some of the degrees of measurement do not match. He is questioning the waiver requests.

K. Menici said there was a surveyed plan submitted from the abutter that shares the boundary

line with the applicant. She said that the Town of Alton has a copy of the survey in its files that shows the boundary line that differs from the one depicted on the plan submitted by the applicant.

K. Chamberlain spoke about the metes and bounds on the plan submitted by the applicant's agent and pointed out that the deed has different information.

M. Perry asked when the survey plan was completed and K. Menici said in November 2002, by George Chrisenton. M. Perry said due to the discrepancies in the measurement and the information presented to the Board it is all the more reason to question the accuracy of the plan that was submitted.

The Board discussed previous applications where they made the applicant go back and get a surveyed plan. They discussed about the location of the boundary line and the exact distance is from the boundary line.

C. Westen clarified that the surveyed plan and the one submitted differ in the measurements and K. Menici said yes. She said the Board has a photocopy of the surveyed plan from the abutter in the packet and she passed the full size copy the surveyed plan to the Board for their review.

The Board reviewed the surveyed plan submitted by the abutter (Irving) and they discussed which dimension should they accept and if they grant the waiver they will not be sure what the actual distance is. R. Quindley said if they grant the waiver then the Board is accepting the waiver request and therefore accepting the dimensions submitted by the applicant. The Board agreed that they want a surveyed plan to determine the actual distance.

K. Chamberlain asked if A. Hoover's letter, representing an abutter (Irving), said that based on the plan submitted the applicant would gain land over the abutter.

K. Chamberlain is not comfortable granting the waivers and accepting the application without having an accurate survey. C. Westen said he believes if there is not the option of getting more written information, he said there is not valid information for the Board to make a sound decision that would be fair and just to the applicant and the abutter.

R. Quindley said if they open up the public hearing, they would have to accept the waivers and if they accept the waivers then they have to accept the application with the dimensions as provided. He said if they open up the Public Hearing and listen to an explanation from the agent and it is not satisfactory to the Board, then the Board would have just accepted the application that has conflicting information. M. Perry said the Board should ask for an accurate survey plan, because it will provide the Board with the information that is lacking from the engineered plan that was submitted.

Motion made by M. Perry, seconded by C. Westen to deny the waiver requests and not accept Case #ZO5-17. The Board is requiring the applicant to provide an accurate surveyed plan designed and stamped by a Licensed NH Land Surveyor, not an engineer. Discussion on the motion: K. Chamberlain asked the Board if the applicant has to survey the entire parcel or can the boundary line be identified with an error of closure for 1 in 10,000. The Board discussed that all of the boundaries and dimensions are incorrect and to have only the boundary line surveyed would not help. C. Westen said a surveyor has to establish a valid reference point in order to establish the line. K. Chamberlain said he would want to know the exact property boundary for both properties if he was an owner. R. Quindley called for the vote, motion carried with all in favor.

K. Chamberlain asked if they had to make a motion for each waiver request separately, K. Menici

said no. K. Menici said since the Board did not accept the application, there is no need to continue the application; the applicant will have to re-apply with a new application with fees paid again.

T. Varney told the Board and said they applied to be heard at this meeting and they paid the fees already and what they decided was based on information from the abutter. He said they supplied the plans that the Board should have acted from, not the plans the neighbor provided.

R. Quindley said the Board decided not to accept the application for the waivers based on the accuracy of the survey and the applicant did not provide the survey. T. Varney said "right".

K. Chamberlain said the information submitted by the applicant was contradictory to what the survey plan showed.

T. Varney said that is not true and he disagrees with K. Chamberlain's statement.

K. Chamberlain said that is the way the Board sees it. He asked R. Quindley if the Board could hear discussion from Mr. Varney since they did not open up the hearing, they have acted upon the application and made a decision.

R. Quindley said no the Board could not hear testimony from T. Varney for the reason given by K. Chamberlain.

OTHER BUSINESS:

1. Approval of Minutes: Motion made by M. Perry, seconded by C. Westen to approve the minutes as corrected from April 7, 2005, motion carried 4-0-1 with K. Chamberlain abstaining.

Approval of Minutes: Motion made by K. Chamberlain, seconded by C. Westen to approve the minutes as corrected from May 5, 2005, motion carried with all in favor.

New Business:

The Board discussed the proposed legislation that is in the process of being approved about the variance standards and K. Menici will provide the Board an update when the decision is rendered. K. Menici said she thinks it will be easier and the Board disagreed. R. Quindley and M. Perry said it is more confusing. The Board wants an update from J. Sessler if the proposed legislation is approved.

Motion made by M. Perry, seconded C. Westen to adjourn at 7:30pm, motion carried with all in favor.

Respectfully submitted,

Stephanie N. Verdile
Secretary