

**TOWN OF CHESTERFIELD, NH  
ZONING BOARD OF ADJUSTMENT**

**MINUTES  
February 13, 2007**

**Present:** Chairman Burt Riendeau, Andy Cay, Harriet Davenport, Alternates Lucius Evans and Renee Fales, Select Board representative Dan Cotter and Code Enforcement Officer Chet Greenwood.

The Zoning Board of Adjustment met at the Chesterfield Town Office on February 13, 2007 at 7:30 PM. Riendeau introduced the Board and explained the evening's procedures. The following agenda items were heard.

**1. Joseph & Lorraine Baldwin** represented by Elaine Blake request a Special Exception under Article 204.3, to permit an attached two family dwelling. The property is located at 323 Pond Brook Rd, W Chesterfield (Map 13C Lot C17) Rural/Agricultural Zone

Blake presented the request. She advised the request is to have a basement apartment. This would have a separate entrance and is a walkout basement. There would be no change in the footprint of the house. The Board asked Greenwood what requirements were necessary for a basement apartment. He stated there would need to be a fire separation between the floors and 2 areas of egress in each bedroom. Tom Levlocke advised that the bedrooms would have the required egress.

Blake advised they have a septic design completed for a 4-bedroom house waiting for the ZBA approval before they got the State approval and installation of the new system. It was noted that the first floor has 960 sq ft and the basement apartment would have the same. The lot has 14 plus acres with over 400 ft of road frontage.

John Ramsey, abutter, was present and had no objections to the application.

*Cay moved to close the public portion. Davenport seconded the motion, which carried unanimously.*

*Cay moved to approve the Special Exception requested by Joseph & Lorraine Baldwin as it meets all the terms for a Special Exception as spelled out in the ordinance. The Special Exception is specifically authorized by the following criteria.*

*Criteria:*

- A. The special exception is specifically authorized by Article II of this ordinance. Yes*
- B. The proposed use will not be injurious or detrimental to the neighborhood. Yes*
- C. Any special conditions required by Article II, Article III or Article V will be complied with. Yes*
- D. The proposed use will not make an excessive demand on municipal services. Yes*
- E. The proposed use will not generate traffic volumes that will overburden existing roads and streets. Yes*
- F. The proposed use will not have an adverse impact on the natural environment. Yes*

*Davenport seconded the motion, which carried unanimously.*

**2. Bruce Potter** requests a Variance from Article 203.5 Section B, Side Setback, to allow a shared driveway to access the two newly subdivided lots. The property is located on North Shore Rd, Spofford (Map 6 Lots A22.4 & A22.5) Residential & R/A Zones.

Steve Pro was present representing Potter. He advised that this is an approved subdivision of 2 5-acre parcels and the remaining 46.5-acre parcel. The front portion of the lots is in the Residential zone and the rear portion is in the R/A zone. Pro stated that Greenwood had suggested using a shared driveway to have less impact on the wetland area. He presented an updated proposal for the driveway utilizing Potter's larger lot to access the other newly created lots. There is a flatter landing area on the larger lot where the driveway would travel within that lot's front setback and cross the side setbacks of the adjoining lots. Pro advised this would have a much less impact on the wetland area. It was noted that there would be deeded easements and maintenance agreements.

Pro reviewed both shared driveway proposals; the one that was submitted with the application and the revised plan presented this evening.

Riendeau expressed his concern that the driveways could be conforming and come directly onto each lot from North Shore Rd without variances and if it could be conforming, it should be. Pro advised that the variances would mitigate the environmental impacts. Potter stated that Bevis had seen the shared driveway plan. Potter also advised that he has observed 15-shared driveways in the area. The proposal would keep the rural character of the road.

The Board asked about the plan needing wetland permits. Pro advised they would have to get DES minimum impact permit and it would then go to the Army Corp of Engineers. If separate driveways were installed they would need a major impact application, as it would be over 10,000 sq ft. Pro stated that if you disturb 2,400 sq ft of wetland you would need to replace 4,800 sq ft of wetland in another area. Plan 1 driveway would be 700 ft long and would require guardrails in the area as it would elevate the driveway 8 ft above the natural grade. Plan 2 driveway would be 1,000 ft long but goes along with the natural lay of the land. Pro stated they would use standard erosion control measures to minimize the impact. It was noted that any wetland permit would also go to the Conservation Commission for their input.

*Cay moved to close the public portion. Evans seconded the motion, which carried unanimously.*

Riendeau advised that he was sure that there was an ordinance prohibiting shared driveways. The Board reviewed a variance granted for a shared driveway in the 90's. The variance was for a side setback. Ross did a word search in the Zoning Ordinances, Land Development Regulations and the Building Ordinances for shared or common and could not find anything regarding prohibition of shared driveways. Cay stated that the Board should proceed with the assumption that there is nothing in our ordinances to prohibit shared driveways. He advised that from an environmental impact as in this case, this proposal makes sense.

Riendeau stated the Board should make things more conforming, not less. Cay stated that the argument is what is reasonable given the circumstances before us. Given the topography and wetland it makes sense to grant relief. The proposal given this evening is what the Army Corp would want. It makes the most sense and would look better using the lay of the land.

The Board noted they could put off the decision till the applicant speaks with the Army Corp of Engineers with the 3 scenarios.

1. Have 2 driveways entering each lot directly.
2. Plan 1 – Use a shared driveway along the boundary line of the newly created lots.
3. Plan 2 – Use a shared driveway entering on the flat area of Lot A22.

What is best for the Town and what is the best solution? Plan 2 is the one that makes the most sense in regard to the topography and the wetlands. Riendeau stated that he doesn't like a precedent being set using the 3 lots.

Pro was recognized and stated that the Army Corp of Engineers would not give opinions on which plan they would accept. You need to apply and they will ask how you have minimized the impact.

Davenport stated they are fortunate to have the 3<sup>rd</sup> lot to be able to do the driveway. Pro was asked what the impact would be if the driveways came off directly from each lot. He explained the large amount of fill that would be required to come off perpendicular to North Shore Rd. Plan 2 would be much less impact on the wetland.

*Cay moved to grant approval of the revised plan that has been put before the Board tonight which entertains front yard setback relief for a driveway on Lot 6 A22 as well as side yard setback relief and side yard setback relief on lots 6 A22.4 & 6 A22.5. We are doing this on the basis that the applicant has demonstrated that through this shared driveway it would provide access to 2 dwellings on Lots A22.4 & A22.5. The topography of the land is such that it is difficult to access those lots directly from their frontage and it has significantly less impact to access it as they have designed it particularly as it relates to the wetland crossings. It is better to cross the wetland at 2 points than to cross it at 4 points and it is better to cross at narrow points than it is to cross at wide points and with more fill.*

*Looking to the criteria for a variance we are giving an area variance so we are looking to the Boccia analysis. Based on the Boccia analysis we find that it meets the test of hardship as noted below as well as the other variance criteria.*

*Criteria for approval:*

*A. Denial of the variance would result in unnecessary hardship for the property owner seeking it. Boccia analysis for hardship:*

- *The special conditions of the property make an area variance necessary in order to allow the development as designed. Yes – The special conditions in particular are difficult topography and the wetlands.*

*And;*

- *The same benefit cannot be achieved by some other reasonable feasible method other than an area variance. Yes*

- B. The granting of the variance would not be contrary to the spirit and intent of the ordinance. Yes*
- C. The variance is not contrary to the public interest. Yes*
- D. Denial of the variance would result in injustice. Yes*
- E. The variance will not diminish the values of surrounding properties. Yes*

*Evans seconded the motion, which carried by majority vote. (3-Yes: Davenport, Cay, Evans; 2-No: Riendeau, Fales)*

**3. Review 1/9/07 Meeting Minutes**

*Fales moved to accept the minutes. Davenport seconded the motion, which carried unanimously.*

**4. Other**

- Annual Spring Planning & Zoning Conference, Manchester, NH – April 28, 2007
- Capital Improvement Plan – 7 year plan for ZBA  
The Board sees no capital improvement expenditures for this department.
- Riverside Motel – The Board was notified of the “Cease and Desist” order issued on the motel height with the added structures on the roof. The Board noted that the motel looks higher than the 30 ft to the eaves on the riverside of the motel. They asked that Greenwood verify the height. Ross will pass this request on to Greenwood.

**5. Adjournment:** The Board adjourned at 10:40 PM.

Respectfully submitted,

Carol Ross  
Secretary

Approved:

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Burton Riendeau  
Chairman  
Zoning Board of Adjustment

Date:\_\_\_\_\_