



ZONING BOARD OF ADJUSTMENT BELMONT, NH

March 22, 2023
Belmont Mill & Zoom
Belmont, NH 03220

Members Present: Chairman Peter Harris and Members David Dunham, Mark Mastenbrook, Sharon Ciampi, John Froumy

Staff: Susan Austin, Land Use Administrative Assistant and Karen Santoro, Interim Planner.

Zoom: Michelle and David Slock

6:00 Public Meeting

The Chairman opened the meeting at 6:00 pm and welcomed those in attendance and announced that as Chairman of the Belmont Zoning Board of Adjustment, this public body is authorized to meet using electronic means. He said that the Board gave notice to the public of the necessary information for accessing the meeting using Zoom or telephone, and he announced that any party experiencing any difficulty in accessing the meeting at any point, should call 603-267-8300 x 101, and the meeting will be recessed until access can be restored for all parties.

Chairman Harris stated that he would like to remind everyone to be respectful to each other and the Board members and to please direct all questions and comments to the Board. The public will be allowed the opportunity to address the Board during the public hearing.

Abutters' Hearing – Timothy Morgan: Request for a variance of Article 5 Table 2 of the Zoning Ordinance to construct a single family home closer (10') to an unrelated structure on the same lot than allowed (30') Property is located at 28 Wakeman Road in the "RS" Zone, Tax Lot 111-024-000-000. ZBA# 0223Z.

This application was continued from the February 2, 2023 meeting of the Zoning Board of Adjustment.

Tim Morgan, the applicant and his attorney, Daniel D. Muller, Jr., Esquire from Cronin, Bisson & Zalinsky, P.C., were present to discuss his application. D. Muller stated that the original proposal had the house closer to the encroaching house from the abutting lot, and at the last meeting they heard concerns that led them to redesign the project. Now, the encroaching home is 20 feet to the porch section of the proposed new home and the distance to the living space is 28 feet. Otherwise,

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the arguments are the same. This is an unusual situation where the house on the abutting lot is encroaching onto Mr. Morgan's lot. Relocating the proposed house will better serve fire protection issues.

J. Froumy asked if they have identified the water line. D. Muller stated that believe they know the location, the line goes across the lot from the well located on 26 Wakeman Road to the corner of the encroaching house located at 30 Wakeman Road. J. Froumy asked if there was any language in the easement about any issues with the line. T. Morgan stated that the easement would give the abutter the right to repair the waterline if it's needed. Additionally, they plan to put a sleeve in the ground to better protect the line.

J. Froumy asked if the neighbor with the encroachment present tonight? It was noted that Mr. Young, the abutter who's home encroaches on the lot in question was not present. Mr. Froumy stated that Mr. Young not being present said a lot to him. J. Froumy commended Mr. Morgan on the honorable effort he made to make the proposal more conforming.

Chairman Harris stated that the applicant did a nice job addressing the Board's concerns. He inquired about concerns from the Fire Department. K. Santoro stated that the departments were provided with a copy of the updated plans and none of them had any concerns.

M. Mastenbrook commented that he commends the applicant for reworking the plan. He stated that the water line is a big issue, it's good to see that the applicant is being proactive and protecting it.

MOTION: J. Froumy moved to grant variance of Article 5 Table 2 of the Zoning Ordinance to construct a single family home closer (20') to an unrelated structure on the same lot than allowed (30').

1. The variance will not be contrary to the public interest because: In order to not conflict with the public interest, it must not conflict with the explicit or implicit purpose of the ordinance. It must not alter the essential character of the neighborhood, and the essential character of the neighborhood is that of a lakefront style property and in this town, especially around the lakes, the structures are rather close together. The applicant has achieved maintaining the essential character of the neighborhood. There is no threat to public health safety or welfare, in fact should they deny this it would interfere with the applicant's right to use his property properly, because denial would essentially say that the property could not be used for a residential home.
2. The spirit of the ordinance is observed because: In order to not conflict with the public interest, it must not conflict with the explicit or implicit purpose of the ordinance. It must not alter the essential character of the neighborhood, and the essential character of the neighborhood is that of a lakefront style property and in this town, especially around the lakes, the structures are rather close together. The applicant has achieved maintaining the

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essential character of the neighborhood. There is no threat to public health safety or welfare, in fact should they deny this it would interfere with the applicant's right to use his property properly, because denial would essentially say that the property could not be used for a residential home.

3. Substantial justice will be done because: The benefit to the applicant should not be outweighed by harm to the public, and should they deny this application, it would be an injustice to the property owner because the public would not gain an equal amount of benefit by denying it. The applicant has been able to achieve the substantial justice.
4. The variance would not diminish the value of surrounding properties because: The applicant is proposing a brand-new house, and it will be aesthetically pleasing and if anything, it will increase the surrounding property values.
5. Owing to special conditions of the property, that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because of the following: There is a home whose structure is partially located upon this property because of a very old easement, and it makes it very difficult for the applicant to situate this house in a fashion that would meet all of the setbacks, so in the Board's discussion and deliberations, they have found that the applicant has positioned the house in the most practical and purposeful way.

Additional conditions:

6. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
7. The applicant and owner are solely responsible to comply with the approved plan and conditions of approval. Contractors should be sufficiently warned regarding same.
8. Approval expires on 3/22/25 if use is not substantially acted on and if an extension is not granted. Approval also expires if use ceases for more than two years.

M. Mastenbrook seconded the motion.

Vote: All in favor, motion carried (5-0)

Abutters' Hearing - Kimberly Haney: Request for a Special Exception to Article 5 Table 1 of the Zoning Ordinance to allow agricultural animals (horses) on a property less than 3 acres. Property is located at 191 Dutile Road in the "RS" Zone, Tax Lot 217-027-000-000. ZBA# 0623Z.

Chairman Harris stated that for the Special Exception application Special Exception at least 3 members must have viewed the property. Three members, M. Mastenbrook; J. Froumy and S. Ciampi, acknowledged visiting the property. The property is not located in the Aquifer protection Zone.

The Chairman stated the following definition will be used to determine if the applications before the Board tonight have a regional impact. He explained that in order to provide timely notice, provide

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opportunities for input and consider the interests of other municipalities, the Board shall act to determine if the development has a potential regional impact as defined by RSA 36:55. Impacts may include, but are not limited to: relative size or number of dwelling units as compared with existing stock; proximity to the borders of a neighboring community; transportation networks; anticipated emissions such as light, noise, smoke, odors, or particles; proximity to aquifers or surface waters which transcend municipal boundaries; shared facilities such as schools and solid waste disposal facilities.

MOTION: P. Harris moved that the application has no regional impact.

J. Froumy seconded the motion.

Vote: All in favor, motion carried (5-0)

Departmental Responses:

Building Official / Code Enforcement Officer:

- Very small area, close to abutters houses, references 2 or 3 horses, which is it? What is grazing overload for 1 acre? Will only have about a half-acre for animals. Where is the well and septic compared to the plot plan?

Staff Comments:

- Agricultural animals on lots less than three acres requires a Special Exception (Table 5; 1)
- Applicant is requesting 2-3 horses.
- Applicant must adhere to appropriate RSAs regarding feeding and shelter of horses (RSA 435:13-435:14)

Kimberly Haney was present to speak for her application. She stated that she moved to the property last October. She would like to bring her horses to her home. She plans to add fencing and a small barn and run this summer. She feels it would be a great place for horse because there are horses across the street and trails nearby. She stated that she currently pays to board the horse which is expensive. She would like to have them at her home in order to save money.

Ms. Haney distributed an updated sketch showing where the well and septic are located.

M. Mastenbrook stated that he walked the property. He stated that he noticed that to the right of the property there is a big drop-off. He asked if that was where the property line starts or ends? Ms. Haney stated that it goes a bit beyond that. M. Mastenbrook stated that they always look for best management practices when they have a case like this in front of them. What is the plan for disposal of the manure? Ms. Haney stated that she has done some research on it. She would like to try composting, but she's never done it before. If composting doesn't work out, she plans having the manure removed. She doesn't have enough room to block off sections for manure storage as suggested in the best management practices. M. Mastenbrook stated that the lot doesn't seem big enough for 3 horses. How are these horses going to be exercised? She stated that where they are boarded at the moment, they only have a ¼ acre to run in. Her plan is to trail ride them, and she feels there is more than enough land there, and her plan is to clear out the back off the lot in order to give them more room.

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D. Dunham stated that he had three horses years ago. They create a lot of waste. It builds up after a while. Personally, he feels there is more than enough land there to have horses from his experience.

D. Dunham asked if the next-door abutter was present, because it is quite a pitch coming off of her lot on to his. Jonathon Rolfe, 187 Dutile Road was present. He stated that in that area there is a lot of ledge. So, all of the run-off swales down through and goes towards the back abutting neighbor. His well is about 70 feet from his line. His concern is about the runoff coming from the lot. He also stated that it is hard to understand how she will access the lot in order to remove the manure. He pointed out that the access that everyone thinks is hers is actually on his property. He also stated that they are concerned about the horse flies.

J. Froumy asked the applicant if she had the resources to collect and remove the manure in the winter. K. Haney stated that she would drive around on the other side of the lot, as there is enough clearance to get behind the house on that side. She stated that there are best management practices that she would follow as far as manure management was concerned.

Charles Gulbicki 151 Lamprey Road. He stated that he worried about property values decreasing in the area. He stated that they never got an abutter notice, but they are neighbors. The only thing that separates them from the applicant is the thin strip of land that Mr. Rolfe owns. Staff clarified that his property does not directly abut the property being discussed, that is why he did not receive a notice. His main concern is that there isn't a real plan in place. There is no shelter, there are trees that need to be cleared or fence built. Horses need at least an acre or two per horse. The applicant plans on having 3 horses, and that is a lot of manure. He stated that he's worried about horse flies, odor and the visual, which would detract from his property value. He stated that his other concern is that there is no direct access to the back of the property, especially in the winter. If there was an emergency, there would no access to get there.

Margaret Gibbs, 199 Dutile Road addressed the board. She stated that she is the next-door neighbor of the property. She stated that she is concerned about the flies and the manure. She stated that she needs to have her property surveyed, because she is pretty sure that the previous owner cleared the trees on her land. Her understanding was that almost half of the hill is her property. She is concerned that there is not the proper access to get to the back of the lot, as well as the amount of space she is proposing for the animals.

M. Mastenbrook stated that after hearing from the neighbors along with the fact that the access road is not really an access road, he's a bit concerned about this application. How will she get to the back of this lot? Ms. Haney stated that there is plenty of room to drive back there.

Ms. Haney stated that at this point, based on what her neighbors are saying, she would like to withdraw her application. Tonight, is the first time she has heard anything from her neighbors at all.

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MOTION: J. Froumy moved to accept the applicant's withdrawal of her application for a request for a Special Exception to Article 5 Table 1 of the Zoning Ordinance to allow agricultural animals (horses) on a property less than 3 acres.

M. Mastenbrook seconded the motion.
Vote: All in favor, motion carried (5-0)

OTHER BUSINESS

Election of Officers:

MOTION: S. Ciampi moved to nominate Peter Harris as Chairman of the Zoning Board of Adjustment.
M. Mastenbrook seconded the motion.
Vote: All in favor, motion carried. (5-0)

MOTION: S. Ciampi moved to nominate John Froumy as Vice Chairman of the Zoning Board of Adjustment.
M. Mastenbrook seconded the motion.
Vote: All in favor, motion carried. (5-0)

Minutes of February 22, 2023

MOTION: M. Mastenbrook moved to approve the minutes of February 22, 2023 as written.
S. Ciampi seconded the motion.
Vote: All in favor, motion carried. (5-0)

ADJOURNMENT:

MOTION: M. Mastenbrook moved to adjourn at 7:11 pm. The motion was seconded by D. Dunham and carried (5-0).

Respectfully submitted,

Susan M. Austin
Land Use Administrative Assistant