

**TOWN OF JAFFREY**  
**Jaffrey, New Hampshire**  
**BOARD OF ADJUSTMENT**  
**Meeting Minutes**  
**July 8, 2017**

**Present:** Chairman Sawyer, Members Belletete, Courmoyer, Durand and Webber

**Absent:** Member Tieger

**Staff:** Recording Secretary Brayall

**PUBLIC HEARING**

Chairman Sawyer called the meeting to order.

**Public Hearing - Continued**

4. ZBA 17-11 Belletetes, Inc. 51 Peterborough St., Map 238 / Lots 244 & 284.1, Map 245 / Lots 94, 95 & 99, Zone: Lots 244 & 94 - Res. A (with town water), Lot 284.1 - General Business (with town water), Lots 95 & 99 - Res A (with town water)

Variance #1 – The applicant requests a variance to permit the addition of fill within the Wetlands Conservation District. (Land Use Code, Zoning Ordinance Section XX, 20.4).

Variance #2 – The applicant requests a variance to permit impervious cover located within the Wetlands Conservation District. (Land Use Code, Zoning Ordinance Section XX, 20.7).

Variance #3 – The applicant requests a variance to permit a commercial use in the Residence A district, on map 245 / lot 99 which is split between the Residence A and General Business Districts.

Variance #4 – The applicant requests a variance to permit structures (pavement) within the setback. (Land Use Code, Zoning Ordinance Section VI, 6.1).

Special Exception – The applicant requests a special exception to allow an accessory structure within the Wetlands Conservation District. (Land Use Code, Zoning Ordinance Section XX, 20.6.2)

Presentation: Jeff Kevan

Appearance:

Member Tieger had previously recused himself. Member Durand would vote.

Mr. Jack Belletete addressed the 2001 planning board issues raised at the July 5 hearing. In 2001 Belletetes received conditional approval from the planning board to expand their yard and employee parking. The conditions were that they could not pave within seventy-five feet of the wetlands without a variance from the zoning board. This variance was obtained on November 11 allowing them to pave within five feet of the wetlands. The second issue raised was the drainage issue relative to a letter from Mr. Jess Alexant, the then DPW Director. The letter mentioned the attempt to install storm water recharge boxes or some other temporary holding device such that there will be no net increase in peak storm water discharge. Mr. Belletete stated that they installed in an existing catch basin (one that captured all of the water from the employee parking lot) a leaching catch basin and that is how they tried to help mitigate some of the run-off from the catch basin.

Attorney Little replied that because of the development that has occurred to date the area has been degraded substantially and there is nothing in this presentation which shows that it will not continue to happen or worsen.

**TOWN OF JAFFREY**  
**Jaffrey, New Hampshire**  
**BOARD OF ADJUSTMENT**  
**Meeting Minutes**  
**July 8, 2017**

Chairman Sawyer commented that the water is coming from Belletetes as well as the State. Who else might there be? He believes that attempts have been made to keep some of that water on site so that it leaches off. You can't stop the water but controlling the speed of it may be key. It was witnessed by the board at the site visit that Mr. Christmas has been working on his property in an attempt to make it better.

Mr. Kevan restated that the design was provided, approved by the town and constructed as required. As for the new proposals, the applicant agrees to comply with the State criteria to a "T". They also to remove some pavement from the back corner and construct a pond that will some relief to the existing development. If they need to file for a State permit they will comply 100%. They will comply with all regulations on new development and they will do something that will help decrease and alleviate some of the problem on the existing site.

Member Belletete asked the applicant to address their desire to withdraw one of the variances. Mr. Kevan stated that they are withdrawing variance #3 that related to Residence A/the Peard property. They are not pursuing the purchase of the property therefore the variance will not be necessary and there will be no issue with access via Sunset Lane. Although a planning board issue Mr. Belletete added that they may talk with Mr. Aho about relocating the proposed building that abuts his property so that truck traffic is to the road side. As for the special exception – accessory use, they felt it was a belts and suspenders with the other variances.

Attorney Little asked to confirm that all plans associated with Sunset Lane have been dropped. Mr. Belletete confirmed.

Mr. Aho stated that his main concern is the location of the building and the activity of the truck traffic. As it is now this will all take place in his front yard and it is the reason why he approached Mr. Belletete about revising the placement of the building. Snow storage is also a concern and they would like specifics on how it will be handled. They also have concerns for truck traffic using Sunset Lane with the thought that they can access the lumber yard. Chairman Sawyer understood the concerns but reminded Mr. Aho that his concerns are planning board related.

There being no further discussion, Chairman Sawyer closed the public hearing for this item.

Deliberations:

Variance #1

The board reviewed each of the criteria submitted. Member Cournoyer stated that as Mr. Kevan described the type of wetlands being discussed he is in favor of the first criteria. Member Belletete agrees that granting the variance would not be contrary to the public interest.

Member Belletete feels that the testimony shows that the storm water drainage system that they plan on installing will do what needs to be done to make it work.

Members Cournoyer and Belletete agree that if granted property values will not be diminished provided that everything is adhered to, for instance the drainage system. Chairman Sawyer reminded the board that if approved it will be as per plan submitted.

The board unanimously agreed that all conditions were met.

Variance #2

**TOWN OF JAFFREY**  
**Jaffrey, New Hampshire**  
**BOARD OF ADJUSTMENT**  
**Meeting Minutes**  
**July 8, 2017**

While discussing the criteria, Member Webber stated that he feels the property values for the Aho and Christmas properties could be diminished.

The board unanimously agreed that all conditions were met.

**Variance #3**

Withdrawn by the applicant

**Variance #4**

Member Belletete reiterated that it's important that they follow through with what's been presented and the plan (ie: treatment and drainage).

Speaking to the spirit of the ordinance Member Cournoyer feels noise is key. Chairman Sawyer agreed that it is a key concern.

The board unanimously agreed that all conditions were met.

**Special Exception**

There was discussion as to whether or not the special exception was still needed since Variance #3 was withdrawn. Member Webber believes it is still needed as the two other proposed properties are connected to wetlands.

The board reviewed the criteria and agreed that the specific site is an appropriate location for such a use, structure or condition.

Member Webber suggested that they read section 20.13; definition of an accessory building. In the definition it states "A subordinate building located on the same lot with the main building and the use of which is customarily incidental to the main building. This building shall be a single-story building with dimensions not exceeding two hundred (200) square feet and may be located as close as thirty (30) feet to the normal high water mark." Member Webber noted that this applies to the wetland and the applicant is asking for a building much larger than 200 square feet. Chairman Sawyer asked if the buildings could be defined as something other than accessory structures.

Mr. Kevan stated that he added the special exception as a precaution however he doesn't see the need. They already have a variance to allow impervious coverage within the wetlands conservation district and to fill the wetlands. He feels that includes pavement and structure making the special exception unnecessary. Mr. Kevan asked if they could withdraw the special exception.

Member Webber read from the guidelines for the Board of Adjustment in NH "The Board of Adjustment must act on the evidence presented and base its decisions on legal grounds. The board cannot deny or approve an application based on judgement of what is considered the best interest of the area or neighborhood. The legislative body imparts in the ordinance and map has already decided what the zoning controls it believes to be the best for the municipality and has determined what restrictions will apply. The Board of Adjustment must act within the limits set by the ordinance and map and cannot enlarge, restrict or disregard these limits. The Board of Adjustment cannot be given legislative powers. They cannot do anything that would in effect be rezoning." This means if the ordinance says something is not allowed in a district the board cannot say it is. Member Webber feels the special exception is needed. Chairman Sawyer and Members Belletete and Cournoyer feel that the variance was already granted as noted by Mr. Kevan.

**TOWN OF JAFFREY**  
**Jaffrey, New Hampshire**  
**BOARD OF ADJUSTMENT**  
**Meeting Minutes**  
**July 8, 2017**

Mr. Belletete withdrew the application for a special exception.

On a motion by Webber, seconded by Cournoyer the board accepted the withdrawal of the special exception. (5-0)

**DECISION**

4. ZBA 17-11 Belletetes, Inc. 51 Peterborough St., Map 238 / Lots 244 & 284.1, Map 245 / Lots 94, 95 & 99, Zone: Lots 244 & 94 - Res. A (with town water), Lot 284.1 - General Business (with town water), Lots 95 & 99 – Res A (with town water)

**Variance #1** – The applicant requests a variance to permit the addition of fill within the Wetlands Conservation District. (Land Use Code, Zoning Ordinance Section XX, 20.4).

On a motion by Cournoyer, seconded by Belletete the request for a variance to permit the addition of fill within the Wetlands Conservation District was granted as presented and per testimony given. (5-0)

The plan submitted is on file with this office is titled Site Plan Route 202 with a plan date of April 19, 2017 issued by TF Moran.

**Variance #2** – The applicant requests a variance to permit impervious cover located within the Wetlands Conservation District. (Land Use Code, Zoning Ordinance Section XX, 20.7).

On a motion by Cournoyer, seconded by Belletete the request for a variance to permit impervious cover located within the Wetlands Conservation District was granted as presented and per testimony given. (5-0)

The plan submitted is on file with this office is titled Site Plan Route 202 with a plan date of April 19, 2017 issued by TF Moran.

**Variance #3** – The applicant requests a variance to permit a commercial use in the Residence A district, on map 245 / lot 99 which is split between the Residence A and General Business Districts.

At the request of the applicant variance #3 has been withdrawn.

**Variance #4** – The applicant requests a variance to permit structures (pavement) within the setback. (Land Use Code, Zoning Ordinance Section VI, 6.1).

On a motion by Durant, seconded by Cournoyer the request for a variance to permit structures (pavement) within the setback was granted as presented and per testimony given. (5-0)

The plan submitted is on file with this office titled Site Plan Route 202 with a plan date of April 19, 2017 issued by TF Moran.

**Special Exception** – The applicant requests a special exception to allow an accessory structure within the Wetlands Conservation District. (Land Use Code, Zoning Ordinance Section XX, 20.6.2)

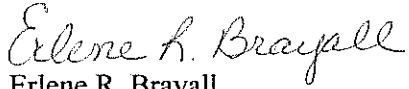
On a motion by Webber, seconded by Cournoyer the board accepted the withdrawal of the special exception. (5-0)

**ADJOURNMENT**

**TOWN OF JAFFREY**  
**Jaffrey, New Hampshire**  
**BOARD OF ADJUSTMENT**  
**Meeting Minutes**  
**July 8, 2017**

The meeting reconvened at 9:00 a.m. and adjourned at 11:00 a.m.

Submitted:



Erlene R. Brayall  
Recording Secretary

Attest:



Lee A. Sawyer  
Chairman  
Jaffrey Zoning Board of Adjustment

