

TOWN OF JAFFREY
Jaffrey, New Hampshire
BOARD OF ADJUSTMENT
Meeting Minutes
September 26, 2017

Present: Chairman Sawyer, Members Belletete, Cournoyer, Durand and Webber

Absent: Members Remillard and Tieger

Staff: Recording Secretary Brayall

MEETING MINUTES APPROVAL

On a motion by Webber, seconded by Cournoyer the meeting minutes from the August 22, 2017 public meeting were approved as presented. (5-0)

Deliberations -

Chairman Sawyer called the deliberative meeting for re-hearing No. ZBA 17-11A to order at 7:10 p.m. Member Tieger had recused himself. Member Durand would vote.

1. ZBA 17-11A, 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 (without 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 #4 – The applicant requests a variance to permit structures (pavement) within the setback. (Land Use Code, Zoning Ordinance Section VI, 6.1).

Chairman Sawyer reminded the audience that the public hearing was held on Tuesday, September 19. Following the presentations and public testimony the hearing was closed. This meeting is for deliberations only with no public testimony taken. The board reviewed each of the criteria for each variance -

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).

Contrary to the public interest –

Member Belletete feels that the Master Plan is clear; to promote improvement/business development in the downtown; this is an improvement based on the Master Plan. Member Durand agreed.

By unanimous vote the board agreed that granting the variance will not be contrary to the public interest.

(5-0)

Spirit of the ordinance –

Member Webber reviewed Section XX, 20.7 and asked if they were still considering this to be wetland. It has been referred to as low value wetlands, man-made wetlands; what is it? Member Durand stated that there is a plan to mitigate the water; he believes it is a wetland. Chairman Sawyer agreed adding that it has been said that it will give more relief than the wetlands are. Member Webber agreed with

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Sawyer with respect to Route 202. He is not sure about the Nutting Road situation. It's a different situation with water coming off from Belletete's parking lot. He has concern about the silt. Member Durand recalled testimony stating there would be a filtration system and a requirement that it be periodically cleaned out.

On a vote of 4-1 the board agreed that granting the variance would observe the spirit of the ordinance. Roll Call: Ayes – Sawyer, Belletete, Cournoyer and Durand. Nays – Webber

Substantial justice is done –

Member Belletete feels it goes back to Belletetes being in this location for sixty years. It all goes with the intent of the Master Plan to develop the downtown businesses. Member Durand pointed out that it is within the general business district.

By unanimous vote the board agreed that granting the variance would do substantial justice. (5-0)

Surrounding properties would not be diminished –

Member Belletete agrees with the opinion submitted by Paquette Appraisal; he does not feel property values would be diminished. Chairman Sawyer noted that the business is already there. Member Cournoyer feels that the mitigation plan will make an improvement, especially on the Route 202 side.

By unanimous vote the board agreed that granting the variance would not diminish the values of surrounding properties.

Unnecessary hardship –

Member Belletete feels this goes along with the spirit of the ordinance. The wetlands in question are low value and a very small area. The stormwater management plan will be put in place to mitigate the wetlands issue to control the water run-off. Member Webber feels that the applicant meets section A.

By unanimous vote the board agreed that denial of the variance would result in unnecessary hardship. (5-0)

On a motion by Belletete, seconded by Cournoyer the board granted, as presented and per testimony given, variance #1 permitting the addition of fill within the Wetlands Conservation District. (5-0)

The Wetland Functional Assessment dated June 26, 2017, received on September 12, 2017 and the Stormwater Management Report dated September 12, 2017 and received on September 12, 2017 are on file with this office.

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).

Contrary to the public interest –

Member Belletete feels it was previously discussed with respect to the intent of the Master Plan.

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By unanimous vote the board agreed that granting the variance will not be contrary to the public interest. (5-0)

Spirit of the ordinance –

Member Webber stated that when the application was presented to the board they were told that the impervious cover and the building were the same thing. For the record, he does not agree; they both shed water but are not the same thing.

On a vote of 4-1 the board agreed that granting the variance would observe the spirit of the ordinance. Roll Call: Ayes – Sawyer, Belletete, Cournoyer and Durand. Nays – Webber

Substantial justice is done –

Member Durand feels that the stormwater drainage system takes care of the issue.

By unanimous vote the board agreed that granting the variance would do substantial justice. (5-0)

Surrounding properties would not be diminished –

Member Belletete again referred to the letter of opinion submitted by Paquette Appraisal.

By unanimous vote the board agreed that granting the variance would not diminish the values of surrounding properties. (5-0)

Unnecessary hardship –

Member Belletete reiterated that the stormwater management plan that has been presented will take care of the issues. It's very much the same as the spirit of the ordinance.

By unanimous vote the board agreed that denial of the variance would result in unnecessary hardship. (5-0)

On a motion by Belletete, seconded by Cournoyer the board granted, as presented and per testimony given, variance #2 permitting impervious cover located within the Wetlands Conservation District. (5-0)

The Wetland Functional Assessment dated June 26, 2017, received on September 12, 2017 and the Stormwater Management Report dated September 12, 2017 and received on September 12, 2017 are on file with this office.

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

Contrary to the public interest –

Member Durand noted that other Peterborough St. businesses are to the front of their property.

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By unanimous vote the board agreed that granting the variance will not be contrary to the public interest. (5-0)

Spirit of the ordinance –

No discussion.

By unanimous vote the board agreed that granting the variance would observe the spirit of the ordinance. (5-0)

Substantial justice is done –

No discussion.

By unanimous vote the board agreed that granting the variance would do substantial justice. (5-0)

Surrounding properties would not be diminished –

No discussion.

By unanimous vote the board agreed that granting the variance would not diminish the values of surrounding properties. (5-0)

Unnecessary hardship –

Member Durand sees it as a natural expansion of what is currently being done. Member Belletete commented that they have been operating there for years.

By unanimous vote the board agreed that denial of the variance would result in unnecessary hardship. (5-0)

On a motion by Cournoyer, seconded by Durand the board granted, as presented and per testimony given, variance #4 permitting structures (pavement) within the setback. (5-0)

The Wetland Functional Assessment dated June 26, 2017, received on September 12, 2017 and the Stormwater Management Report dated September 12, 2017 and received on September 12, 2017 are on file with this office.

Although not part of the variance requests the board discussed whether or not they feel the proposal is an accessory use. Members Belletete and Durand feel it is an accessory use as it supports the retail business at the Jaffrey store.

By unanimous vote the board agreed that this is an accessory use. (5-0)

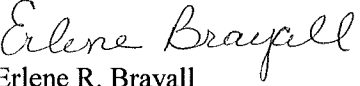
A decision was prepared for the board based on their vote. On a motion by Belletete, seconded by Cournoyer the board approved a written decision.

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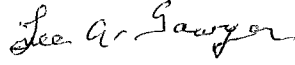
ADJOURNMENT

The meeting adjourned at 7:53 p.m.

Submitted:


Erlene R. Brayall
Recording Secretary

Attest:


Lee A. Sawyer
Chairman
Jaffrey ZBA

