

UNAPPROVED MINUTES
Town of Auburn
Zoning Board of Adjustment
July 24, 2018

Present: Mark Wright, Chairman. Mike DiPietro, Vice-Chairman, Peggy Neveu and Kevin Stuart, Members; Dennis Vieira, Dale Phillips and Stoney Worster, Alternate Members of the Board. Minutes recorded by Denise Royce.

Also, Present: Carrie Rouleau-Cote, Building Inspector/Code Enforcement Officer and Jeffrey Porter, Conservation Commission.

Absent: Stephen Carroll, Member. Robert Beaurivage, Alternate Member.

Mr. Wright called the meeting to order at 7:00 p.m.

Mr. Wright explained the procedure for tonight's hearing and introduced the Board members to everyone present tonight. Mr. Wright indicated that there was one case on tonight's agenda and noted that there were abutters or interested parties present tonight as well.

At this time, Mr. Wright moved to ask Ms. Royce to read the first case into the minutes.

Case #18-11
Brenna Marie & John Jones
56 Meadow Lane – Tax Map 12, Lot 16-9
Zoned Residential One

Applicant is requesting a Variance to allow the construction of a free-standing garage to be within the 30-foot side setback in a Residential One zone. (Article 4, Section 4.06(6))

Mr. Wright began by saying that, assuming no one has any conflicts that he would be elevating Mrs. Phillips for this case.

Mr. Wright moved on to ask Mr. Jones to read his application into the minutes and briefly explain what the project would be. Mr. Jones began by explaining where and why he was looking to build a 24ft by 42ft detached garage which would be used to store ATV's, motorcycles and cars to keep the property neat and clean. The garage would be approximately 7 feet from the property line along the driveway side. Mr. Jones explained that, unfortunately it is the only spot on their property they could place the garage without being closer to the wetlands and that the septic system was located at the front of the house. Mr. Jones indicated that they just need more storage. Mr. Wright asked if anything had been done on the site yet. Mr. Jones said no. Mr. Jones read his application into the minutes for the record. Mr. Jones added that it would not affect abutters and that it was far enough away from the Level 3 wetlands.

Mr. Wright began by talking about what Mr. Jones had mentioned earlier with regard to the Level 3 and the septic system and why he was placing it where it is on the plan and noted that he had other issues on the property. Mr. Wright talked about Mrs. Rouleau-Cote's Zoning Determination which mentions possibly needing a Variance from the Level One wetland which is shown on the plan submitted that indicates that he would be 92.75 feet from the Level one wetland where 125 feet is required. Mr. Wright went on to say that, it looks like it will require a Variance from a Level One wetland and asked Mr. Jones if he went before the Conservation Commission. Mr. Jones stated that he had not gone before the Conservation Commission. Mr. Wright pointed out that, the Board is in receipt of a map of the property from Blaisdell Survey that characterizes that the culvert is a Level One. Mr. Jones stated that he did have a letter from Mr. Blaisdell and submitted a copy to the Board for review. Mr. Jones explained what Mr. Blaisdell was talking about which was that there was some concern with regard to the Level One wetland and referenced it as a seasonal brook a few feet wide going under the driveway. During the summer months there is no flow except after a big rainstorm and with the gradual slope of the property and existing vegetation, he feels there is adequate buffer to the wetlands. Mr. Wright acknowledged the letter which was introduced into the record and for the file which was not in our package.

At this time, Mr. Wright asked Mrs. Rouleau-Cote for comment and indicated that the case was not noticed for a Variance from a Level One wetland but was only noticed for seeking relief from a side setback. Mr. Wright believed that if it was a Level 3 then there would be no issue but if it's a Level One then it has to be noticed correctly and have Conservation Commission to review this. Mrs. Rouleau-Cote commented that, she did pay a visit to the site and that she did take photos and that she was there after a rainstorm and noted that it was a very defined channel that was approximately five (5) feet wide and about two to three feet deep that starts from the abutting property. The question becomes because in our Zoning Ordinance we have definitions for Level One, Two and Three and that a brook, stream or waterbody is defined as a Level One and then goes to Level Two and Level Three. If it is deemed as a Level One then a Variance would be needed.

Mr. Wright asked Mr. Porter if this was the first he's heard about this. Mr. Porter said yes. Mr. Wright asked abutters if they had any questions or comments. Mr. Gauthier of 60 Meadow Lane stated that, his only concern was the cutting of the trees and trees falling from his property onto his new building because it would only be 7 feet from the property line. Mr. Gauthier talked about the water that comes off his property in the back that goes through their property. Mr. Wright asked Mr. Jones about taking down any trees. Mr. Jones stated that he would like to remove the trees to the property line and then cleaning up above the branches that were on his property. Mrs. Gauthier asked if a tree did fall and fell onto his property who would be responsible for that. Mrs. Neveu commented that, one of her trees fell on the house next door to her and that their insurance company took over and that her insurance company picked up anything that wasn't covered by their insurance company and that their house was significantly damaged. Mr. Wright believed it sounded about right but pointed out that Mr. Stuart on the Board was the expert.

Mr. Wright asked the Board members if they had any questions for the applicant. Mrs. Phillips had a question regarding the driveway and asked if it was all paved. Mr. Jones stated yes. Mrs. Phillips commented that she had a problem with it being only 7 feet from the property line and asked if it could be moved somewhere. Mrs. Neveu asked if it could be moved closer to the house. Mr. Jones answered by saying that, without removing pavement and that there was a propane tank up there as well. Mrs. Phillips believed that it was awfully close to the lot line. Mr. Jones explained that it was very wooded. Mr. DiPietro asked how close their house would be to the garage. Mr. Jones believed it was approximately 200 feet and Mr. Gauthier agreed. Mr. Stuart asked how far the house was from the lot line. Mr. Jones stated that it was pretty close to 30 feet. Mr. Stuart asked about making it an attached garage. Mr. Jones stated that there was already an attached garage. Ms. Royce showed Mr. Stuart a copy of the tax card which showed a photo of the existing house.

Discussion ensued with regard to whether or not it was a Level One wetland and Mrs. Neveu thought that they should have the Conservation Commission take a look at it. Mr. Wright asked the Board if they wanted to go into deliberation to discuss the wetland issue and how they want to approach it and asked if there were any other questions with regard to the side setback. Mr. Worster asked if a building permit had been issued. Mrs. Rouleau-Cote said no. Mr. Wright asked the abutter if there were any other issues beside the trees or about the building being 7 feet from the property line. Mr. Gauthier indicated that he did not have a problem but his wife did. Mrs. Gauthier said that it was like having another house on the property because it was very close to the property line. Mr. Wright asked what type of construction it would be and if it would be a metal building. Mr. Jones said that it would be a regular structure with vinyl siding with a 4-foot frost wall.

Mr. Wright asked if there were any further questions. Mr. Stuart asked if it would have electrical. Mr. Jones said yes that it would have a 30-amp service. Mr. Stuart asked about expanding the existing garage. Mr. Jones stated that the depth of the garage is shallow and that there was an existing addition out the back of the house. Mr. Vieira noted that 20-feet deep is very restrictive. Mr. Jones added that he needs more garage space and he needs more bays as well.

Mr. Wright believed that if there were no further questions from the Board that he would entertain a motion to enter into deliberation.

Mr. Worster made a motion to enter into deliberations at 7:25 p.m., seconded by Mrs. Phillips.

Mr. Wright began with, obviously there was some concern about the side setback being 7-feet and the wetland issue and when he saw this and asked Ms. Royce if the Conservation Commission had seen this and they had not. The fact that it was a Level One and where Mrs. Rouleau-Cote, who has seen more wetlands than any of us and asked if it was a true Level One given the seasonality of it. It sounds as if she would like the Conservation Commission to see this and felt that they were not qualified to make that decision and felt that when they have an expert that says it's a Level One that it

should go to the Conservation Commission to provide their recommendation to the Board. Mr. Wright also stated that, given this was not noticed for the wetland issue that this will give the applicant opportunity to go to the Conservation Commission. Mr. Wright talked a little about the fact that it was not noticed for the wetland issue and that they have in the past allowed the applicant to amend their application but since this was significant and included a whole different issue that he was inclined to have the applicant submit a whole new application regarding the wetland issue for a Variance for relief from a Level One wetland. Mr. Wright was open to any other thoughts or comments from the Board. Mr. DiPietro agreed with Mr. Wright and noted that the wetland scientists believes that there was more than an adequate buffer from the proposed garage to the Level One wetland. Mr. Wright did not think that the letter from the wetland scientist didn't help the applicant with regard to the wetland issue but that it did speak on the expert opinion on whether or not it would negatively impact the wetland. Mrs. Phillips commented that, she would like them to meet with Conservation Commission so they could verify that and maybe they could come up with something with regard to the side setback after meeting with them. Mr. Stuart stated that, the ZBA's policy has been that, when there is a wetlands application that we give the Conservation Commission a chance to review it and it hasn't happened yet.

Mrs. Neveu asked if they could Table this application until the other one is heard because why would be give relief from a setback if they can't build it there. Mr. Wright added that, they're going to need two (2) Variances. Mr. Stuart also added that, they may not need two (2) Variances. Mr. Wright agreed and went on to say that, if the Conservation Commission believes that it's really a Level Two then it will go away if the Board accepts that determination. Mr. Vieira believes it would benefit the property owner and the abutters for the Conservation Commission to weigh in. Mr. Wright believed it was an excellent point. Mr. Wright believed that the applicant has to apply for a Variance from a Level One at this point in time.

At this time, Mr. Wright asked the Board to come out of deliberation and if there were any other questions or comments that they could address them.

Mr. Stuart made a motion to exit out of deliberations at 7:32 p.m., seconded by Mr. DiPietro.

Mr. Wright stated that everyone has heard everything that was discussed during deliberations and asked Mr. Porter if he had any further questions or comments. Mr. Porter commented that, his immediate thoughts were that, if the location of the proposed garage was moved closer to the house then it would probably take it out of the Level One setback and that would be one of the things they would look at as a possible option because of the size of the shed. Having it moved out of the setback would be one of the things they would consider and they will take a look at it and conduct a site walk but that would be one of the things that they would want to talk about.

With that in mind, Mr. DiPietro believed that they should move to continue this case until the next ZBA meeting. Mr. Wright agreed and reiterated that the applicant would have to

refile an application noting the wetland issue and believed it made sense to Table this case until August. Mr. Wright asked Mr. Porter when their next meeting would be held. Mr. Porter said the first Tuesday of the month. Ms. Royce clarified that, the next Conservation Commission meeting date would be held on Tuesday, August 7th at 7:00pm.

In conclusion, Mr. Wright asked the applicant if they had any questions or comments. The applicant did not have any questions or comments. Mr. Wright stated that he would entertain a motion to Table this case for the reasons they have all discussed above.

Mr. Stuart made a motion to TABLE the case until August 28th for Case #18-11, 56 Meadow Lane, Tax Map 12, Lot 16-9. Seconded by Mrs. Neveu. A vote was taken and, all were in favor and the motion passed.

Mr. Wright explained that the case is Tabled until the next meeting which will be held on August 28th. Mr. Wright informed the applicant to get his application filled out and submitted to Ms. Royce and that if he had any questions to call her and that she would assist him.

At this time, Mr. Wright thanked the applicant and Mr. and Mrs. Jones exited the meeting.

Minutes

Mr. DiPietro made a motion to accept the minutes of June 26, 2018 as written, seconded by Mr. Stuart. All were in favor, and the motion passed.

Other Business

Mr. Wright asked if there was any new business or comments from the Board. None were noted. Mr. Wright asked Mrs. Rouleau-Cote if she had any updates. Mrs. Rouleau-Cote began by saying that, the Remington case involving an Accessory Dwelling Unit that is detached has been resolved. Mrs. Rouleau-Cote commented that we have an ADU that is detached with all the life safety provisions intact and we have a State approved Septic Design in place. Mrs. Rouleau-Cote explained her findings while out there witnessing test pits and talked about life safety issues that have been resolved.

Mrs. Rouleau-Cote moved on to inform the Board members regarding the shed on Pingree Hill Road that has been moved and that was still for sale. Mrs. Rouleau-Cote commented that there were a number of issues regarding wetlands but that other than that there was nothing else. A brief discussion ensued with regard to the new homes on Wilsons Crossing Road. Mr. Wright thanked Mrs. Rouleau-Cote for the update. Mrs. Rouleau-Cote added that, the Planning Board has not seen any subdivisions in the last year and so the number of house lots are slowly evaporating.

Mr. Wright stated that, if no one has anything further that he would entertain a motion to adjourn.

Adjourn

Mr. DiPietro made a motion to adjourn, seconded by Mr. Stuart. All were in favor, the motion passed unanimously, and the meeting stood adjourned at 7:46 p.m.

The next ZBA Hearing is scheduled for August 28, 2018 at 7:00 pm and will be held at the Town Hall, 47 Chester Road unless otherwise noted on the upcoming Agenda.