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Town of Boscawen, NH
ZONING BOARD OF ADJUSTMENT
Boscawen Municipal Complex

MEETING MINUTES
Tuesday, January 28, 2020 at 7:00 PM

Members Present: Dr. Gail Devoid, Chair, Vice Chair Doug Supry, Ann Dominguez, Tracy Jo Bartlett, Roger Sanborn.

Others present: Kellee Jo Easler, Planning & Development Community Director

Absent: Edward Cherian Jr.

Open public meeting

Continued from 11.26.19:

• **An Application for a Variance for relief from Article V, 5.01 Minimum Dimension & Area Requirements. This would allow the applicant to make use of a conforming lot to subdivide it into one conforming lot and one non-conforming lot by means of a Lot Line Adjustment. The non-conforming lot created will have 0 road frontage where 200 ft. is required on an accepted Town Road and access to lot will be Tote Road (private). This is submitted by Gary S. Martin, 53 New Rye Road, Allenstown, NH 03275, property owned by Gail Devoid, Trustee of Page Pond Trust, 431 High Street, Boscawen NH 03303 located off High Street on Map 49, Lot 57 & 58 located in an AR zone.**

Devoid recused herself.

Supry acted as Chair. Case was read into the record by Kellee Easler. Applicant was Gary S. Martin. Gail Devoid owns the property on Tote Road. Map 49, Lots 57 and 58 in an AR zone.

Public meeting opened at 7:05

Dr. Devoid explained that the current configuration of the property uses Tote Road where she has her home and business. The land has a shape of an "L". They have been using Tote Road for 27 years and has put \$10,000 into the road. They want to continue to use Tote Road. She also wants to sell a piece of property with another piece which will leave her property land locked.

Gary Martin testified. The Devoid's have been on Tote Road for 25+ years. Emergency services have used that road before so that wouldn't be an issue for utilization of town services. The Ordinance is there to protect people. The variance wouldn't change anything as the Devoid's would still live on their property. There will be no further burden on the town. It is currently maintained and has been for 25+ years. They want to build on that property. The tax base will be increased as it will no longer be in current use. Dominguez asked about Tote Road and Devoid selling the frontage to the property. Martin explained that she would maintain Tote Road to continue to have access to her property. The only change is that with the property variance she would lose the 200 feet of road frontage. Dominguez asked if it would be conforming. Devoid explained that once variance was granted and the sale was completed, her property would become non-conforming. Tote Road is a Class VI road and is not maintained by the town. The last piece she sold was the Harry Steever piece. When that happened the buyer wanted to institute a road maintenance contract

50 and as people purchased property they would have to buy into this agreement also. It's a dirt road she's
51 made wider. She's enhanced it and it's in good condition. Dominguez hasn't been down Tote Road. How
52 big is the road? Devoid explained that the roadway is 30 feet wide. Devoid explained that the two pieces
53 Mr. Martin has bought are put together and it becomes a conforming lot. Devoid explained that the spirit
54 of the Ordinance is met. It continues to keep public safety. Dominguez wanted confirmation that it is a
55 Class VI road. Easler explained that it is a private road. Sanborn explained that if it were class V or VI it
56 would have to be town owned. Easler said the Town couldn't find documentation anywhere that said it
57 was a Class VI road. Devoid testified that the surrounding properties will not be affected by this. Property
58 values will not go down. There will be no safety issues. The surrounding land is land that she owns. It
59 will not devalue her land. It allows her to sell more of her land. Mr. Martin is looking for additional
60 acreage. He explained why he wanted to purchase this piece of land. Dominguez asked how it affected the
61 Devoid's property. Devoid explained that the only downside she can see is that someone might hesitate to
62 buy her home if it is a nonconforming lot. Overall the land that Mr. Martin wants to buy, she hasn't even
63 walked it. Dominguez asked if she saw future building there. Would this ever become a standard road?
64 Devoid said no. She's tried that and it didn't work. The whole piece of property was purchased by an
65 organization who put Tote Road in and put in the camps along that road. She explained that the original
66 property owner died and the estate was settled. The original owner wouldn't sell to the middle of Tote
67 Road when he sold the parcels. After the estate was settled, she's not sure who owns it. The town's position
68 is that every lot that was sold owns out to the middle of Tote Road. The Devoid's plow it and maintain it.
69 Supry asked if there were any future plans to incorporate those two lots into one. Mr. Martin said yes, it
70 would be one lot. Supry asked how long Tote Road was. Devoid explained it was 9/10ths of a mile. Most
71 of the land out there is owned by Devoid's. There is only one camp out there and that owner uses it to go
72 hunting. Bartlett wanted confirmation that the reasons he wanted the variance was to be able to sell more
73 land. Devoid said yes. She wants to sell more land. Martin explained that he would own one private lot.
74 Devoid explained that she's having trouble selling the home because there is too much land. Surpy asked
75 how many other lots border solely on Tote Road. Devoid explained that she did as well as a young couple
76 and the Martin's. Devoid believes there are 4 and 2 of those are hers. Devoid gave further information
77 regarding the properties and who owns them.

78
79 Sanborn asked if the private drive is a legal access. He'd like to set up a date to go visit the property. Is
80 the access legal at all? He feels they need to answer that question before they go forward. The Board needs
81 to know if the road is up to standards and is legal. Devoid stated that the private road is in good shape.
82 Sanborn asked how wide it is. Devoid answered that it's supposed to be 30 feet and it is. Sanborn wants
83 to verify this information. Martin asked if the road would have been inspected when the house was built.
84 Dominguez said no. Dominguez had concerns that Devoid will be going from having a conforming lot to
85 a nonconforming lot. Tote Road is a private road not maintained by the town. These are concerns. Martin
86 thought that after the home was built, an occupancy permit should have been issued and he thought that the
87 road would have been taken into account at that time. Easler stated that the town does not inspect the road.
88 It's not a town maintained road. They only inspect the house. In 1997 or 1998 they did a subdivision so
89 that they would have road frontage on High Street. Sanborn asked how many acres were there. Devoid
90 feels it's close to 100 acres. Sanborn is not sure if the road needs to be upgraded and it might need to be
91 upgraded to at least a Class V road. Devoid explained that when her home was built there was no Certificate
92 of Occupancy.

93
94 Easler asked if they want to look at the property. Sanborn said yes. Devoid asked what property. Sanborn
95 explained that they wanted to look at the driveway. Easler asked if the Board wanted to continue this case
96 to the next meeting. They can do the site walk first. Sanborn thought they should do the site walk on
97 Saturday, February 22nd. They can meet at 10 am at his house and go and look. Easler reiterated that they
98 wanted to do a site walk on Saturday, February 22nd and then they would continue the case to the normal
99 meeting of February 25, 2020. Easler asked if that worked with the applicant and the owner. Both agreed.

100 The site walk would be considered a meeting. It would be at 10 am. Easler said their meeting would be
101 continued to the next scheduled meeting date of February 25, 2020.

102
103 7:44 pm the Public Hearing was opened.

104
105 Abutters wanting to speak: Scott Hartshorn, 433 High Street. He's concerned with their home being
106 landlocked. If they want to sell it, it is concerning to have landlocked home. Maybe next year Mr. Peters
107 comes to the Board and wants a variance. Mr. Cote owns 8.25 acres of land that runs along Tote Road.
108 The advertisement for that land being for sale actually states they will go to the town for a variance. He
109 does not want to see precedent being set. Concerns with fire access.

110
111 Non-abutters wanting to speak: none.

112
113 Close the public hearing.

114
115 A motion to close the hearing was made by Sanborn, seconded by Dominguez, and passed by a unanimous
116 vote.

117
118 Sanborn stated this would be continued to the site walk and then onto the next regular scheduled meeting
119 on February 25, 2020. Site walk would be Saturday February 22, 2020 at 10 am.

120
121
122 Next Case: Devoid rejoined the Board as Chair.

123
124 Next agenda item started at 7:50 pm.

125
126 • **An application for a Variance for relief from Article VII, Off-Street Parking Space Requirements,**
127 **8.05 to allow a recreational travel trailer on land without a single family residential home to be**
128 **allowed on the property and to allow occupancy for more than 24 weeks in one calendar year,**
129 **submitted and owned by Justin West, 22 Jordan Road, Windham NH 03087, property address of DW**
130 **Highway, Boscawen NH 03303 on Map 79, Lot 2 located in an R1 zone**

131
132 Easler read the request into the record.

133
134 Public hearing was opened.

135
136 Justin West testified. He owns the property at 290 Daniel Webster Highway. He'd like to keep a travel
137 trailer on the property where there is no current primary residence. The travel trailer was placed there in
138 2016. At that time ¼ acre was taken out of current use. He pays full tax on that property and taxes on the
139 camper itself as it was assessed as a structure.

140
141 Sanborn asked if he had a map of where the septic is located. Mr. West stated it's a camper so it has self-
142 contained sewage tank on the trailer as well as a fresh water tank. In the variance he noted relief for a time
143 period of 5 years. He purchased the property to build a barn/residence on the property. He wants the
144 camper there until he gets that done. Dominguez asked if he lives in the camper. He stated his primary
145 residence is in Windham. He stays there and his father stays there at the camper. His dad works at Enviro-
146 tech which is only 6 miles from the property vs. Chester where his dad has a primary residence. Bartlett
147 asked if that was all year long. Mr. West stated they have been staying there on and off throughout the
148 year. They visit the camper throughout the whole year. They did not know that that was not allowed, which
149 is why he is before the Board now. They can control the occupancy of the camper. He's not looking for
150 permission for him or his dad to be allowed to stay there the entire year. Dominguez asked what utilities

151 they have on the land. Mr. West stated that they have none. They have solar and a generator for electricity.
152 When they need to empty their sewage tank, they have a portable tank that is built for campers that you
153 empty into and you put it in the back of the pickup and you take it someplace to pay to dump the sewage at
154 a campground, etc. He'd like to build in 2 or 3 years, but would like to give himself the 5 year window to
155 build a home. They did do a perk test when he bought the property. Dominguez asked if he had any plans
156 of his time line. What is he doing in the interim to start his project? When would he be putting in the
157 sewage tank? Mr. West said that currently the process of moving the sewage with the portable caddy works
158 for him. Why he wants to build a barn with a residence is that he has some agricultural pursuits he wants
159 to try. And that is in the future. It certainly is something he can consider doing. He identified with 2 or 3
160 years for financial reasons. His wife is in school right now and once she is done, they will have the finances
161 to invest into a sewage system. Supry asked about waste disposal. The tank they use to haul off is that
162 their black water? Mr. West said black and gray water. Supry asked where he takes it. Mr. West said there
163 is a location in Manchester and in Franklin. They are a water treatment facility and a campground. Supry
164 noted that the City of Concord Wastewater Treatment Plant doesn't charge to dispose of waste. Mr. West
165 said that was good to know. Sanborn asked about drinking water. They have 5 gallon fresh water drinking
166 tanks. They fill them into the holding tank on the camper. The camper is not sitting on a slab or pier and
167 can be hauled out. Bartlett asked if the camper is sitting near where the barn or house will be going. Is
168 there anything stopping him from getting a septic design or well plan? He said the camper is close to where
169 they will be building. Bartlett asked if his wife was in school right now. Mr. White said she is and has
170 been since they purchased the property. Devoid questioned his statement of the variance being good for
171 five years. West explained that he put a timeline of 5 years maximum on the variance request to allow the
172 camper on the property. This was to show the camper would not be there indefinitely. Supry noted that
173 the camper has been there 4 years already. West explained that once the barn is built the camper will go
174 away. The residence will be built either in or attached to the barn. Devoid asked Easler if there was an end
175 date of a variance. Bartlett noted that he was putting a timeline on himself. Devoid stated that a variance
176 doesn't have a timeline. It goes with the property. Devoid explained that the variance doesn't expire.
177 Dominguez asked if he accepts mail at that property. Mr. West stated that his father put up a mailbox and
178 they have now taken it down. Primarily the request is to keep the camper on the property. He purchased
179 the camper to put on the property. He can control the occupancy of the camper. The Board discussed the
180 Ordinance. Easler stated that the Ordinance was set up for people who go down south for the winter and
181 come back for the summer and stay on their children's property, etc. Devoid stated if they grant it, they are
182 making it a lot for a trailer. Dominguez felt that if they granted this it would set precedence. Devoid felt it
183 would set something up that other people could come and use. That is her main concern. The trailer could
184 stay there forever. It could become a recreational home park. Article 8.04 and 8.05 talks about recreational
185 vehicles. Supry read the Articles of the Ordinance. Devoid is not sure if they could put stipulations on a
186 variance. Dominguez asked what he could have on that land. Mr. West wanted to reiterate that he did put
187 the time period in there to support the case.

188
189 Open public meeting.

190
191 Abutters in favor: none.

192
193 Abutters in opposition: John York, 31 Forest Lane. The Board has brought up his concern about setting
194 precedence. Maybe a military tent would be more acceptable, or perhaps a motor home.

195
196 Carol Shey, 9 Forest Lane. The Board brought up a lot of her concerns. Septic is a concern. When they
197 traveled in their camper, she knows that their tanks do not hold a lot of waste. Feels it would set a
198 precedence. It has been there 4 years and feels it would go on forever.

199
200 Barbara Randall, 279 Daniel Webster Highway – across the road. She echoes the concerns of the previous
201 speakers. She would love to see a residence there.

202
203 Richard Nickerson, 11 Forest Lane – he objects. Same as previous speakers.
204
205 Public in favor or in opposition: none.
206
207 Motion to close the public hearing at 8:25 pm was made by Sanborn, seconded by Supry and passed by a
208 unanimous vote.
209
210 Sanborn wants to see a septic tank there. He feels it sets precedence. Dominguez doesn't want to hamper
211 his project, but they can't give a variance as a variance is permanent. Sanborn though the minimum would
212 be to get a septic plan in and a tank in. Supry explained that to put in a septic system today costs about
213 \$15,000 if you are lucky. If you want to put water on the property that wouldn't be inexpensive either. But
214 then again, what is the septic and water doing for the piece of property, because he would be living in an
215 RV which is against the Town Ordinance. Easler explained that even a manufactured home is not allowed
216 on its own land. It has to be stick built or modular. Devoid explained that a lot of people put a septic
217 system in before building. Easler explained that septic system installation is regulated by the State, not the
218 town. Supry noted that looking at the photos he sees a fairly semi-permanent set up. An addition is put
219 onto the side of the RV to accommodate what looks like a wood stove. Easler explained that there is a
220 woodstove there. Supry felt that was a safety concern. Supry how many means of egress are there? Mr.
221 West said the camp has one door. Supry felt that one door coming out to an added structure that houses a
222 wood stove is a safety issue. Devoid explained that a variance is to make their property useable. A variance
223 is requested when the regulations constraint the design of what you want to do. If you can do something
224 else with this land, the support for a variance falls apart. A variance is when there is no other way to use
225 the land. There are many other things they can do with this property.
226
227 Easler asked if they wanted to go through the 5 criteria. The Board agreed they should do that. Devoid
228 read his application into the record. There is no notation of 5 years in the official application. Please see
229 application in file for all 5 criteria and their submitted information.
230
231 A motion to deny the application was made by Devoid. Unnecessary hardship hasn't been proven. Devoid
232 amend the motion that the applicant has 90 days to make the lot conforming, which means taking the trailer
233 off. Motion and amendment was seconded by Dominguez and passed by a unanimous vote.
234
235 Acceptance of draft Minutes. A motion to approve the Minutes was made by Supry, seconded by Sanborn
236 and passed by a unanimous vote.
237
238 A motion to adjourn the meeting was made by Surpy, seconded by Sanborn and passed by a unanimous
239 vote.
240
241 • Next Meeting is scheduled for February 25, 2020.
242
243 *Respectfully submitted,*
244 *Rose Fife Recording Secretary*