

**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.

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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 Gail Devoid. Tote Road Gary S. Martin submitted. Gail Devoid owns the property. Lots 57 and 58 in an AR zone.

Public meeting opened.

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 have 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 and as people purchased property they would have to buy into this agreement also. It's a dirt road she's made wider. She's enhanced it and it's in good condition. Dominguez hasn't been down Tote Road. How big is the road? Devoid explained that the roadway is 30 feet wide. Devoid explained that the two pieces Mr. Martin has bought are put together and it becomes a conforming lot. Devoid explained that the spirit of the Ordinance is met. It continues to keep public safety. Dominguez wanted confirmation that it is a Class VI road. Easler explained that it is a private road. Sanborn explained that if it were class V or VI it would have to be town owned. Easler couldn't find documentation anywhere that said it was a Class VI road. Devoid testified that the surrounding properties will not be affected by this. Property values will not go down. There will be no safety issues. The surrounding

land is land that she owns. It will not devalue her land. It allows her to sell more of her land. Mr. Martin is looking for additional acreage. He explained why he wanted to purchase this piece of land. Dominguez asked how it affected the Devoid's property. Devoid explained that the only downside she can see is that someone might hesitate to buy her home if it is a nonconforming lot. Overall the land that Mr. Martin wants to buy, she hasn't even walked it. Dominguez asked if she saw future building there. Would this ever become a standard road? Devoid said no. She's tried that and it didn't work. The whole piece of property was purchased by an organization who put Tote Road in and put in the camps along that road. She explained that the original property owner died and the estate was settled. The original owner wouldn't sell to the middle of Tote Road when he sold the parcels. After the estate was settled, she's not sure who owns it. The town's position is that every lot that was sold owns out to the middle of Tote Road. The Devoid's plow it and maintain it. Supry asked if there were any future plans to incorporate those two lots into one. Mr. Martin said yes, it would be one lot. Supry asked how long Tote Road was. Devoid explained it was 9/10ths of a mile. Most of the land out there is owned by Devoid's. There is only one camp out there and that owner uses it to go hunting. Bartlett wanted confirmation that the reason he wanted the variance was to be able to sell more land. Devoid said yes. She wants to sell more land. Martin explained that he would own one private lot. Devoid explained that she's having trouble selling the home because there is too much land. Surpy asked how many other lots border solely on Tote Road. Devoid explained that she did as well as a young couple and the Martin's. Devoid believes there are 4 and 2 of those are hers. Devoid gave further information regarding the properties and who owns them.

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

Easler asked if they want to look at the property. Sanborn said yes. Devoid asked what property. Sanborn explained that they wanted to look at the driveway. Easler asked if the Board wanted to continue this case to the next meeting. They can do the site walk first. Sanborn thought they should do the site walk on Saturday, February 22<sup>nd</sup>. They can meet at 10 am at his house and go and look. Easler reiterated that they wanted to do a site walk on Saturday, February 22<sup>nd</sup> and then they would continue the case to the normal meeting of February 25, 2020. Easler asked if that worked with the applicant and the owner. Both agreed. The site walk would be considered a meeting. It would be at 10 am. Easler said their meeting would be continued to the next scheduled meeting date of February 25, 2020.

7:44 pm the Public Hearing was opened.

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

Non-abutters wanting to speak: none.

Close the public hearing.

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

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

Next Case: Devoid rejoined the Board as Chair.

Next agenda item started at 7:50 pm.

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

Easler read the request into the record.

Public hearing was opened.

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

Sanborn asked if he had a map of where the septic is located. Mr. West stated it's a camper so it has self-contained sewage tank on the trailer as well as a fresh water tank. In the variance he noted relief for a time period of 5 years. He purchased the property to build a barn/residence on the property. He wants the camper there until he gets that done. Dominguez asked if he lives in the camper. He stated his primary residence is in Windham. He stays there and his father stays there at the camper. His dad works at Enviro-tech which is only 6 miles from the property vs. Chester where his dad has a primary residence. Bartlett asked if that was all year long. Mr. West stated they have been staying there on and off throughout the year. They visit the camper throughout the whole year. They did not know that that was not allowed, which is why he is before the Board now. They can control the occupancy of the camper. He's not looking for permission for him or his dad to be allowed to stay there the entire year. Dominguez asked what utilities they have on the land. Mr. West stated that they have none. They have solar and a generator for electricity. When they need to empty their sewage tank, they have a portable tank that is built for campers that you empty into and you put it in the back of the pickup and you take it someplace to pay to dump the sewage at a campground, etc. He'd like to build in 2 or 3 years, but would like to give himself the 5 year window to build a home. They did do a perk test when he bought the property. Dominguez asked if he had any plans of his time line. What is he doing in the interim to start his project? When would he be putting in the sewage tank? Mr. West said that currently the process of moving the sewage with the portable caddy works for him. Why he wants to build a barn with a residence is that he has some agricultural pursuits he wants to try. And that is in the future. It certainly is something he can consider doing. He identified with 2 or 3 years for financial reasons. His wife is in school right now and once she is done, they will have the finances to invest into a sewage system. Supry asked about waste disposal. The tank they use to haul off is that their black water? Mr. West said black and gray water. Supry asked where he takes it. Mr. West said there is a location in Manchester and in Franklin. They are a water treatment facility and a campground. Supry noted that the City of Concord Wastewater Treatment Plant doesn't charge to dispose of waste. Mr. West said that was good to know. Sanborn asked about drinking water. They have 5 gallon fresh water drinking tanks. They fill them into the holding tank on the camper. The camper is not sitting on a slab or pier and can be hauled out. Bartlett asked if the camper is sitting near where the barn or house will be going. Is there anything stopping him from getting a septic design or well plan? He said the camper is close to where they will be building. Bartlett asked if his wife was in school right now. Mr. White said she is and has been since they purchased the property. Devoid questioned his statement of the variance being good for five years. West explained that he put a timeline of 5 years maximum on the variance request to allow the camper on the property. This was to show the camper would not be there indefinitely. Supry noted that the camper has been there 4 years already. West explained that once the barn is built the camper will go away. The residence will be built either in or attached to the barn. Devoid asked Easler if there was an end date of a variance. Bartlett noted that he was putting a timeline on himself. Devoid stated that a variance doesn't have a timeline. It goes with the property. Devoid explained that the variance doesn't expire. Dominguez asked if he accepts mail at that property. Mr. West stated that his father put up a mailbox and they have now taken it down. Primarily the request is to keep the camper on the property. He purchased the camper to put on the property. He can control the occupancy of the camper. The Board discussed the Ordinance. Easler stated that the Ordinance was set up for people who go down south for the winter and come back for the summer and stay on their children's property, etc. Devoid stated if they grant it, they are making it a lot for a trailer. Dominguez felt that if they granted this it

would set precedence. Devoid felt it would set something up that other people could come and use. That is her main concern. The trailer could stay there forever. It could become a recreational home park. Article 8.04 and 8.05 talks about recreational vehicles. Supry read the Articles of the Ordinance. Devoid is not sure if they could put stipulations on a variance. Dominguez asked what he could have on that land. Mr. West wanted to reiterate that he did put the time period in there to support the case.

Open public meeting.

Abutters in favor: none.

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

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

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

Richard Nickerson, 11 Forest Lane – he objects. Same as previous speakers.

Public in favor or in opposition: none.

Motion to close the public hearing at 8:25 pm was made by Sanborn, seconded by Supry and passed by a unanimous vote.

Sanborn wants to see a septic tank there. He feels it sets precedence. Dominguez doesn't want to hamper his project, but they can't give a variance as a variance is permanent. Sanborn thought the minimum would be to get a septic plan in and a tank in. Supry explained that to put in a septic system today costs about \$15,000 if you are lucky. If you want to put water on the property that wouldn't be inexpensive either. But then again, what is the septic and water doing for the piece of property, because he would be living in an RV which is against the Town Ordinance. Easler explained that even a manufactured home is not allowed on its own land. It has to be stick built or modular. Devoid explained that a lot of people put a septic system in before building. Easler explained that septic system installation is regulated by the State, not the town. Supry noted that looking at the photos he sees a fairly semi-permanent set up. An addition is put onto the side of the RV to accommodate what looks like a wood stove. Easler explained that there is a woodstove there. Supry felt that was a safety concern. Supry asked how many means of egress are there. Mr. West said the camp has one door. Supry felt that one door coming out to an added structure that houses a wood stove is a safety issue. Devoid explained that a variance is to make their property useable. A variance is requested when the regulations constraint the design of what you want to do. If you can do something else with this land, the support for a variance falls apart. A variance is when there is no other way to use the land. There are many other things they can do with this property.

Easler asked if they wanted to go through the 5 criteria. The Board agreed they should do that. Devoid read his application into the record. There is no notation of 5 years in the official application. Please see application in file for all 5 criteria and their submitted information.

A motion to deny the application was made by Devoid. Unnecessary hardship hasn't been proven. Devoid amended the motion that the applicant has 90 days to make the lot conforming, which means taking the trailer off. Motion and amendment was seconded by Dominguez and passed by a unanimous vote.

Acceptance of draft Minutes. A motion to approve the Minutes was made by Supry, seconded by Sanborn and passed by a unanimous vote.

A motion to adjourn the meeting was made by Surpy, seconded by Sanborn and passed by a unanimous vote.

- Next Meeting is scheduled for February 25, 2020.

*Respectfully submitted,  
Rose Fife Recording Secretary*