

APPROVED
ANDOVER ZONING BOARD OF ADJUSTMENT
December 18, 2018

Members present: Duncan Coolidge, Vice-Chair; Jeff Newcomb; Julia Rector; Todd Goings and Jeff Bushey, Alternate appointed to Dan Coolidge's position

Also present for duration of appropriate item: Chuck Keyser, Selectboard; Pat Moyer, Planning & Zoning Administrator; Dan Merzi; Dan Monette, Engineer; Tara Jackson; Shawn Mackinnon; Jon & Cheryl Bentley; Kelly & Jeff Raymond; Lois Levick; Stephen & Jill Colardeau; Phillip Alton; Nan Davis; Webster Stout, Engineer; Keith Babb; Jon & Joanne Champagne; Chris Seufert, attorney

Public Hearing: A request from Dan Merzi, with Fuss & O'Neill Engineers as agent, for an Equitable Waiver of Dimensional Requirements from Article VI Section A of the Andover Zoning Ordinance to permit an existing garage, predating the development of this ordinance, to be within the front yard setback. Front yard building setback requirement is 30 feet and the existing garage is within +/- 8.50 feet of the front property / right-of-way line. The property is located at 14 Potters Road and is Tax Map 28, Lots 059,160 and 085,090 and is in the Agricultural / Residential Zone

Coolidge opened the public hearing at 7:00 p.m. Merzi and Monette presented a map of the property indicating the location of the building with a corner of the building within 8 feet of the 30 foot front setback. The garage is on a slab. Newcomb stated the garage possibly pre-dates zoning and could not understand why Merzi needed to come before the board. There being no further discussion, the public hearing was closed at 7:05 p.m. Newcomb made a motion to approve the Equitable Waiver of Dimensional Requirement as presented. Goings seconded the motion and the board voted unanimously in favor of approving the application as presented

Public Hearing: A request from Todd & Tara Jackson for a Variance under Article VI Section F to construct a garage. The property is 19 Ives Road and is Tax Map 20, Lot 008,410 in the Village Zone

The public hearing was opened at 7:31 p.m. Jackson indicated she had spoken with Building Inspector Ted Barton approximately twelve years ago and Barton indicated the structure was a retaining wall to be turned into a garage foundation and would not issue a building permit as the structure did not meet the setback. Jackson stated the paved town road ends at their property line with Joseph Vercellotti and the town does not maintain beyond the pavement. The west edge of the foundation is 8.75' from the property line with Joseph Vercellotti and the east edge of the foundation is 5.34' from the east side of the Jackson property. Jackson stated there was previously a barn here which was torn down due to poor condition. It was asked if the footprint of the retaining wall was enlarged from the barn and the response was yes. Board members were attempting to determine if the application was correct and stated a Variance from the setback requirement is what the Jacksons should be applying for. Mackinnon was concerned whether this would impact his property and was told no it would not; therefore, he has no concerns with the proposal and stated the structure would look better completed. Coolidge stated the board needs to determine what is actually needed for an application. Keyser stated Mackinnon's property would have no change to it if the application was approved. There being no further discussion, the public hearing was closed at 7:31 p.m. and the board did not vote on the application.

Continuation of Public Hearing: A request from Jon & Joanne Champagne, Chris Champagne and Jeff & Kelly Raymond for a Special Exception under the Andover Excavation Regulations adopted June 25, 2002 and under NH RSA:155-E to allow gravel and stone excavation. The properties are 235 Salisbury Highway and 242 Bay Road, Tax Map 20, Lot 443,037; Tax Map 4, Lot 507,061; and Tax Map 4 Lot 493,037 in the Forest / Agricultural Zone

Coolidge continued the hearing at 7:48 p.m. Seufert stated that the 2002 regulations were found in another application years ago and asked the board if town counsel had advised whether the regulations were in effect still. Moyer stated she has done some research on this and has found that as far as it appears the regulations are still in effect. Seufert stated that it appears that it does not appear in the current regulations and if it does, then this is an allowed use under these regulations so the board should state that it is an allowed use under the regulations. Coolidge stated that the application must meet all the criteria of the State. Bentley presented a location map indicating the subject area. The proposal is to mine rock and turn it into gravel and crushed stone. The entrance will be from Route 4 and Coolidge asked how exposed would this be to Bay Road once it is cut in to. The response was there is a natural buffer which will interrupt the view and there will also be a reclamation plan. Seufert stated that an agreement was made with the property owner across the street (Bay Road) to buffer that end prior to excavating. The buffer will be 150' from the houses. Web Stout, Engineer, presented a grading and restoration plat indicating the buffer circles that have to be maintained for excavating along with the staging area for material storage and the proposed processing station (crusher). There is a noise survey. A 120' cut will transpire and the biggest change will be the top of the hill will be gone. Bushey stated that the application did not address the hours of operation and the response was that this will be addressed through the Site Plan Review with the Planning Board. Rector asked what will be happening on the Salisbury lot line and the response was there will be nothing happening, there will be a buffer. Coolidge asked how far back into Salisbury is it unbuildable and the response was that his is a very large piece of property – 240 acres. Stout stated the driveway permit has been issued by the state as everything will be coming out onto Route 4 and there will be no operations coming off from Bay Road. Bushey asked how much traffic there would be daily and the response was less than Green Crow. It was asked if this would be open on weekends and Seufert stated that most gravel pits are open Saturday from 7:00 a.m. until noon.

The hearing was opened to the public for comments. Colardeau stated that as an abutter he has many concerns with the proposal. He had heard that there was already an agreement in place and felt there may be something going on behind the scenes. Coolidge stated that the board does not operate in that manner. Colardeau stated he understood Mr. Seufert to say that there was already an agreement in place but was not sure exactly what that was. He also stated he can see the far end of the hill from his property and does not feel it meets many items in RSA: 155E and the board should do a site visit. He stated that the application indicates the following:

1. There will not be any diminution of value of the properties and feels this proposal will cause a drastic diminution of value to the surrounding properties.
2. The excavation will not create any nuisances or create health or safety hazards. He stated the blasting of an area of this size will create a nuisance to the area. Is concerned with the number of blasts it will take for this proposal.

3. This will not unreasonably accelerate the deterioration of highways or create safety hazards in the use of the highways.
4. The excavation complies with any other special exception criteria set forth in the local zoning ordinance. Colardeau stated this proposal does not meet the requirements of the local zoning ordinance as there are safety issues within.
5. The excavation would not damage a known aquifer. He states they are sitting on an aquifer and the blasting will damage the aquifer.

Colardeau stated that the Zoning Board is there to serve the community and if the community has voted to adopt this regulation, the residents should have a reasonable expectation that the town leaves the Forest & Agricultural Zone as Forest & Agriculture and not put in an industrial site. He does not feel this proposal meets the criteria for a Special Exception. He presented photos from the 1996 and 2006 floods and has a concern with debris flowing downstream to the Blackwater River. Colardeau was also concerned with the logging and clearing of land that has been done on the property prior to submitting this application. Coolidge responded that Jon can log his property if he so chooses to. Jill Colardeau stated she has concerns with wildlife and natural habitats in the area. She presented a copy of the Andover Beacon indicating 56% of the town residents did not want excavation or quarrying or junkyards and she also has a concern with the devaluation of the surrounding properties as well as the disruption of peace and quiet and the quality of life. Jill also stated that she feels the board should discuss this proposal with the Conservation Committee and NH Department of Environmental Services. Bentley stated that the application which was presented to the board included specific information which would address many of the concerns brought forth by the public. Keyser asked if there would be any fracking or if it will be just blasting. Babb stated that there is a difference between regular blasting and quarry blasting and there would be zero vibration with this blasting. Bushey stated he does not want to hear any of this noise. Coolidge asked how long of a plan this is and the response was 20 years.

There being no further discussion, the hearing was closed at 8:20 p.m. The board indicated it needs documentation that the Planning Board has found the site to be appropriate for this use and will hold its discussion until such documentation is received.

There being no further discussion, the meeting was adjourned at 9:00 p.m.

Respectfully submitted,

Lisa Meier, Secretary
Andover Zoning Board of Adjustment

