

NEW DURHAM ZONING BOARD OF ADJUSTMENT

New Durham Town Hall

November 14, 2017, 7:00p.m.

Present

Terry Jarvis, Chair
Wendy Anderson, Vice Chair
Art Hoover, Member
Joan Martin, Member
Stephanie Richard, Member
David Shagoury, Alternate
Paul Raslavicus, Alternate

Also Present

Laura Zuzgo, Administrative Assistant
Cory & Jennifer White, Applicant
Denis Benoit, Abutter
Ron Gehl, Resident

Call to Order

Chair Jarvis called the meeting to order at 7:02pm.

Approval of Minutes

Meeting of September 12, 2017 – Edits were made.

Mr. Raslavicus made a motion to approve the minutes as amended. Ms. Richard seconded the motion. Motion passed, 7-0-0.

Meeting of October 10, 2017 – Edits were made.

Mr. Raslavicus made a motion to approve the minutes as amended. Mr. Shagoury seconded the motion. Motion passed, 7-0-0.

Public Hearing:

Case 2017- 007 Map 266, Lot 017 - Corey and Jennifer White

Chair Jarvis asked if any members of the board have a real or perceived conflict of interest in regards to sitting on this case. None was noted. Chair Jarvis stated the application is requesting a variance from Article V, Section B.1 requiring road frontages on a class V road and to use Article V, Section C to bring the road to class V standard.

Chair Jarvis opened the public hearing at 7:35pm and asked for presentation by the applicants.

Corey White, applicant, presented the waiver request summary and explained their request. He also gave an overview of the tax maps showing the land they recently purchased on Libby Road, a class VI road, and explained the front of their property line is about 878' from Jenkins Road, a class V road. The Board reviewed and discussed the

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maps. It was clarified the White's property has the adequate road frontage on Libby Road and Mr. White stated he would upgrade 1178' feet of road. The waiver is needed because Libby Road would remain a class VI unless the Town votes to accept it as Class V at Town meeting. Mr. White stated if it remains class VI, the Town is not responsible for maintenance. Ms. Zuzgo noted this lot is in woodlot status so it needs to be on a Class V road in order to be removed from the woodlot status to be built on. There was discussion on the conflicting ordinances and it was the advice of Town Counsel to choose one to follow. Mr. White stated they have had a wetlands specialist evaluate the property and there are no major concerns. Mr. White also presented a copy of a proposed road maintenance agreement to be submitted to the Registry of Deeds. Mr. White explained the Planning Board directed him to get a variance for the class of the road in order to remove the lot from woodlot status. Chair Jarvis explained the variance is needed by the applicants as they are required to have a lot on a Class V so the Planning Board can consider removing it from woodlot status, Article V, B.1. Mr. White is requesting to build the road to Class V standards as allowed by article V, Section C. Ms. Richard asked what the plans are if property owners for lots past theirs want to build as well. Mr. White stated that is addressed in the road maintenance agreement, permission is still needed from the Board of Selectmen to build as well as extend the road. Ms. Martin asked if interior lots are logged what happens if the road is ruined. Mr. White stated lots were recently logged and doesn't anticipate any problems with that. It was clarified Libby Road is not currently a club-maintained ATV or snowmobile trail.

Chair Jarvis stated a letter was received from Jay Stonner, abutter, who was unable to be present for the public hearing however he has no objections to the variance.

Denis Benoit, abutter, stated he has no problems with the granting of the variance and upgrading of the road.

Ron Gehl, Jenkins Road, stated he is not an abutter and doesn't have a personal interest but wants to be sure they are maintaining Town zoning ordinances. He believes a lot cannot be removed from woodlot status unless the lot has frontage on a Class V road. He further noted it is his understanding the road is not class VI but was voted as a "discontinued" road and explained it is no longer considered a right-of-way. Mr. Shagoury stated "discontinued" means the Town no longer maintains it and Ms. Zuzgo noted the formal vote made it a closed with gates and bars Class VI road.

Mr. Gehl referenced state statute RSA 674:41 regarding building on private roads, and stated the decision rests with the Board of Selectmen as to whether a building permit will ultimately be issued. There was further discussion of the property and woodlot status along with implications of granting a variance. Mr. White confirmed they have no intention of a subdivision.

Chair Jarvis closed the public hearing at 8:40.

Chair Jarvis stated the five regular members of the Board would be deliberating the case.

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The application was reviewed by the Board for completeness.

Ms. Martin made a motion to accept the application for Case 2017- 007 Map 266, Lot 017 submitted by Corey and Jennifer White, requesting a variance from Article V, Section B.1 requiring road frontage on a Class V road and to use Article V, Section C to bring the Class VI road up to Class V standards. Ms. Anderson seconded the motion.

Discussion: Mr. Shagoury stated he doesn't see the application as complete as Article V, Section C doesn't apply. Chair Jarvis stated the application is complete and its not the application's problem that the ordinances are conflicting. Ms. Anderson stated the application has everything as required and the motion is only to accept the application as complete. **Motion passed, 5-2-0.**

Discussion-

Granting the variance would/would not be contrary to the public interest: It was agreed the variance is needed to go before the Planning Board and then they can move on to the next step of removing the lot from wood lot status with the Planning Board. RSA 674:41 was discussed and Chair Jarvis explained there are several steps before the applicant can go before the Board of Selectmen and this involves bringing the road to Town standards. Ms. Martin stated she is concerned that is not included in the statute. The Board reviewed and discussed the relative statutes for clarification. It was agreed to summarize questions and submit to Town Counsel for continuation of the discussion.

Chair Jarvis stated the discussion is being continued to Tuesday, December 12, at the Town Hall at 7:00pm.

Discussion Regarding House Bill 86

Chair Jarvis stated Representative Harrington asked for the Board's opinions on House Bill 86, and noted the bill was vetoed but will be revisited by the House and Legislature at a later date. She stated she is opposed to it and believes its unnecessary. The Board discussed the details of the proposed bill. Mr. Hoover stated he does think there should be separate votes on variances. Ms. Richard stated it could be more difficult to get variances if all pieces need votes. There was further discussion of the implications of the bill becoming law. Ms. Zuzgo was asked to find out what the status of the bill is.

Adjourn

Mr. Hoover made a motion to adjourn. Ms. Anderson seconded the motion. Motion passed, 7-0-0.

The meeting was adjourned at 10:03 pm.

Respectfully Submitted,

Jennifer Riel, Recording Secretary