



TOWN OF WEARE
PLANNING BOARD
ZONING BOARD OF ADJUSTMENT
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Office Hours:
Monday
thru
Friday
8 AM – 4:30 PM

**ZONING BOARD OF ADJUSTMENT
MINUTES
JUNE 5, 2007
(Approved as amended 7/3/07)**

PRESENT: David Ruoff, Chairman; Ian McSweeney, Vice Chairman; Forrest Esenwine; Jack Dearborn; Naomi L. Bolton, Land Use Coordinator.

GUESTS: Attorney Vincent Wenners; Roger Boisvert; Chris Pinard; Ginger Esenwine; Malcolm Wright; Chris Lombardi; Beth Ann Jones; Pat Turner

I. INTRODUCTION:

Chairman David Ruoff called this meeting to order at 7:45 PM and asked the board members present to introduce themselves. Chairman Ruoff explained to those present the way by which the board conducts business.

II. ADMINISTRATIVE ITEMS:

There were no administrative items for this evening and the board went right to the hearings.

III. PUBLIC HEARINGS:

Case #0907 Roger & Lynn Boisvert – Rehearing
Variance, Article 17, Section 17.1.1
Applicant is requesting permission to construct a single family home.
Tax Map 407-178 Sawyer Road (Class VI)

Attorney Vincent Wenners was present on behalf of the Roger and Lynn Boisvert. Attorney Wenners stated that the Boisvert's are asking for the same reasonable use the property as the others have had on the road. When the Boisvert's were first in front of the board they didn't have the knowledge or the history of what had happened or been approved on Sawyer Road. The Board of Selectmen and the Road Agent granted permission for 2,250 feet of the road to be upgraded to allow another single family home to be built further up the road from the Boisvert's lot. Attorney Wenners explained that there will not be a diminution of value surrounding properties as a result of the granting of this variance because when this variance is granted, the surrounding property value will be enhanced because the proposed single-family home is attractive. That the granting of this variance will not be contrary to the public interest because the proposed structure

will not affect the public with the exception of making the road more appealing. That enforcement of the zoning ordinance will create an unnecessary hardship in that the zoning restriction as applied to the petitioner's property will interfere with the petitioners' reasonable use of their property, considering the unique setting of the property in its environment. There is enough room on this lot to build the proposed structure and the building structure will fit in the character of Weare. As specifically applied to the petitioners' property, denial of a variance has no fair and substantial relationship to the general purposes of the zoning ordinance for the following reasons: Class VI roads are town owned but not maintained. There will be only one structure built minimally affecting the road use. If granted, a variance will not injure the public or private rights for the following reason: a residence is the appropriate use of this lot. That by granting this variance, substantial justice will be done because there are presently other residential properties abutting the following lots: Lot #173, #174, #175, #179, #180, #182 and #183, which are all on Class VI roads and will remain equal and this variance should be granted. That the use contemplated by the petitioners as a result of obtaining this variance will not be contrary to the spirit of the ordinance because the proposed use is for a single-family home only and should not change the real meaning of the ordinance.

Approving Abutters: NONE

Disapproving Abutters: Pat Turner, 731 Deering Center Road, is here as a concerned resident. There is one very big concern and that is how the roads will be maintained. The unprecedented flooding is a concern, with waters breaching across the road, having to make repairs to the road after and the burden is placed on a few of the residents. There is no formal road association. It is private cause between neighbors that communicate well. A new house was added recently. The road was widened and drainage was put in and now there is a wider area for them to maintain. Therefore on behalf of the local residents, they would like to know, how the applicants will contribute to the road. How many homes does it take for the Town to finally assume maintenance of the road?

Other Boards: NONE

Public At Large: NONE

Rebuttal of Applicant: NONE

Chairman Ruoff closed this hearing at 8:22 PM.

BOARD DISCUSSION

Forrest Esenwine stated that he felt the board heard what we needed to hear and what was missing back on the originally hearing. There are already houses on that road. This is already a lot of record. This lot is actually the first house lot. He is not in favor because of the type of road, but under the circumstances, it is not going beyond current construction. If we were to approve this the board should reiterate in our decision the usual wording so that it is clear that the road has to be in that same condition, a performance standard to include proper drainage so that the drainage will not impact others in the area.

Chairman Ruoff went out and looked at the property and one thing that makes it or breaks it is where the lot is situated. This is pretty wide, and it doesn't seem like there is a design problem to the road. This seems to be pretty suitable for the request they are making with the performance standard as a condition.

Jack Dearborn stated that is why we make the expert, the Road Agent make that determination, not this board.

CASE DECISION: Point #1: Jack Dearborn moved to accept point #1; Forrest Esenwine seconded the motion. Discussion: none. Vote: 4 in favor (Dearborn, McSweeney, Ruoff and Esenwine). Point #2: Jack Dearborn moved to accept point #2, Ian McSweeney seconded the motion. Discussion: Mr. Esenwine stated that he didn't feel it was contrary unless something gets messed up and causes an issue with the neighbors. Vote: 4 in favor (Dearborn, McSweeney, Ruoff and Esenwine). Point #3aa: Jack Dearborn moved to accept point #3aa; Forrest Esenwine seconded the motion. Discussion: The board felt that there are no special conditions of the property, only that it is a distance up a Class VI road. Chairman Ruoff stated that it is located in some uniformity with the abutter's location of houses. Vote: 4 in favor (Dearborn; McSweeney; Ruoff and Esenwine). Point #3bb: Jack Dearborn moved to accept point #3bb; Forrest Esenwine seconded the motion. Discussion: None. Vote: 4 in favor (Dearborn, McSweeney, Ruoff and Esenwine). Point #4: Jack Dearborn moved to accept point #4; Chairman Ruoff seconded the motion. Discussion: None. Vote: 4 in favor (Dearborn, McSweeney, Ruoff and Esenwine). Point #5: Jack Dearborn moved to accept point #5, Ian McSweeney seconded the motion. Discussion: None. Vote: 4 in favor (Dearborn, McSweeney, Ruoff and Esenwine).

Jack Dearborn moved to grant the variance on Case #0907 with the following conditions:

1. The access to the lot (Sawyer Road) needs to be upgraded if necessary under the direction of the Public Works Director to a performance standard that is acceptable to allow for the safe passage of emergency vehicles from Deering Center Road (Route 149) to the driveway of the subject property. All upgrade needs to be inspected prior to the issuance of a building permit AND prior to the issuance of an occupancy permit.
2. Town of Weare Liability Disclaimer to be attached to the building lots deed and be recorded at the Hillsborough County Registry of Deeds as part of the deed, approved by Town Counsel.
3. Class VI Road sign to be posted at the entrance of the road.

Forrest Esenwine seconded the motion. Vote: 4 in favor (Dearborn, McSweeney, Ruoff and Esenwine).

IV: OTHER BUSINESS:

MAY 1, 2007 MINUTES: Forrest Esenwine moved to accept the May 1, 2007 minutes as amended; Ian McSweeney seconded the motion. Vote: 4 in favor (Dearborn, McSweeney, Ruoff and Esenwine).

CASE #1207 – DENNIS MCCOMISH - REQUEST FOR REHEARING: The board discussed the request that was turned in. Ian McSweeney moved to grant the rehearing; Chairman Ruoff seconded the motion. Vote: 4 in favor (Dearborn, McSweeney, Ruoff and Esenwine). The board also suggested that the applicant should submit documentation for a special exception for Article 3.4.2 for the review as to whether the use should be extended or continued. The rehearing will be scheduled for the July meeting.

VOLUNTEER INTERVIEW: Malcolm Wright has filled out a volunteer form to serve on the Zoning Board of Adjustment. The board introduced themselves and had a few questions to ask of Mr. Wright. Forrest Esenwine moved to recommend to the Board of Selectmen to appoint Malcolm Wright as an alternate member to the Zoning Board of Adjustment; Ian McSweeney seconded the motion, all in favor.

JULY MEETING DATE: Naomi wanted to poll the board to see if they want to meet the first Tuesday which is July 3rd or do they want to meet the following week. Those members present looked at their calendars and felt that they would stick with the July 3rd date.

V. ADJOURNMENT:

As there was no further business to come before the board, Forrest Esenwine moved to adjourn the meeting at 9:00 PM, Chairman Ruoff seconded the motion, all in favor.

Respectfully submitted,

Naomi L. Bolton
Land Use Coordinator