

**Zoning Board
Memorial Building**

**November 1, 2011
7:00 pm**

Present: Bill Sullivan (chairman), Bryan O'Day, Susan Chiarella, Gene Hayes, Cynthia Hayes (alt)
Kathy Richardson

Absent: Steven Berkley (alt)

Also present: George McCusker, Stephen Handley, Charlie Hirshberg, James Nasiatka and Margarita Posso-Nasiatka

Bill Sullivan called the meeting to order at 7:05pm

Kathy Richardson is stepping down from all voting for the presented hearings and is being replaced by Cynthia Hayes (alt.).

Handley Variance

A Variance is requested from Article VII, Section 7.1 of the Zoning Ordinance to permit: construction of a garage 68 feet from the normal high water mark of Kidder Brook

Mr. Handley presented to the Board a letter from Bruce Parsons Design LLC the changes that were requested from the previous meeting on October 18th, to include landscape fabric will be included in the downspout drains, the level of the garage floor will be 4" below that of the existing mudroom floor and there will be no floor drains in the garage as this is no longer legal.

Cynthia Hayes asked what was planned for the material removed during construction to insure no runoff enters the brook. It was decided that a silt fence should be used. Bryan O'Day felt that if the edge of the hill behind the house/garage location was not altered there should be no flow into the brook.

Gene Hayes requested that a condition be to require that a DES approved silt fence be used during construction.

Bill Sullivan requested that a condition also be to have the grade of the driveway slope down and away from the house/garage in a S/SW direction.

Public portion of the hearing closed.

The Board learned during the Saturday lecture meeting that after the public portion of the hearing is closed no further questions can be asked of the applicant. If something comes to light the public portion would need to be reopened.

Cynthia Hayes voiced that the main concern before the Board was that no water runs into Kidder Brook and she feels that has been addressed.

Gene Hayes felt that the use of silt fencing should be included.

Bryan O'Day and Susan Chiarella had no further questions.

Bill Sullivan read the five

#1 The variance will not be contrary to the public interest because:

#2 The spirit of the ordinance is observed because:

#3 Substantial justice is done because:

#4 The values of surrounding properties are not diminished because:

#5 Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship owing to special conditions of the property that distinguish it from other properties in the area because:

A. No fair and substantial relationship exists between the general public purpose of the ordinance and the specific application of that provision to the property because:

B. The proposed use is a reasonable one because:

#5(cont.) If the criteria (A) and (B) above are NOT established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is necessary to enable a reasonable use of it.

Conditions of approval:

#1 Driveway must slope to the S/SW.

#2 DES approved silt fencing must be used during construction.

#3 Items spelled out in the October 19, 2011 letter from Bruce J Parsons Design LLC will be followed.

Gene Hayes moved to approve with above conditions Bryan O'Day 2nd Board approved unanimously.

Cynthia moved to record approval at the Registry of Deeds. Board approved

Nasiatka Variance and Special Exception

A Variance is requested from Article IV, Section 4.12 of the Zoning Ordinance to permit: the construction of a new house with attached garage, septic system, and well within the 100' buffer.

A Special Exception gravel driveway within the 100' wetland buffer requires a special exception as defined in Article III, Section 4.16b.

Board began with a question as to what the area shown by a hammerhead shape on the plans where the driveway begins is. Is it a shared area? Discussion continued and the decision that it was done to use as a shared snowplow turn around area.

Cynthia Hayes is concerned that the garage is in only area meeting all the setbacks. Charlie Hirshberg responded that he did that because of the potential for materials that could be found in the garage are more hazardous than those found in a typical house.

Cynthia Hayes mentioned that when she drove from her house to the meeting she passed 20 houses of which 2 have garages, is there really a need for this house to have a garage?

Charlie Hirshberg told Board they could put a condition of installing a storm water drainage trench. The site slopes away from the house and anything flowing from the house would be caught in the trench before it could enter the wetlands buffer. The Board could also require that the owner/builder submit suitable storm water run off plan.

Gene Hayes questioned if the buyer wants to build something different than what is approved by the Board they will need to come back to the Board.

Cynthia Hayes responded that conditions would need to be included in the approval and if those conditions were not acceptable the buyer/builder would have to come back with any changes they wanted to make. Right now the Board must consider the given design only.

Gene Hayes felt he was having a hard time approving something that probably wasn't going to be built.

Bill Sullivan asked what the Board felt was satisfactory on the plan.

1. Garage as shown is acceptable
2. Septic as shown is acceptable, with the exception of changing the date of approval to the 3/31/09 date given by the state.

Bryan O'Day asked why the driveway was curved instead of straight.

Cynthia Hayes asked if it was possible to have the driveway come straight off the road into the garage. It would be shorter, less impact on wetlands, easier to maintain and less disturbance to the property.

Bill Sullivan agreed with shortening the gravel driveway.

Discussion returned to the interceptor trench location, size and makeup. Charlie Hirshberg passed out a plan for his suggestion. 18" square trench filled with 1 1/2" septic stone wrapped in filter fabric, topped by a 24"x4" layer of 1 1/2" septic stone. The trench would be down grade of the house with a slight rise on the opposite side and the trench would follow the contour of the land between the house and the pond side of the house.

Gene Hayes brought up the topic of how much lawn with the potential of chemical fertilizers being used vs. keeping the natural vegetation.

Charlie Hirshberg responded that having some lawn/grassy area would be good as it acts as a filter for water coming from the house before it reached the buffer.

Bill Sullivan asked what additional information the Board would need to see on the plan because as it is now there was not enough information. The Board decided at the very least the trench, drainage from the roof and vegetation.

The Board requests that Charlie Hirshberg bring to the next meeting the following items at which time the Board will be able to move forward.

- #1 Trees within Charlie's recommended distance from the house.
- #2 Berm shown on the map
- #3 Maintain the natural buffer with no disturbance
- #4 Interceptor trench with location and specifications shown on map
- #5 Roof drainage control to include the drip edge around house and garage
- #6 Driveway coming directly from road into garage, including the engineering
- #7 Location of septic updating the date of state approval of 2009
- #8 Contour lines with elevations
- #9 Lawn limitations around house.

James Nasiatka asked if there was anyway for the process to speed up.

Bryan O'Day commented that Sunapee has done 2 meetings a month. Bill Sullivan responded that he was aware of that.

Because of the issues this is a complicated case and the Board must have specifics and not just a footprint.

Buyer/Builder will need to get a survey seal as required by the Registry but most of the work will have been done for them because of what James Nasiatka is doing. This could be used as a selling point.

Cynthia Hayes asked James Nasiatka if he received a copy of the Rules of Procedure prior to the hearing. He responded that he had read it but never thought the process would be as involved as it has been.

Bill Sullivan: hearing will be continued at the next meeting on December 6, 2011.

Minutes of October 4, 2011

Susan Chiarella moved to accept as amended Cynthia Hayes 2nd Board passed Kathy Richardson abstained

Site Walk October 18, 2011

Cynthia Hayes moved to accept as amended Susan Chiarella 2nd Board passed Kathy Richardson abstained

Site Walk October 21, 2011

Cynthia moved to accept as written Susan Chiarella 2nd Board passed Kathy Richardson abstained

Misc. Business

Susan Chiarella passed out a form she has developed for registering Approvals/Denials at the Registry of Deeds. Discussion will take place at the next meeting.

Rules of Procedure will also be discussed at the next meeting.

Bill Sullivan talked with John Chiarella regarding Mr. Tucker's structure. Cynthia Hayes read from the Zoning Ordinance what the town considers a structure.

Structure

Anything constructed, placed, or erected on the ground, or attached to something already existing on the ground, with or without durable foundation, whether temporary or permanent. Among other things, structures including buildings, manufactured homes, pre-site built housing, walls, decks or platforms, temporary carports and storage structures, sheds, greenhouses and other accessory structures (including Dish Antennas or satellite earth stations that are over 3 feet in diameter). The following are excluded from the definition of "structure:" fences, stone walls, animal shelters under 15 square feet, children's swing sets, dumpsters, flagpoles, sand boxes, playhouses and other playground equipment, signs and sign installation devices, tents for camping and temporary tent structures used for functions and gatherings

Cynthia Hayes brought to the Boards' attention that she found out the Planning Board had approved a subdivision by Malcolm Patten and while she isn't sure she thinks it might be the same lot that was before the Zoning Board for a Variance in regards to wetland setbacks.

Bill Sullivan asked if Planning Board had approved an unbuildable lot because of the wetlands and the need to cross a wetland to access the property.

There is no way to access the building area without crossing the wetlands.

Gene Hayes said he had talked to Selectmen Don Hill and was told that the lot and building had changed since the Zoning Board had seen it. If a building permit came to the Selectmen meeting all requirements they would sign it.

Planning Board has a map of the subdivision.

Kathy Richardson asked if minutes and agendas can be sent to Board members, also how the Board removes an Alternate. Bill Sullivan said he would talk with Steven Berkley to find out why he has not been to any meetings.

Susan Chiarella moved to accept Brandt Denniston as a new alternate member of the Board whose term would be for 3 years. Gene Hayes 2nd Board approved.

Motion to adjourn at 9:40 pm

Respectfully submitted

Tamara Butcher