

**Zoning Board  
Memorial Building**

**December 6, 2011  
7:00pm**

Present: Bill Sullivan (Chairman), Bryan O'Day, Susan Chiarella, Gene Hayes, Cynthia Hayes (alt.), Kathy Richardson and Brandt Denniston (alt.)

Absent: Steve Berkley

Also present: John Chiarella, George McCusker, Charlie Hirshberg, Mr. & Mrs. Nasiatka, Tamara Butcher, Donald and Joyce Guinther

These minutes are considered draft until approved by the board.

**Minutes of November 1, 2011**

Ms. Hayes commented that having the Variance text in bold was helpful. On page two, Mr. Hayes said that under 4a it should be specified that the driveway needing a Special Exception was gravel. Ms. Richardson commented that it should be noted that she abstained any time the board voted during the November 1 meeting. Chair Sullivan suggested that it be stated at the beginning of the minutes that Ms. Richardson stepped down for the Handley and Nasiatka Variance and Special Exception discussion, and was replaced by alternate, Cynthia Hayes.

**Ms. Chiarella moved to approve the minutes of November 1, 2011, as amended. Ms. Hayes seconded the motion. The motion was approved unanimously.**

**Continuance of Nasiatka Variance Hearing**

**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.**

Mr. Hirshberg noted the setback lines on the map he had distributed. He explained that on this most recent plan, he moved the house away from where he felt were the most sensitive areas. These areas included the locations near the stream and the wetlands that move into the pond. The house moved towards the 35' Shore Dr. setback and the garage was right up to the road setback. This increased the distance from the wetland from 49'3", to 68'8". The footprint of the house remained the same.

Mr. Hirshberg explained that they also moved the driveway. The berm is shown on the map which, he noted, has trees on it. The Zoning Board had previously asked about the trees at the corner of the house. Mr. Hirshberg pointed out the dashed line on the map which follows the tree line. It signifies the limit of disturbance. One corner of the house is the closest to the tree line. The canopy of the trees extends out quite a distance. He set a clearing limit of 20' from the house. This limit will cause one birch tree to be removed but resulted in being able to keep the pines.

The drip edges will be located where the roof water would run off. The detail for the drip edge was noted on the map. Water would be taken from a perforated pipe into a shallow infiltration trench. Any water

collected around the house portion will travel to this trench, which has been broadened to allow for more capacity. He noted this trench was included in addition to the stone edging around the house that was put in place to deal with runoff. In addition, the driveway has a stone infiltration trench along the back side of it to pick up anything coming off of it before going into the pond.

Mr. Hirshberg stated the reasoning for configuring the lawn as he did; he wanted to maximize the southern exposure on that side of the house. Right now, that area is open right to the berm. It has a slight grade and slopes towards the house. Excess runoff will be in sheet form and would be picked up by the drip edge or the infiltration trench.

Mr. Hirshberg brought attention to the notes on the map that showed the undisturbed area which must remain as such. The lighter green area that is wooded and natural now, is to remain so and undisturbed. He did expand the lawn a bit in front of the house as that is the view direction. The road is to be graded and the sides to be loamed and seeded to promote stability.

Mr. Hirshberg summarized that there is a buffer but that it still wasn't 100'. He noted that the stream channel is downgrade from the house and offered that the wetland was a transitional area.

The board was impressed with these changes and commended Mr. Hirshberg on addressing their previous concerns.

Chair Sullivan asked for public opinion regarding the application. There were none.

Ms. Hayes said that even though the Variance and conditions are sent to the registry, unless they have a mylar their decisions won't be recorded or easily noted. She said that the plans will be kept in the hearing folder at the town office. Chair Sullivan said there should be a note added to the Variance and Special Exception that the official file can be found in the Springfield Town Office.

It was decided to list the benchmarks on the plan. Mr. Hirshberg did some quick calculations to provide the following numbers:

From benchmark 1 to the south corner of the proposed house is 73'  
 Benchmark 2 is 72' from the south corner of the proposed house  
 Benchmark 3 is 62' from the west corner of the proposed house

These figures would not be listed in the Variance, but would appear on the plan.

Chair Sullivan asked if there were any comments regarding the Special Exception. There were none. The public portion of the meeting was now closed.

Ms. Chiarella read the five requirements:

- #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.

***Discussion***

Mr. Hayes thought the property could not be reasonably used in the strict conformance of the ordinance and believed that they have tried to keep in mind public interest, property values, and the spirit of the ordinance. He had no arguments with what they have done. Ms. Chiarella agreed with Mr. Hayes' sentiments.

**A variance is granted of 31.2' from the west corner of the house to the wetlands associated to the stream.**

**A variance is granted of 20' to the east corner of the garage from the wetlands across Shore Drive.**

**The conditions for the variances are as follows:**

- 1. A corrected plan with distances from benchmarks #1, #2 to the south corner, and benchmark #3 from the west corner, and the offset of the garage. This plan was created by CLD Consulting Engineers for James Nasiatka and will be on file at the Springfield Town Office, date (tbd).**
- 2. Contouring, drainage and buffers will be maintained as per the plan. Any deviations of features depicted on the plan will require re-application for a variance from the Springfield, NH Zoning Board.**

**Susan Chiarella moved to approve the variances with conditions, as recorded. Cynthia Hayes seconded. The motion was approved unanimously.**

It was noted that someone from the Zoning Board should look at the plan when it comes in to check the date. The decision will be recorded at the registry of deeds.

**Special Exception for the Driveway**

***Discussion:***

Mr. Hayes stated that the special exception was to allow the driveway to be placed within the wetlands buffer. He felt that Mr. Hirshberg had addressed the runoff issue with the trench on the lower side and the swale that would be created at the edge of the driveway.

After some discussion it was determined that a special exception would be needed to satisfy section 4.16b in the ordinance.

**A Special Exception from 4.16b of the zoning ordinance is requested to permit a driveway as depicted on the plan created by CDL Consulting Engineers for James Nasiatka which will be on file in the Springfield Town Office, (date TBD).**

**Gene Hayes moved to approve the Special Exception for the driveway as described in the record. Susan Chiarella seconded the motion. The motion was approved unanimously.**

Cynthia Hayes wondered if it would be clear to someone looking at the plans as to when the septic design was to expire. Chair Sullivan thought that would be a nice detail to include. Mr. O'Day said that septic plans last four years. Mr. Hayes felt this detail was up to the realtor to disclose to interested buyers.

Chair Sullivan wanted to note that the land parcel they just discussed is an extremely difficult lot to build on. The plan, as described, is almost uniquely well-done and as far as he could tell showed the best possible way to use the land considering all of its limitations. They have addressed all of the many concerns listed in the previous months' record. He felt it was extremely well-done. He thanked the Nasiatka's for coming such a long way to attend the meetings.

Mr. Nasiatka said that it has been difficult for all of them and opined that it was a nice piece of property and someone with the funds and the ability to follow through with their plans will end up with a nice house in that area. He felt that the plan gave a clear map to follow for the unique and particular lot and anticipated that the Town of Springfield would have another nice resident to enjoy. Mr. Nasiatka thanked the board for their understanding.

Mr. Hirshberg was commended for his work on the project.

#### Notices of Decision

It was explained that notices of decisions made at Zoning Board meetings would be brought to the registry of deeds and that they must be paid for per sheet. Ms. Chiarella said that not many towns were doing this and it was a good idea to do it. It was suggested to go back through the past year to find the decisions that had been made and creating notices of decisions for them. Ms. Chiarella said she would help with determining the fees for filing these notices.

Mr. Denniston thought this could be done online instead of with a lot of shuffling of paper. Mr. Hayes said that emails are not approved versions of documents. It was noted that faxes were acceptable. Ms. Chiarella said that these filed papers have to be paid for in advance, so doing it electronically wouldn't make sense unless they obtained a certain computer program. Mr. John Chiarella offered that the State of New Hampshire doesn't recognize any documents that are not in paper form. Ms. Butcher said they have had three decisions recorded over the past year, which was minimal and didn't add up to that many trips to Newport to have them filed.

#### Proposed Changes to the Zoning Ordinance

Chair Sullivan asked the board to review the information that had been sent to them regarding possible changes to the Zoning Ordinance. He said that they would discuss this at the next meeting.

Ms. Chiarella wondered if it was appropriate to discuss these possible changes within their meetings. She wondered if they were just there to listen to cases brought before them. Chair Sullivan said that it was fine to do as long as they were not discussing a particular case. Ms. Chiarella felt she would be more comfortable discussing this information at a Planning Board meeting. Chair Sullivan said that their discussion of the possible changes to the ordinance during a Zoning Board meeting would simply be an exchange of information and ideas. Specific issues would be addressed with the Planning Board.

Chair Sullivan didn't feel that there was any reason why any of them couldn't discuss these issues, even just amongst themselves. Mr. O'Day offered that they really couldn't even make a decision on an ordinance, even if they wanted to. They were only able to make decisions on cases which were brought before them.

Mr. Chiarella said he sent them an email about the code enforcement officer and that more information would be sent to them and the other boards as well. Chair Sullivan explained that a part-time shared zoning enforcement officer was what was being discussed. He said that this wasn't something everyone was in favor of. Mr. Chiarella said it would be in the Board of Selectmen's budget. The idea is to have someone who held regular office hours, who would be able to give one answer to people with zoning questions, who could keep the applications in one place, and who could shepherd people through the process.

#### Meeting Rules & Procedures

Chair Sullivan said that after attending a Planning & Zoning Conference in October, there were some things he felt should be addressed regarding how they run their meetings. One thing he noted was that they should be introducing the board members who would be making the decisions, and specifying who the alternates were. Also, it was important to give the public an opportunity to voice their opinions, but once the public portion of the meeting was closed, it should be kept closed.

Mr. O'Day said that in their own town rules, it says that the clerk should read the application and report on the manner that notice was given. This helps people know that abutters' notices have been sent out, etc. He felt that it was important to have this done at the meetings.

Mr. Denniston caught a type-o in the town's rules. The word "heating" should be "hearing."  
Mr. O'Day noticed that the RSA listed on page five was incorrect. It should read: RSA 673:14.  
Ms. Chiarella thought that if they would be recording their decisions with the registry, that this step should be included in their procedures.

Chair Sullivan suggested an annual update to their rules may be in order. The board agreed to bring their findings and suggestions regarding their procedures to the next meeting.

The agenda for the next meeting, on January 3, 2012, was to review the rules of procedure and copies of the Notices of Decisions made during 2011.

A motion was made to adjourn the Zoning Board meeting of December 6, 2011. The motion was seconded and approved unanimously.

The meeting adjourned at 8:45pm.

Respectfully submitted,

Kristy Heath  
Substitute Recording Secretary

DRAFT