

Newington Zoning Board Meeting Minutes April 5, 2019

Call to Order: Chairman Matt Morton called the meeting to order at 7:00 p.m. Members in attendance: Edna Mosher, Ralph Estes, Steve Prefontaine, Tom Plummer, Tom Morgan, John Frink apologized for being late. Mike Marconi asked that he be excused from the first hearing.

Correspondence: Tom Morgan reported there was nothing at this time.

Minutes of January 25, 2018: Frink moved to accept minutes, Estes seconded, minutes approved.

Public Hearings:

A) A proposal by Michael and Janis Marconi to construct a garage 18 feet from Coleman Drive where Article V of the Zoning Ordinance requires a setback of 40 feet. The property is located at 19 Coleman Drive, Tax Map 11, Lot 9.

Mr. Marconi outlined his plan to add a garage to their property. Outline of proposal is attached along with signatures of neighbor approval. He stated they had approval from the State of N.H. regarding utilities. After some discussion and there being no comments from the public, the chair closed the public hearing.

Chair Morton asked if there were any more questions or discussion from the Board. There being none, Frink moved to approve request, Estes seconded.

Five Variance Criteria reviewed by the Board

1. No decrease in value of surrounding properties would be suffered.
Board felt there would be none.
1. Granting must not be contrary to public interest - no
- 2.
3. Denial of variance would result in undue hardship to the owner seeking -
1. as outlined in Boccia - yes
4. Granting the variance substantial justice would be done - yes.
- 1.
1. 5. Use must not be contrary to spirit and intent of the ordinance - no.

After review of five criteria, Chair Morton called for the vote, all in favor, motion carried.

Board member Marconi joined the Board for the second variance request.

B) A proposal by GSM Realty Trust to construct drainage infrastructure that requires a variance from Article X Sections 6 & 7 of the Zoning Ordinance, and a Special Exception pursuant to Article X Section 4C. The property is located at 325 Gosling Road, Tax Map 28, Lot 5.

Chairman Morton asked who was representing the applicant. Robert Shaine, introduced himself as Attorney representing GSM Realty Trust. Joining Attorney Shaine, Robert Cheney, Environmental Council, Dan Geiger, certified wetland scientist and Jim Spaulding, P.E., Vice President of Civil Engineering, The H.I., Turner Group, Inc.

Attorney Shaine stated there were two things they were seeking. One a special exception because they are changing the location of water impoundment. They're seeking to do this on the same site. They also plan to remove the large berm. He wanted the Board to know that they had 3 or 4 meetings with the Planning Board and a joint meeting with the Planning Board and Conservation Commission. Mr. Morgan indicated the Town's interpretation of a certain alteration in the change of a structure. Although they disagree legally, they're not looking to get into litigation. They are looking to seek a variance, not a use variance but an area variance.

Bob Cheney, an Attorney with Sheehan, Plimney, Bass and Green works out of their Concord office. He is retained by GSM Realty to address environmental issues. He wanted to orient the Board of the action that had been taken currently. They have three permits pending with the State: A Shore Land Protection permit which has been approved, an Alteration Terrain Permit and a Wetlands Permit. The idea is to clean up and level the property.

Jim Spaulding, a Civil Engineer with the Turner Group outlined the property as it is now and the proposal to change and improve the property. There were questions from Board members regarding the condition of the 4" pipe under the berm and response was they were replacing. There was other discussion regarding proposal.

Dan Geiger, Certified Wetland Scientist, outlined effects to wetlands and how they would address those issues. They have met with the State and they have no problem with proposals. He stated the only outstanding issue with DES is need to outline in detail, the planning to be done.

Other questions from Board included: would wetlands be enlarged, is there any oil left from tank farm, were tanks above ground. Mr. Geiger address all questions. Before berm is knocked down, they will check to see if there is any oil left.

Chairman Morton asked Attorney Shaine what the purpose was to clean up this property? Shaine indicated he was not at liberty to say, but that they were preparing the property for purchase. These are things that need to be done. The Chair asked Marconi how the Planning Board felt about this request? He said they were pretty much on board. There are still some questions, but the applicant has been very responsive to requests by the Board.

The Chair asked if there were any other questions from the Board. Being none, Attorney Shaine asked if the would outline Boccia standard. 1) Area variance necessary for permitted use? Yes. 2) Applicant seeking an area variance needed to enable the applicant proposed use of property given the special conditions of the property. 3) The benefits sought by the applicant cannot be achieved by any other reasonable method without the variance and the variance is consistent with the intent of the law. Attorney Shaine said he felt the applicant had met all the requirements based on the Boccia standard. That intent is to clean up the property. Special Exception based on Zoning Ordinance in Newington says if in the Board's judgment the proposed use does not have an adverse effect on surrounding properties, and he would propose that it would not. He felt it would have a beneficial effect.

Chairman Morton asked if there were any other questions from the Board. He wanted it noted for the record that Attorney Shaine read the Boccia standards.

Public Hearing closed at 8:00. After more discussion by Board members, Frink moved to accept based on special exception as presented by Attorney Shaine. Mosher seconded. Estes moved to accept an amendment to original motion to include that granting would be contingent on approval from Planning Board and State. Prefontaine seconded. Motion carried.

Chair asked if there was any other items to discuss. Marconi moved to adjourn, Estes seconded. Motion carried. Meeting adjourned at 8:10 p.m.

Respectfully submitted,

Sandra Sweeney, Secretary