

**SWANZEY ZONING BOARD OF ADJUSTMENT
MEETING MINUTES OCTOBER 17, 2011**

Minutes are not final until reviewed and approved by the Board. Review and approval of minutes generally takes place at the next regularly scheduled meeting of the Board.

ATTENDANCE

William Hutwelker, Chair; Keith Thibault, Vice Chair; Charles Beauregard, Sr., Bob Mitchell. Alternates John Arnone, Bryan Rudgers, Sarah Tatro, Charles Beauregard, Jr. (arrived 7:18).

MINUTES

Motion by Beauregard, Sr. to approve the minutes of the September 19, 2011 site visit and regular meeting. Second by Thibault. Hutwelker, Thibault, Beauregard, Sr., Mitchell, Arnone, Tatro in favor. Rudgers (absent on September 19) abstained. Motion passes.

To accommodate applicants who had appeared before the Board in September, **motion** by Beauregard, Sr. to reverse the order of the first and second agenda items and begin the meeting with the Descoteaux public hearing. Second by Tatro. All in favor.

1. (Public Hearing) Variance

Applicant: Bruce & Nancy Descoteaux

Property owner: Bruce Descoteaux

Property location: 126 Old Homestead Hwy Tax Map 18, Lot 167

Zoning District(s): Residence District

Request: Variance from Section IV.B.3. to permit the construction of an 18' x 20' accessory storage structure

Members seated: Hutwelker, Thibault, Beauregard, Sr., Mitchell. Tatro was seated for Walker. Rudgers noted that he had not been present at the September 19 site visit.

Representing the application: Tim Sampson

Abutters present: none

Hutwelker opened the public hearing at 7:05. Members reviewed a copy of the application summary prepared by Town Planner Carbonneau, noting posting dates and locations for legal notice. The property is served by public sewer and water.

Sampson presented plans depicting the structure and its proposed location, attached to the end of the existing attached garage that is parallel to and close to an abutter's garage. As proposed, Sampson said, 150 sf of the structure

would be in the setback. Sampson said that the building would be designed to continue the existing garage roofline and match the white vinyl façade of the existing garage. Sampson said that the seasonal use of the proposed garage would be as presented to the Board on September 19, 2011: Major items to be stored would go into or come out of the proposed garage one to two times per year. An automobile-sized garage door is proposed for the side of the garage, Sampson said, to facilitate storage of a riding lawnmower and possibly other vehicles; access to vehicles may also be constructed between the existing and proposed garages. Sampson said that no curb cut or driveway would be constructed from Route 32 to access the proposed garage.

Hearing no further questions or comments, Hutwelker closed the public hearing at 7:10. Members reviewed the criteria for granting the requested variance.

1. Could the variance be granted without the proposed use being contrary to the public interest?

Members agreed in the affirmative.

2. Would the spirit of the ordinance be observed if the variance is granted?

With the garage proposed for the new location, members agreed in the affirmative.

3. Would granting the variance do substantial justice?

Members agreed in the affirmative.

4. Could the variance be granted without diminishing surrounding property values?

Members agreed in the affirmative.

5. Do special conditions of the property distinguish it from other properties in the area?:

Members observed that many Wilson Pond properties are similar in being small lots with structures constructed up to boundary lines, limiting options for compliance with the ordinance.

Members said that the Descoteaux's encroachment is similar to the encroachment of their abutters. Members agreed that the property in question has special conditions, as do many others in the neighborhood.

A. Owing to the property's distinguishing special conditions,

(i) Is there a fair and substantial relationship between the general purposes of the ordinance and the specific application of that provision to the property?

Members agreed in the affirmative.

AND

(ii) Is the proposed use a reasonable one?

Members agreed in the affirmative.

Motion by Mitchell to approve the variance from Section IV.B.3. to permit the construction of an 18' x 20' accessory storage structure, with the condition that there be no additional curb cut for access to the structure. Second by Tatro. All in favor.

2. (Public Hearing) Variance

Applicant: Craig & Sara Peterson

Property owner: Craig & Sara Peterson

Property location: 4 Brown Lane Tax Map 44, Lot 1

Zoning District(s): Rural/Agriculture and Shoreland Protection District

Request: Variance from Section XI.B.1. to permit the expansion of a non-conforming structure (expansion of covered porch/deck)

Members seated: Hutwelker, Thibault, Beauregard, Sr., Mitchell. Rudgers was seated for Walker.

Representing the application: Craig Peterson

Abutters present: None

Hutwelker opened the public hearing at 7:20. Members reviewed a copy of the application summary prepared by Town Planner Carbonneau, noting posting dates and locations for legal notice. The property is served by private sewer and water; the house was re-built after a 1978 fire.

Peterson presented sketches and photographs, explaining that he seeks to increase the size of the 10' x 14' existing porch/deck to 9' x 24' and to raise the existing porch roofline to follow the same plane as the roof on the rest of the structure. With the existing porch roof, Peterson said, there is no practical way to install a gutter to prevent weather damage to the front of the house; furthermore, he said, the low corner of the existing porch roof edge creates a safety hazard. Peterson said that the slippery deck surface also would be addressed by the proposal.

In response to Board members, Peterson explained that the front (porch/deck side) of the building is the side of the property closest to Brown Lane. Peterson said that the existing porch/deck is 105 ft from the shoreline, making it out of compliance with the 125 ft setback by 15 ft. The proposed porch/deck would be no closer to Swanzey Lake than the existing porch, Peterson said.

Members asked where a house had been located on the property before the 1978 fire. Peterson said that he had no information; however, the existing building has a poured concrete foundation, leading him to speculate that the 1978 foundation was reused.

Members discussed whether safety issues could be addressed by remodeling the roof, and determined that both roof and porch remodeling would be required.

Hearing no further questions or comments, Hutwelker closed the public hearing at 7:28. Members reviewed the criteria for granting the requested variance.

1. Could the variance be granted without the proposed use being contrary to the public interest?

Members agreed that the entire structure already is within the setback, but the proposed porch/deck would not make the structure more non-conforming. Members agreed that the proposal would improve safety. Thibault said that felt compelled to support the Board's historic concern with any increases in the amount of impermeable surface within the Shoreland Protection District, and stated that the porch/deck (as is the existing porch/deck) is proposed to sit within the 125' setback. Mitchell calculated that the proposed

porch/deck would be 53% larger than the existing porch/deck. Most Board members agreed that the proposed use would not be contrary to the public interest. Thibault disagreed.

2. Would the spirit of the ordinance be observed if the variance is granted?

Most members felt that the spirit of the ordinance would be observed. Thibault disagreed, because the deck would be located within 125' of Swanzy Lake.

3. Would granting the variance do substantial justice?

Members agreed in the affirmative.

4. Could the variance be granted without diminishing surrounding property values?

Members agreed in the affirmative, stating that they had heard no evidence to the contrary.

5. Do special conditions of the property distinguish it from other properties in the area?:

Members said they had received no evidence to the contrary. Brown Lane is a private road with Town-approved buildings, members said. Members agreed that other parcels in the neighborhood have greater opportunity for setback compliance.

A. Owing to the property's distinguishing special conditions,

(i) Is there a fair and substantial relationship between the general purposes of the ordinance and the specific application of that provision to the property?

Members agreed in the affirmative.

AND

(ii) Is the proposed use a reasonable one?

Members agreed in the affirmative.

Motion by Beauregard, Sr. to approve the variance from Section XI.B.1. to permit the expansion of a non-conforming structure (expansion of covered porch/deck). Second by Rudgers. Hutwelker, Beauregard, Sr., Mitchell, and Rudgers in favor; Thibault opposed. Motion passes.

3. (Public Hearing) Variance

Applicant: Brian & Nancy Coleman

Property owner: Brian & Nancy Coleman

Property location: 217 Eaton Rd Tax Map 49, Lot 7

Zoning District(s): Residence District

Request: Variance from Section IV.B.3. to permit the construction of a carport that does not meet required setbacks.

Members seated: Hutwelker, Thibault, Beauregard, Sr., Mitchell. Beauregard, Jr. was seated for Walker.

Representing the application: Brian & Nancy Coleman

Abutters present: none

Hutwelker opened the public hearing at 7:36. Members reviewed a copy of the application summary prepared by Town Planner Carbonneau, noting posting dates and locations for legal notice. The property is served by private

sewer and water; the applicants received a variance in 2000 to allow construction on a lot which has no road frontage.

N. Coleman said that this evening she and B. Coleman had physically checked the measurements on a file copy of a site plan of their property. By their calculations, the nearest corner of the proposed carport is in excess of the required 30' to the stone wall that separates the Coleman property from the abutting rail trail. N. Coleman also presented a copy of the deed for the property to verify that the stone wall is the legal property boundary. After discussion with Board members, B. and N. Coleman agreed to continue the public hearing to the November 21, 2011 meeting to give the applicant a chance to resolve the issue. Members recommended asking Code Enforcement Officer Greenwood to make the determination.

Motion by Beauregard, Jr. to continue the public hearing to November 21, 2011 to allow time for the applicants to meet with the code enforcement officer for confirmation of dimensions. Second by Mitchell. All in favor.

4. (Public Hearing) Special exception

Applicant: Rountree Real Estate, LLC

Property owner: Rountree Real Estate, LLC

Property location: 117 Monadnock Highway Tax Map 18, Lot 87

Zoning District(s): Business District

Request: Special exception pursuant to Section V.B.2. to operate a motor vehicle dealership

Members seated: Hutwelker, Thibault, Beauregard, Sr., Mitchell. Arnone was seated for Walker.

Representing the application: Bob Rountree; Chad Branon, Fieldstone Land Consultants, PLLC

Abutters present: Charles & Katherine Wright, Russell Tenney and Joshua Tenney

Hutwelker opened the public hearing at 7:50. Members reviewed a copy of the application summary prepared by Town Planner Carbonneau, noting posting dates and locations for legal notice. The property is served by public sewer and water; the dealership (buildings, display and service) is located at 119 Monadnock Highway, Tax Map 18, Lot 87-2.

Branon presented the 9/30/2011 site development plans to the Board. Branon said that the 1.03 acre lot has 211.6 ft of frontage on Route 12 and 65 ft of frontage on Pasture Road. Branon said that he had recently met with Sewer Commission chairman Glenn Page to identify sewer line locations and resolve misconceptions (pipes shown as monitoring wells on the site plan are actually sewer line cleanouts; this information will be corrected on future iterations of the site plan).

Branon said that the proposal, which calls for constructing an 84-space storage lot to be leased to the adjacent dealership, would improve the existing drainage, landscaping and site layout. Branon said that a poorly designed drainage system had directed stormwater runoff onto the neighboring (J.Tenney) property, and a temporary small berm had not been completely effective in containing stormwater runoff. The replacement drainage system (modeled for 10-, 25- and 50-year storms) calls for grading the property so that

stormwater would be self-contained, Branon said: A catch basin would capture flow from the existing dealership 119 Monadnock Highway, a second catch basin would capture flow from the new parking area, and a third catch basin in a snow storage area located at the rear of the property would capture snowmelt. Branon said that a detention basin (designed not to hold but rather to release water gradually) would outlet into a treatment swale, and then into an enclosed drainage system on Pasture Road. Currently, Branon said, the parking area extends into the State right of way. The proposal would pull the parking area back 15 ft at the northern end of the property and 7 ft at the southern end. Branon said that landscaping was proposed for the area along Route 12, and along the rear boundary of the parcel. Downcast, full cut-off lighting would replace existing fixtures, Branon said.

In response to questions from Board members, Branon said that all retaining walls would be removed and the site would be graded to a consistent grade. Branon said that the second access would be maintained, and said that plans have been submitted to NH-DOT. As a storage yard, Branon said, traffic would be reduced from former levels.

C. Wright advised the Board that, historically, room for delivery by tractor trailers had been inadequate. Branon said that the new site plan would correct the problem.

J. Tenney said that the site drains onto his property. After installation of a load of crushed gravel at the rear of the site, J. Tenney said, during a recent storm his property flooded with 2 ft of water, creating a pond that came to within 10 ft of his basement bulkhead. J. Tenney said that a sand berm constructed two days before Hurricane Irene simply washed into his back yard. In response to Branon's statement that all snow would be plowed to the back corner of the site that is adjacent to his property, J. Tenney expressed concern that meltwater from large volumes of snow (distributed around the property under the prior ownership) would also run onto his property. J. Tenney said that snow plowed beyond the catch basin would melt onto his property. Tenney said that he had never had water issues on his property until the edge was filled. Hutwelker said that Tenney's points were valid and would be addressed by the Planning Board during site plan review.

Rountree said that he had merely leased the property at the time of the two storm events, and had not been granted permission from the then-owner to install a proper berm. In response to questions from Board members, Branon said that currently the site lacks a stormwater management system. Branon agreed that all stormwater currently discharges onto the Tenney property.

Branon said that the proposal would not add much to the impervious area on the site, and would not increase the area that will be plowed. (Branon said that the State considers a gravel surface impervious because it freezes in the winter.) Branon said that the plan provides lots of area for snow storage, and said that a 12" culvert was planned to handle snowmelt. If the volume of snow exceeds the area planned for it, Branon said, snowmelt will be handled by the parking lot drainage system. Branon said that the drainage plan was designed to keep the site from contributing to drainage issues on the Tenney property.

Speaking in anger and frustration, R. Tenney described the volume of earth material and water and the resultant amount of damage to his son's property resulting from recent changes to the site. R. Tenney told Board members that he had offered his equipment and services to Rountree to fix the drainage

problem created by clearing the boundary area and depositing the load of gravel. R. Tenney said that Rountree had directed him to talk with the former owner, who had been unresponsive to offers of assistance.

Rountree said that he had had the berm constructed the day he bought the property, and said that the berm was not intended to be permanent but just to keep water from flowing onto the Tenney property. Rountree said that the planned berm and hedge of arborvitae would prevent snow from being pushed onto the Tenney property. Rountree said there was no point in discussing what happened before he owned the property, and extended his public apologies to the Tenneys for past problems.

Branon said he was confident that so long as snow was stored responsibly, there would be no problem with runoff onto the Tenney property. The amount of runoff to the back side of the site would be decreased by the new system, Branon said.

J. Tenney said that he doesn't like the location of snow storage relative to his property. R. Tenney told Board members that he and his son plow for a living, and know what happens.

Arnone asked whether the potential height of the pile of plowed snow was an issue for Tenney. Branon said that snow height would be relevant only if snow was piled exclusively in the northwest corner of the site. If the pile grew too large, Branon said, snow storage would be extended into the parking spaces. Rountree added that all snow would be stored in front of the arborvitae. Hutwelker said that the applicant would be required by the Planning Board to maintain a buffer between the commercial and residential uses, and would be required to keep all snow to the east side of the arborvitae.

R. Tenney said that the proposed lighting plan is misrepresentative, but said that the parking lot is an improvement. Branon said that the six light poles are to be located approximately 80 ft from the property line, with full cut-off light fixtures 28 ft from the ground. Branon said that the lights would be turned off prior to 9:00 p.m.

Branon reviewed the written responses to the criteria for granting the requested special exception. Any investment in a neighborhood is typically positive to appraised values, Branon said. Rountree said that he does not plan to merge Map 18 Lot 87 with Map 18 Lot 87-2.

Hearing no further questions or comments, Hutwelker closed the public hearing at 9:27. Members reviewed the criteria for granting the requested special exception.

1. Is the exception allowed by the ordinance?

Members agreed in the affirmative.

2. Are specific conditions present under which the exception may be granted?

a. Is the proposed use similar to one or more of the uses already authorized in that District and is it an appropriate location for such use?

Members agreed in the affirmative, noting that the adjacent parcel has been used for some time in exactly this manner.

b. Will such approval reduce the value of any property within the District, or otherwise be injurious, obnoxious or offensive to the neighborhood?

Members agreed that the proposal would not be injurious, obnoxious or offensive. Lighting would be the only potential issue,

members felt, and noted that the Board typically defers to the Planning Board on this issue.

c. Will there be a nuisance or serious hazard to vehicles or pedestrians?

Members agreed that there would be no nuisance or hazard to vehicles or pedestrians.

d. Will adequate and appropriate facilities be provided for the operation of the proposed use?

Members agreed that the engineering plan for managing runoff appears to be adequate and conforming to State standards.

Members felt that the drainage plan indicates a desire to remedy historical drainage issues, and was clearly designed with the interests of abutters in mind.

Motion by Thibault to approve the special exception pursuant to Section V.B.2. to operate a motor vehicle dealership, with the condition that all but one security light be turned off at 9:00 p.m. Second by Beauregard, Sr. All in favor.

ADJOURNMENT

Motion by Thibault to adjourn. Second by Hutwelker. All in favor. The meeting adjourned at 9:36 p.m.

Respectfully submitted,

Victoria Reck Barlow
Recording Secretary