

Town of Swanzey, New Hampshire
Swanzey Zoning Board of Adjustment
Meeting Minutes – January 21, 2013

Note: 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.

The regular meeting of the Swanzey Zoning Board of Adjustment (ZBA) was called to order at 7:05 p.m. by Chairman, William Hutwelker. Present were Chairman Hutwelker, Vice Chair Keith Thibault, Bob Mitchell, Jerry Walker, Alternate Jim Vitous, Alternate Sarah Tatro, and Beverly Bernard, Recording Secretary.

The Recording Secretary called the roll and read the Agenda for the meeting.

Absent: Alternate Bryan Rudgers, Charles Beauregard, Sr., and Alternate Charles R. Beauregard, Jr.

Others Present: Richard Duquette, Timothy Sampson, and Town Planner Sara Carbonneau

Minutes: Motion by Mitchell to approve the Minutes for the meeting of December 17, 2012, seconded by Thibault, all in favor, ***motion passed.***

1. **Public Hearing (Variance) Timothy Tabor requests a variance from Section VII.E. to permit the installation of a septic system that does not meet the required setback from wetlands.** The property is located off Old Homestead Highway, shown at Tax Map 9, Lot 9 situated in the Rural/Agriculture and Wetlands Conservation Overlay District.

Carbonneau announced that the applicant has requested to continue the hearing until next month due to a personal situation. **Motion** was made by Vitous to continue the hearing to February 11, 2013 at the request of Timothy Tabor, seconded by Mitchell, with all in favor. ***Motion passed.***

2. **Public Hearing (Request for Variances) Richard Duquette requests variances from Section IV.B.3. and IV.B.1. to permit the construction of a building that does not meet required setbacks and to operate a business from the premises.** The property is located at 38 Swanzey Factory Road and is situated in the Residence Zoning District. The property is shown at Tax Map 18, Lot 280. (Continued from December 17, 2012.)

Chair Hutwelker said he had a potential conflict of interest and therefore ceded the Chair to Thibault and seated himself in the audience as a non-voting member. Jim Vitous was seated for Hutwelker and Sarah Tatro was seated for Charlie Beauregard, Sr.

Thibault opened the public hearing at 7:10 p.m.

Tim Sampson, Licensed Architect for the State of New Hampshire, passed out trip generation information and updated site plan that he had completed for Mr. Duquette. He noted that there is an existing greenhouse on the site which would be taken down. He noted that the existing footprint of the greenhouse is 2200 sq feet, and Duquette wants 3300 sq feet. Sampson also said that the new building would increase the setback from the road from 9 feet to approximately 13.5 feet. Sampson noted that the proposed location of the septic system is limited due to the 125 foot setback requirement from wetlands, The proposed structure includes two overhead doors for storage of trucks. The architecture of the building is designed to mimic a barn structure.

Sampson spoke about the impact on traffic to the area. He said the business will have minimal impact on the site. The hours of operation will be 7:00 a.m. to 4:30 p.m. and it is expected that there will be one delivery a day. He referred to information obtained from the ITE Trip Generation Manual that indicated that a greenhouse/nursery use would produce close to one hundred (100) trips per day. The expectation is that the warehouse will produce fourteen (14) trips per day. Sampson stated that the existing parking site associated with the former business will be removed and parking moved northeasterly of the building which will provide better access to the site. There will be nine parking places for trucks and cars and two bays for trucks.

Carbonneau asked if the tenants will still be parking in front of the building which houses two apartments. Duquette said "yes" they would still park there.

Vitous asked about the foundation of the greenhouse and Duquette responded that the foundation will be removed.

Thibault pointed out that there are two 2-bedroom apartments at the site and five (5) people working at the business. Duquette mentioned that all employees start at 7:00 a.m. and that employees and residents coming and going would account for about ten to twelve (10-12) cars going in and out. He noted that the traffic study shows fourteen (14) trips.

Duquette said he wants to take the entry of the former florist shop and make the building look good in front and have office space to walk into the warehouse. He noted that the trucks that will be coming and going to the site are not tractor trailer trucks typically, but more like a Budweiser truck. Duquette said that he has a pre-approved loan to improve the site if the Town approves the site plan. The new septic system is designed so the old building can be piped to the new septic system. Thibault asked if the state has approved the septic system and if it would be intended to serve the entire area, including the apartments in the other building. He also asked if there was a well on the property. It was noted that the septic design has been prepared but has not been submitted to the State. The property is served by municipal water. Duquette said he realizes that the business he wants to put in there isn't the same as a greenhouse business, but he thinks he will be improving the property.

Mitchell said the new building will come behind the florist shop and wanted to know if there was anything preventing the design from following the road setback line. Mitchell asked if there is something in the site that precludes moving the building; theoretically build the building to meet the setback requirement, without aesthetic considerations. Sampson said there would be complexity to doing it that way. Thibault noted that there are two variances involved: one for a business in a residential district, and the second for the front property line setback. The question is whether or not the requester has other options.

Carbonneau said that mill pond is not subject to the Shoreland Protection Act, but everyone should be concerned about a body of water, and the more you move the pavement back and the building back that action may have an impact on the water. Carbonneau also pointed out that a septic system has to be 125 feet setback from a body of water.

Tatro asked about lighting. Sampson said that there will probably be motion sensor lights over the truck bays and a light over an entrance door. Thibault said the lighting is important.

Mitchell asked about the trip generation table. Sampson said it is a standardized spreadsheet. Mitchell had a concern about where the property is going in the future regarding traffic flow. Duquette said when the previous owner had the store, her driver would come and go two (2) or three (3) times a day and people would come in to order. Duquette said that he thinks that this was a lot more traffic than he expects from his warehouse business.

Thibault said traffic is an important issue. He said he lived across the street from it for a number of years. Swanzy Factory Road tends to have accidents and the road is in only average condition. Duquette said that the traffic generated by the warehouse will be less than the apartments on site generate.

Sampson said the trucks will be able to turn-around within the parking lot which will enable the trucks to go out facing forward, which is safer.

Vitous said that 40 MPH on Swanzy Factory Road is commonplace. Duquette repeated that the trucks will not be tractor trailer trucks. He said they will be box trucks and the size of beer trucks. Tatro asked if the driveway would be paved. Duquette said he intends to pave it at some time. Part of the septic will be under pavement. Tatro asked about maneuvering within the parking lot. Duquette said that wouldn't be a problem. It is packed down dirt now. It will be easy to transition into a parking lot.

Tatro asked about the contents of demolition of greenhouse and Duquette said the steel will be recycled.

Mitchell wanted to discuss the road setback and pointed out that the current building is nine (9) feet from the road. Sampson noted that the new building will be pushed back to thirteen feet and 6 inches from the street and while that requires a variance since it doesn't meet the current setback, it is an improvement over the existing building setback. Mitchell said that if there is significant improvement in the setback and the look of the building that is a good reason to give the variance.

Carbonneau said if you have a non-conforming building, you can tear down and rebuild on the existing footprint. Walker said he has a problem granting a variance when there is a possibility to meet the setback. Carbonneau discussed the back property line. Mr. Duquette's property might not go all the way back to the pond. She pointed out that the Town owns a strip of land along the mill pond, so the wetlands setback is probably twenty (20) feet closer to the building. Sampson said this plan is a compromise and if you move the building back thirty (30) feet from the road, you might create other problems. Sampson said his design takes into account minimum impact on disturbance of the soil. Vitous said there is a concern for the environmental impact. Sampson said safety is a concern as well with regard to the new parking and turnaround area.

Bill Hutwelker pointed out the reason to keep the building within the footprint has to do with Wilson Pond. If you move the building further back from the road, you will be closer to the water . Keeping it where it is, you keep the runoff closer to the road instead of the tributaries to Wilson Pond. He said the septic is clearly placed in the only place in can be. Moving the building to meet the setback from the road would place it behind the septic, and closer to the mill pond. Walker said he thought you could still move it back and not negatively impact the Mill Pond.

Mitchell said when the Board can document an improvement in the property conditions, it is easier to approve a variance. Duquette said it is an incremental improvement coming back off the road (50% improvement). Mitchell pointed out the Floral Shop is closer to the road. Vitous noted that if you shift the building you actually increase the impervious surfaces for the parking lot.

Thibault asked for other questions and there were none. Carbonneau said for the record that she had provided Board members with a ZBA Aoplication Summary, noting that a copy had been provided to Sampson on January 17th.

Thibault closed the public hearing at 8:05 p.m.

Thibault then reviewed the **Facts in Support of Granting Variance under Section IV.B.1:**

1. Granting the variance would not be contrary to the public interest – agreed.
2. Granting the variance would observe the spirit of the ordinance – agreed. Mitchell said that the proposed use represents an improvement in the current setback situation.
3. Granting the variance would do substantial justice – agreed
4. Granting the variance would not diminish the values of surrounding properties – agreed
5. Ai. and A. ii. Do special conditions of the property exist that distinguish it from other properties in the area - agreed

Vitous made a **motion** to grant the variance under Section IV.B.1 to permit an operation of a business from the premise, the property being located at 38 Swanzey Factory Road and being situated in the Residence Zoning Districut, as shown at Tax map 18, Lot 280. The motion was seconded by Mitchell. There were no additional questions on the motion and all were in favor. **Motion passed.**

Thibault then reviewed the **Facts in Support of Granting Variance under Section IV.B.3:**

1. Granting the variance would not be contrary to the public interest – agreed

2. Granting the variance would observe the spirit of the ordinance – all agreed except Thibault who stated that there are other options that could be taken.
3. Granting the variance would do substantial justice – all agreed except Walker and Thibault who reiterated that there are other options that could be taken.
4. Granting the variance would not diminish the values of surrounding properties – agreed
5. A. i. and A. ii. Do special conditions of the property exist that distinguish it from other properties in the area – all agreed except Thibault to A.i. With regard to A.ii. all agreed except Walker.

A **motion** was made by Mitchell to grant the variance from Section IV.B.3 to permit the construction of a building that does not meet required setbacks on property which is located at 38 Swanzey Factory Road and is situated in the Residence Zoning District, shown on Tax Map 18, Lot 280. The motion was seconded by Vitous and no further questions were asked. Two voted no (Thibault and Walker), and three voted yes (Tatro, Mitchell, and Vitous). **Motion passed.**

Sampson and Duquette left the meeting at 8:20 p.m.

3. Other matters as may be required

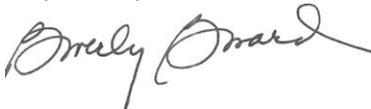
Hutwelker said he wants to have a discussion on Equitable Waivers, but due to the time and weather this discussion will be deferred to the February meeting (NOTE: February meeting will be held on February 11th).

Carbonneau reminded the Board about public inquiries and that the members cannot engage in discussions about issues before the Board outside of the public hearing. This could lead to a situation where a member of the Board would have to recuse themselves from that matter and not be able to take part in discussion and vote. Carbonneau suggested that members of the ZBA encourage citizens to come to public hearings instead. She noted that any potential show of favoritism can be problematic.

Carbonneau pointed out that Hutwelker's term is up this year and if the members know of anyone interested in serving, those interested need to file by February 1, 2013.

Motion to adjourn Thibault, seconded by Mitchell. All in favor. **Motion passed.**
Adjournment at 8:30 p.m.

Respectfully Submitted,



Beverly Bernard, Recording Secretary