



OLD VALUES - NEW HORIZONS

## COMMUNITY DEVELOPMENT

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**Zoning Board of Adjustment  
Approved Minutes  
Community Development Department  
March 10, 2015**

**Board Members:**

Mark Samsel, Chairman – Present  
Mike Scholz, Vice-Chairman – Present  
Heath Partington, Secretary – Present  
Jay Yennaco, Member – Present

Jim Tierney, Member – Present  
Mike Mazalewski, Alternate – Present  
Kevin Hughes, Alternate – Present

**Staff:**

Dick Gregory, Code Enforcement Administrator  
Suzanne Whiteford, ZBA Minute Taker

The Chair called the meeting to order at 7:30pm, introduced the Board and Staff

Thank you to Mr. Tierney and Mr. Yennaco for their service, tonight is their last evening as a ZBA board members

Chair explained the process for tonight's hearing

**Public Hearing**

Mr. Partington read **Case # 6-2015** and list of abutters into the record:

**Lot 17-J-70, Case # 6-2015**

**Applicant- Joseph Maynard, Benchmark Engineering, Inc.**

**Owner- Granite Hill Condominiums**

**Location – 90 Indian Rock Road/Granite Hill Road**

**Zone –Residence A-Rural District**

**Variance from the following section of the Zoning Ordinance is requested to allow construction of a 5 stall garage:**

**Section 702, Appendix A-1 to allow the garage to be 8 ft. from the rear lot line where 30 ft. is required.**

Applicant Mr. Joseph Maynard provided written summary, additional points for consideration:

- Can't be seen from the 111 when driving
- Sits 50 feet higher than the Castleton driveway and will be buffered by over 100 feet of trees that will remain on the Castleton driveway
- Proposed structure sits in the watershed towards Castleton, any of the runoff that goes towards the structure goes to an existing drainage easement on the Castleton property, and none of the water generated from the proposed structure will drain towards the lake

- Building coverage with existing buildings on the lot is 6%
- Building coverage after the proposed structure is built will be 7%
- Existing impervious coverage is running about 10%, with the new structure it will be 10.9%
- 4 of the 5 existing condominiums have an alternative septic system design known as clean solutions, one has a conventional septic system.
- Applicant addressed the five variance criteria

Chairman Samsel: Confirmed there will be a roundabout in front of Castleton entrance when 111 is finished

Exhibit A: A letter of support from Castlevue Inc.'s President Richard Armstrong was read by Mr. Partington and entered into the record as Exhibit A

Mr. Scholz: Clarified that applicant was asking for 8 feet, not 12 feet.  
Inquired about a second floor

Applicant: Staircase is to a second floor dormer/attic area to be used as a utility room

Mr. Tierney: Clarified the existing shed on the property was being removed and not relocated

***Motion to go into deliberative session made by Mr. Scholz  
Second the motion by Mr. Tierney  
Motion carried 5-0-0***

Chairman Samsel:

- The land is very unique
- There is a letter of support
- Drainage will be in back of proposed structure not towards Cobbett's pond
- 111 will be reconfigured
- No issues with the proposal

Mr. Partington provided his comments on 5 variance criteria

***Motion by Mr. Scholz to grant relief for Lot 17-J-70, Case # 6-2015 Section 702, Appendix A-1 to allow a garage to be 8 ft. from the rear lot line where 30 ft. is required, in consideration of the 5 criteria as presented.  
Second the motion by Mr. Tierney  
Request granted 5-0-0  
There is a 30 day appeal period***

Mr. Partington read Case # 7-2015 and list of abutters into the record:

**Lot 13-A-150,155 & ROW, Case # 7-2015**

**Applicant – Karl Dubay**

**Owners – Nicole Devaney & State of New Hampshire DOT**

**Location – 38 Range Road**

**Zone – Limited Industrial District, Cobbetts Pond and Canobie Lake Watershed Protection District (CPCLWPD), Wetland & Watershed Protection District (WWPD).**

**Variance from the following sections of the Zoning Ordinance is requested to allow the construction a funeral home with a 5,000 sq. ft. footprint:**

**Section 601.3 to erect a building with parking, which is not a permitted use in the WWPD.**

**Section 601.4.6 to allow a waste disposal system which is not a permitted use in the WWPD.**

**Section 616.6.4.1 to allow a driveway within 75 ft. of a wetland which is not permitted in the CPCLWPD.**

**Section 616.8 to allow development in the buffer zone which is not permitted in the CPCLWPD.**

**Section 616.8.4.1 to allow a septic system in the buffer zone which is not permitted in the CPCLWPD.**

Applicant provided written summary, additional points for consideration:

- Carrier family are present
- Talk of the town is they desire a funeral home
- Fortunate to have the Carrier family, they are local
- A.O.T. is not required, but the structure will be built to A.O.T. standards to meet the spirit and intent of the ordinance which is to protect surface and subsurface water..
- The plan includes a separate and contained system for the embalming process. A vendor will remove the embalming process product.
- Exhibit A: A letter from the Conservation Commission was entered into the record
- Site will be heavily landscaped
- Exhibit B: A letter from Gove Environmental Services, INC. was entered into the record
- All drainage is being taken under ground into treatment units. None of it will be deposited into the D.O.T. basin or wetlands.
- High quality structure, Meets old and new cultures
- Reached out to Searles facility and explained the plan to their committee.
- Anticipate community wealth generating activity with Searles facility
- Being next to a church and Searles is unique and wonderful
- Met with abutter to the rear, and a representative from Canobie Lake Protection Association
- The buffer can be reduced by the PB

Chairman Samsel: Asked if driveway relief is for both driveways?

Applicant: Relief is requested from a driveway to 111 and driveway access on top of the old Lamson Road area which is 75 feet within the existing the wetlands. The actual access from Lamson does not need relief. The existing utility driveway is partially paved. No new driveways within 75 feet at the neck of the Lamson Road driveway.

Chairman Samsel: Asked if there is a safety reason for 2 access points

Applicant: 2 access points is unique to proposed use (funeral home). 2 access points allows for set up and pre planning a funeral procession, and allows safe funeral procession to exit to a traffic light and proceed onto main road. It is critical to retain 2 access points, makes sense for the unique function of the site. Can't avoid a driveway within 75 feet of the wetland. There are on average 60 deaths per year; it is time for the town to have a funeral home

Chairman Samsel: Inquired about the plan showing potential future connection with the church driveway.

Bob Carrier: The future connection to the church will be a walkway

Mr. Partington: With regards to 616.8 relief for development in the buffer zone, if the ZBA is unable to grant relief, can the PB be convinced the development will be safe to the WWPD areas?

Applicant: It's never been tested. It would rely on design and depends on interpretation. The plan is protecting the waters based on A.O.T. design criteria test. Exhibit C: Summary of five points was read into the record by Mr. Partington and entered into the record as Exhibit C.

Mr. Partington read Exhibit A, a letter of authorization from the New Hampshire D.O.T., and Exhibit B into the record.

Abutters:

1. Danielle Stanton, 9 Yorkshire Road  
Spoke in support of the proposed structure based on ideal location, the town need for a funeral home, and her favourable past experience with Bob Carrier.
2. Bill Schroeder, Canobie Lake Protection Association Representative  
Thanked Mr. Dubay and Mr. Carrier for meeting with him earlier today and reviewing the plan. Question regarding the depth of the existing septic system, and if there is a chance of material from the leach field draining towards the shore land and what is planned to protect the drainage from going towards the shore land before it is fully treated?

Applicant: Test pits over septic and drainage systems meet the vertical separation required by the state and the town for seasonal high water table. It's the only place to put the septic system and it meets the setback requirements. None of the flow will go into the septic system from processing bodies. Funeral Homes have low water usage. Plan to develop an intercept cut off trench along the edge of the pavement along old Lamson Road and gravel area: it meets setback criteria to the leach field.

***Motion to go into deliberative session made by Mr. Scholz  
Second the motion by Mr. Tierney  
Motion carried 5-0-0***

Mr. Partington provided his comments on 5 variance criteria:

Mr. Tierney: Does not agree with asking for blanket relief from 616.8 in its entirety; why ask for 616.8.4.1 if all of 616.8 is granted? It doesn't make sense. The entire project is in the buffer.

Mr. Partington: 616.8.2 allows planning board to decrease the buffer

Mr. Scholz: The ZBA can't provide relief greater but can provide relief for less. Relief from 616.8.4.1 is covered in the plan. Leave the PB to grant the reduction.

Board discussion regarding the applicants request and the ZBA interpretation of request with regards to 616.8 and its subsets. Requesting relief from 616.8 is too broad. The plan specifically asks for relief from 616.8.1 and 616.8.3, by granting 616.8.1 the first part of 616.8.2 will be null and void. The applicant asked for specific sections, the board has to decide on what is requested. It is up to the PB to decide to reduce the buffer.

Mr. Scholz: The ZBA board can't grant more relief than what is asked for.

Chairman Samsel: Concurs with boards comments, it is a quality project, its not a full time activity use, it will be only its will not be in full time use, it is less invasive than other options for use in the limited industrial district, it will not encroach on safety issues, and something will be allowed to develop there.

Mr. Tierney: No issue with 616.8.1 and 616.8.3, while it forces the PB to grant relief of 616.8.2 it is important for the PB to have the authority to put conditions on the plan for the overall project to come out in the best interest of the town.

Mr. Yennaco: Hope the PB looks at the plan with the same discretion as the ZBA; the development of the land is very challenging, give economic development, it's a great project for the town. This is one of the few projects that has come before the ZBA that couldn't make any more sense.

***Motion by Mr. Scholz for Case # 7-2015 Lot 13-A-150,155 & ROW, to grant relief for 616.8.1 and 616.8.3, to allow development in the buffer zone which is not permitted in the CPCLWPD in consideration of the 5 variance criteria as presented.***

***Second by Mr. Yennaco***

***Vote 4-1-0, Relief granted***

Mr. Partington opposes because it is contrary to public interest and spirit of the ordinance is not observed.

***Motion by Mr. Scholz for Case # 7-2015 Lot 13-A-150,155 & ROW, to grant relief for Section 601.3 to erect a building with parking, which is not a permitted use in the WWPD.***

***Section 601.4.6 to allow a waste disposal system which is not a permitted use in the WWPD.***

***Section 616.6.4.1 to allow a driveway within 75 ft. of a wetland which is not permitted in the CPCLWPD, and for Section 616.8.4.1 to allow a septic system in the buffer zone which is not permitted in the CPCLWPD.***

***Second by Mr. Tierney***

***Vote 5-0-0***

***Relief granted***

There is a 30 day appeal for both

6 minute recess, will resume at 9:30pm

Session resumed

Mr. Partington read Case # 8-2015 and the list of abutters into the record

**Lot 13-B-77 & 13-B-80, Case # 8-2015**

**Applicant - Karl Dubay,**

**Owner – State of New Hampshire DOT**

**Location – 42 Rockingham Road**

**Zone – Commercial A District, Wetland & Watershed Protection District (WWPD).**

**Variance from the following sections of the Zoning Ordinance is requested to allow the construction a commercial building with a 4,500 sq. ft. footprint:**

**Section 601.3 to erect a building with parking, which is not a permitted use in the WWPD.**

**Section 601.4.6 to allow a waste disposal system which is not permitted in the WWPD.**

**Section 702 Appendix A-1 to allow the front setbacks to be 10 ft. & 27.5 ft. where 75 ft. is required**

Owner of Platinum Protection John McGloshin summary of proposed business and intended use of the property:

- Has been in the town for 13 years & wants to keep his business of Surveillance and high end cameras for schools, Card access (national distribution), and proposed solar in the community
- Desires to work with the abutters and go green
- The plan includes an office, show room, and storage for solar panels underneath
- Not much activity
- Want to rent out some bays to offset the cost

Applicant Mr. Dubay provided a summary for the proposal, additional points for consideration:

- Will be good for economic development per the town, in business commercial A district
- There is an existing residence in the commercial zone which is a nonconforming home abutting the property
- Everything on the parking lot drains into a catch basin, all the drainage is bypassed on the site. There is a wetland ditch in the middle of the site. There's still a low spot that collects water and is a wetland even though it is a manmade ditch. What's left over on the parcel is all on WWPD.
- Exhibit A: A letter from Conservation Commission was read and entered into the record
- Exhibit B: Detail of the five variance criteria entered into the record
- Complete separation of the roof recharge water and parking lot water
- When the site sits for a little longer and drainage is rerouted with development there will be a new WWPD.
- Walk out building, two levels, will look like one level from route 28 and 2 levels from Harris Road. The proposal went through TRC for approval.
- 5 points, Exhibit B, read and summarized

Chairman Samsel: inquired about a loading dock on Harris Road & driveway up to the building

Mr. Tierney: pointed out the loading dock is encroaching public right of way on Harris Road, and suggested that it may be better situated in the front of the store?

Applicant: Part is in the Harris Road right of way. Well suited for access on Harris Road. Refer to sheet 8 grading plan.

Mr. Yennaco: Inquired how product is delivered.

Mr. Tierney: building set back is 10 feet

John McGloshin: explained to the board the proposal is for 10 foot bays. Delivery vehicles should be able to drive a delivery truck into the bay to unload and not encroach the right of way of Harris Road. Solar panels usually come on a skid.

Mike Terrizzi, business partner and co-owner of Platinum Protection Security Systems explained that no tractor trailers will be coming off Harris Road

Chairman Samsel: PB has final say on what can be used on that delivery side

Mr. Tierney: commented on the plan as it exists show slopes going to the driveway, 2 driveways on Harris road with 4 curb cuts. No deals or concessions can be made at this hearing, the plan is the plan.

Applicant: clarified the proposal shows access, not a loading dock, there are no docks

Mr. Tierney: clarified the access off harris road is intended for loading and unloading

Abutter, Mr. Pete Leroy, 3 Harris road:

- Harris road floods
- Harris road is 12 feet wide
- Can't see coming around the corner onto Harris Road from Rockingham Road
- Run off from the land into the driveway
- Underground stream that comes across Harris Road
- Previous blasting by the state on the corner (mound) completely wiped out the electricity in his home.
- Requested the board to take a site walk and see how narrow Harris Road is

Applicant: Requested a continuance to make improvements to the plan and work with the abutter.

Chairman Samsel: Instructions to consider that something will be allowed to be developed in the proposed area

***Motion by Mr. Heath to grant continuance until March 24, 2015***

***Second by Mr. Scholz***

***Vote 5-0-0, motion carried***

Review of draft minutes from February 10, 2015, No video available for the meeting on February 10, 2015

Chairman Samsel: asked Mr. Tierney and Mr. Yennaco if they would be interested in remaining as on call alternates? Both gentleman agreed to remain on the board as on-call alternates for one year

Motion by Mr. Scholz to appoint Mr. Tierney and Mr. Yennaco as on call alternates for one year

Second by Mr. Partington

Vote 5-0-0

Motion passed

Form edits to be reviewed at next meeting

Parting gifts and thank you by the Board to Mr. Tierney and Mr. Yennaco

Chairman Samsel: March 26, 5:30-7:30 free Windham business event at the village bean, RSVP to Ms. Scott by March 24, 2015

Motion to adjourn by Mr. Yennaco

Second Mr. Tierney

Vote 5-0-0

Meeting adjourned 11pm