OLD VALUES - NEW HORIZONS

COMMUNITY DEVELOPMENT

3 No. Lowell Road, Windham, New Hampshire 03087
(603) 432-3806 / Fax (603) 432-7362
www.WindhamNH.gov

Draft Minutes Zoning Board of Adjustment
July 12, 2016
7:30pm @ Community Development Department

Mark Samsel, Chairman - present
Heath Partington, Vice Chair - present
Pam Skinner, Secretary - present
Mike Scholz, Member - present
Bruce Breton, Member - present
Mike Mazalewski, Alternate - present
Kevin Hughes, Alternate - present
Jim Tierney, Alternate - excused
Jay Yennaco, Alternate - excused

Staff:
Dick Gregory, ZBA Code Enforcement Administrator
Andrea Cairns, Minute Taker

Meeting called to order at 7:31p.m. by Chairman Samsel.

Chairman Samsel reviewed the process for the public.

<u>Lots 20-D-2500 & 2600, Case # 22-2016</u>
Applicant- Joseph Maynard
Owner- 16 London Bridge Road LLC & Marlene Clemons
Location-16 London Bridge Road
Zoning District-Rural and Wetland & Watershed Protection District (WWPD)
Variance relief is requested from **Section 702, App. A-1** of the Windham Zoning Ordinance to allow each dwelling area to be less than the required 100 ft. by 100 ft. rectangle development box and less than the required 30,000 sq. ft. of contiguous area and not meet Minimum Lot Area by Soil Type. **Section 601.3** to allow a dwelling to be built in the WWPD on lot 20-D-2500 with a WWPD impact of 12,000 sq. ft. and a dwelling to be built in the WWPD on lot 20-D-2600 with a WWPD impact of 8,000 sq. ft.

Ms. Skinner read the case, abutters list and authorization letters into the record.

Mr. Maynard presented the application. He noted there were two owners of the property. Lot 20-D-2600 is a 3-acre landlocked parcel that is currently accessed through a driveway easement. They are requesting to adjust the lot lines. Even though the lot sizes are sizeable, the soils don't meet minimum standards for either lot. In order to get a driveway to the landlocked parcel, there would be 35,000 sq. ft. of WWPD impact. With the adjustment of the lot line they are creating 175' of legal frontage for the landlocked parcel and are making it 3.4 acres. There is a large wetland on the parcel and the area that exists outside of the WWPD is only 27,000 sq. ft. so the lot doesn't meet the 30,000 sq. ft. requirement. In order to meet the 50' setback, small portions of the houses would fall

within the WWPD. A 100’x100’ building area is required outside of the WWPD limits and property line. The property doesn’t meet that requirement.

Chairman Samsel asked for clarification on the 100’x100’ building area requirement. Mr. Maynard noted that if you can fit a 100’x100’ square outside of the WWPD, you meet zoning. It is to establish a building box to build a home. It can be within the required setbacks but needs to be outside of WWPD.

Mr. Partington questioned what drainage measures they could implement. Mr. Maynard noted they could do things to mitigate runoff like drip line infiltration. They would implement those if the board made it a condition of approval. Any larger methods would result in larger WWPD disturbances.

Mr. Maynard read the five criteria into the record.

Jocelyn Steven, 22 London Bridge Road
Ms. Stephen submitted a letter with the reasons why she opposed the project. (Exhibit A).

One of Ms. Steven’s concerns was flooding on her property. Chairman Samsel questioned if she would have an issue if the homes were further back on the property. She noted she would prefer there were no homes. Chairman Samsel noted there would be homes because they are buildable lots. The water does get high sometimes. She is afraid it will impact her property.

There were no other questions from the board for Ms. Stephen.

Mr. Maynard noted from an engineering standpoint, not crossing the wetland with a driveway would be better. They are proposing all their work in uplands. By right he could get a dredge and fill to get to the upland in the back if they didn’t receive approvals on these plans. He would be open to something to offset drainage. In general the grade of the property is a 5-6% slope into the wetland complex for both properties. The homes will be about 6’ higher than the wetlands. The driveway will be close to 3’ higher because of the culverts. He would likely need to do some sort of mitigation for a driveway going through the wetland. He doesn’t feel he would impact the neighborhood by going in through the back. It’s an expansive wetland complex.

Chairman Samsel questioned what specifically would be proposed for the mitigation. Mr. Maynard suggested he could model it after the Canobie Lake/Cobbetts Pond Watershed ordinance, which would likely mean something like drip line infiltration. Overall WWPD impacts are a lot less with this scenario since they will be keeping an unfragmented buffer along the wetland. The closest a house would be to the wetland is 65’. The homes would be entirely out of the WWPD, but the yard would be within it.

Mr. Breton clarified the disturbance between the two options. Mr. Maynard noted, as the property exists, it would be 35,000 sq. ft. of disturbance just for the driveway on one lot vs. 20,000 sq. ft. for both.

Mr. Partington questioned if the location indicated on the plans was the final location for all infrastructure. Mr. Maynard noted he oversized the home a bit but they are very close. Mr. Partington noted he asked because they don’t have any distance requirements from the wetlands.

There is nothing stopping them from moving the buildings closer to the wetlands. Mr. Maynard noted they were asking for a total impact so that would restrict them. If the structures went further back, there would be greater WWPD impact.

Mr. Scholz looked through the ordinances trying to find one that they could reference in the motion to help guide what mitigation they may be required to use.

Mr. Maynard noted that smaller drainage methods like dry walls, rain gardens and drip line mitigation would be appropriate. Anything larger would require full geological studies and possibly more impact. He added they still needed to go before the planning board where the plans would undergo a full review by the town engineer.

MOTION: Mr. Breton made a motion to go into deliberative.
Mr. Partington seconded the motion.
No discussion
Vote 5-0
Motion carries

Chairman Samsel believed the smaller impact of the property was a benefit. The uniqueness of the property and the improvement in conformity were also positive. He believed the application met the five points.

Mr. Breton agreed the impacts were less.

Chairman Samsel had concerns about adding any other regulations as a requirement. He questioned how they could enforce it and noted they have never gone to that limit before.

Mr. Partington reviewed the five criteria and believed the plan was reasonable and met all five criteria.

Mr. Scholz agreed. He added that the applicant offered they would be willing to accept some kind of condition for mitigation. The impact has been thought through and minimized.

Chairman Samsel had concerns about tying the approval to other regulations. They haven't done that in the past. To start tying relief to other sections isn't a wise way to go. He would fall back on the professionalism of the engineer and the fact that he would be going back to the planning board for review to determine what is necessary.

MOTION: Mr. Partington made a motion to approve the variance request from Section 702, App. A-1 of the Windham Zoning Ordinance to allow each dwelling area to be less than the required 100 ft. by 100 ft. rectangle development box and less than the required 30,000 sq. ft. of contiguous area and not meet Minimum Lot Area by Soil Type. Section 601.3 to allow a dwelling to be built in the WWPD on lot 20-D-2500 with a WWPD impact of 12,000 sq. ft. and a dwelling to be built in the WWPD on lot 20-D-2600 with a WWPD impact of 8,000 sq. ft. per plan submitted conditioned that at a minimum, drip edge infiltration measures at the rear and sides of the new structures as appropriate would be implemented.
Mr. Scholz seconded the motion.
No discussion

Vote 5-0
Motion carries

Review of the 5/24/16 Minutes
MOTION: Ms. Skinner made a motion to approve the 5/24/16 minutes as amended.
Mr. Partington seconded the motion.
No further discussion.
Vote 4-0-1, Mr. Scholz abstained.
Motion carries.

MOTION: Mr. Breton made a motion to approve the 6/14/16 minutes as amended.
Mr. Partington seconded the motion.
No further discussion.
Vote 5-0
Motion carries.

MOTION: Mr. Scholz made a motion to adjourn at 8:38 a.m. Mr. Breton seconded the motion.
Vote 5-0-0.
Motion passes.

Submitted by Andrea Cairns