



ZONING BOARD OF ADJUSTMENT

Approved Minutes

May 12, 2020

7:30 pm @ Community Development Department

Physical Location: 3 North Lowell Road (Community Development Department)
Live Broadcast: WCTV Channel 20 – Local Cable TV
Live Stream: <http://www.wctv21.com/>

Attendance:

Chairman Mike Scholz- present
Vice Chair Bruce Breton- excused
Pam Skinner, Secretary- present
Neelima Gogumalla, regular member- present
Nick Shea, regular member- excused
Kevin Hughes, alternate- present (seated for Mr. Shea)
(by roll call vote)

Staff:

Rex Norman, Community Development Director (present at Community Development)
Brian Arsenault, ZBA Administrator/ Code Enforcement
Anitra Brodeur- minute taker

Chairman Scholz explained that Executive Order 2020-04 allowed the meeting to held remotely:

“As Chair of the ZBA, I find that due to the State of Emergency declared by the Governor as a result of the COVID-19 pandemic and in accordance with the Governor’s Emergency Order #12 pursuant to Executive Order 2020-04, the public body authorized to meet electronically. Please note that all votes that are taken during the meeting shall be done by roll call vote only.”

Let’s start the meeting by taking a roll call attendance. When each member states their presence, please also state whether there is anyone in the room with you during the meeting, which is required under the Right-to-Know law.”

Public Hearing

Case #06-2020: Parcel 21-U-30
Applicant – SFC Engineering Partnership
Owner – Covnett Properties, LLC
Location – 3 Cobbetts Pond Road
Zoning District – Business Commercial A - Wetland and Watershed Prot. District (WWPD)

Variance relief is requested to allow expansion of parking capacity, 2420 sf of additional parking area from the following **Section 601.3** within the WWPD where such use is not permitted.

46
47 Ms. Skinner read the case, the list of abutters and the letter of authorization into the record.
48

49 Mr. George Fredette addressed the Board. Mr. Fredette shared the initial submittal and the
50 change in the plan. Mr. Fredette explained that the updated plan also has an additional swale that
51 would improve the storm water management at the request of the Conservation Commission. The
52 facility is designed for emergency services and is particularly busy on weekends. Mr. Fredette
53 explained that it can sometimes be awkward to pull in and out of the parking lot. Mr. Fredette
54 showed the WWPD line on the property; the majority of the lot is encumbered by the WWPD.
55 There is a portion of the pavement that goes deeper into the WWPD in the new plan.
56

57 Mr. Fredette reviewed the 5 criteria contained in the public packet. Mr. Fredette stated that the
58 protection of the wetland has been engineered and that it replicates the function of the WWPD.
59 There is no change to the use of the property, hence, property values will not be diminished. Mr.
60 Fredette stated that 88% of the property is encumbered by the WWPD and there is no other
61 property that can be acquired by the property owner.
62

63 Mr. Fredette explained that the detention pond is designed as a treatment swale with hydraulic
64 resistance.
65

66 Mr. Fredette explained the parking spaces that are currently on the property along with the
67 proposed parking spaces and how many of those are in the WWPD. Chairman Scholz asked if
68 the parking spaces were the total area or the total area minus the offset of the detention pond. Mr.
69 Fredette stated that it is the total area not including the pond.
70

71 Chairman Scholz asked the applicant, Dr. Barnett, why the parking was not requested in 2019
72 when the last variance was requested. Dr. Barnett stated she did not think it was possible in 2019.
73 Mr. Fredette stated that there is a peak of customers at the site on the weekend so the new
74 parking spaces are necessary to accommodate staff and parking.
75

76 Chairman Scholz asked Mr. Fredette to explain how the new plan does not make the current
77 conditions worse. Mr. Fredette explained, once again, the treatment of the parking area that goes
78 into a treatment swale. Previously, the pavement was being pushed into the pond. Mr. Fredette
79 stated that there is no part of the new parking lot that does not go through the treatment swale.
80

81 Ms. Gogumalla asked about grass pavers that were recommended by the Conservation
82 Commission. Mr. Fredette stated they do not have the depth of the groundwater to be able to
83 incorporate the ground pavers. Mr. Fredette showed where the snow will be stored on the site.
84

85 Dr. Christina Barnett, the applicant, stated, in response to Ms. Gogumalla's question, that she
86 does not anticipate any other expansions. Additionally, Dr. Barnett stated this is a privately-
87 owned parcel and is not affiliated with the Cobbetts Pond Plaza.
88

89 Ms. Gogumalla asked if there was a maintenance schedule for the water management. Mr.
90 Fredette stated that there is and explained the necessary upkeep to the Board. Mr. Fredette

91 attempted to answer the question of what would happen if the swale fails. The water and other
92 debris would end up in the wetland system.

93
94 Mr. Derek Monson, Turtle Rock Road, addressed the Board via telephone and was invited to the
95 meeting via Zoom. Mr. Monson always has concerns around the salt and sand that might end up
96 in the snow being piled near the wetland and he would like to see the snow be stored away from
97 the wetland. Mr. Monson would also like to see a maintenance plan because if the plan is not in
98 place and being executed, it is ineffective.

99
100 Mr. Fredette stated that some of the best management practices have been laid out at the state
101 level and there is documentation of the maintenance plan. Green SnowPro is a system that is
102 used in Windham and does not allow salt in their plan certification.

103
104 Mr. Monson stated that the state runs the certification program for the Green SnowPro program
105 that certifies those that plow and drive plows for proper application of the materials.

106
107 Chairman Scholz asked Mr. Fredette if he would be willing to put together a maintenance plan
108 for the Board; he would.

109
110 Ms. Skinner read the letter from the Conservation Commission. The Commission would like to
111 see native plantings, if not in place already, along with grass pavers and the integration of storm
112 water management.

113
114 Mr. Monson stated that the GreenSnow Pro certification might be a good thing to have in place
115 since the use follows the property even when the property changes ownership.

116
117 **A motion was made by Ms. Skinner to go into Deliberative Session at 8:36pm. Seconded by**
118 **Mr. Hughes. Roll call vote: Ms. Skinner, Chairman Scholz, Mr. Hughes, and Ms.**
119 **Gogumalla- yes. Vote 4-0. Motion passes.**

120
121 Chairman Scholz stated that he understands that this is a successful business that is needed by the
122 community and it is already a burdened lot. Chairman Scholz stated that he does believe that the
123 applicant is trying to make reasonable use of the property. Chairman Scholz does believe it does
124 meet the first two criteria along with the third. The impact of the WWPD is being mitigated.
125 Chairman Scholz does believe it is more burdened than other lots in the area. Ms. Gogumalla
126 does appreciate all of the mitigation and she would like to be sure that all of the maintenance be
127 complied with in order to ensure the protection of the wetlands. Mr. Hughes does believe it
128 meets the 5 criteria as does Ms. Skinner.

129
130 **A motion was made by Ms. Gogumalla for Case #06-2020: Parcel 21-U-30 to grant variance**
131 **relief as requested to allow expansion of parking capacity, 2420 sf of additional parking**
132 **area from the following Section 601.3 within the WWPD where such use is not permitted**
133 **with conditions: no salt can be used on any parking area and all snow removal within the**
134 **WWPD be directed to the treatment area per plan dated February 19, 2020 with the**
135 **revision date of April 23, 2020. Seconded Ms. Skinner.**

136

137 **Roll call vote: Ms. Skinner, Ms. Gogumalla, Mr. Hughes, Chairman Scholz- yes.**

138

139 **Vote 4-0.**

140 **Motion passes.**

141 **The Chair advised of a 30-day appeal period.**

142

143 **Case #07-2020: Parcel 17-I-300-3**

144 **Applicant – Edward N. Herbert Associates, Inc.**

145 **Owner – Range Road Estates, LLC**

146 **Location – 6 Chadwick Circle**

147 **Zoning District - Rural District and Cobbetts Pond & Canobie Lake**

148 **Watershed Protection Overlay District (WPOD)**

149

150 Variance relief is requested to allow 24 sf of newly constructed deck in the back of the unit from
151 the following **Section(s) 601 and 601.3** within the WWPD where such use is not permitted.

152

153 Chairman Scholz repeated the phone number to call for public input.

154

155 Ms. Skinner read the case and the letter of authorization into the record.

156

157 **A motion was made by Ms. Gogumalla to waive the reading of the abutters list. Seconded**
158 **by Ms. Skinner. Roll call vote: Vote 4-0. Motion passes. (very lengthy and already in the**
159 **public packet.)**

160

161 Mr. Shayne Gendron addressed the Board. Mr. Gendron stated that the project was started in
162 2015. Since 2017, they have been working to build out the project and it is 98% complete. Unit 3
163 has been pushed back closer to the WWPD than anticipated and it was an honest mistake on the
164 part of the builder as the slider was installed in a mirror image. Additionally, the deck has 24
165 square feet of decking in the WWPD. The deck backs up to the pump house building that is also
166 in the WWPD.

167

168 Ms. Gogumalla asked if an equitable waiver was necessary. Mr. Gendron stated that the unit has
169 not been transferred yet so they thought this request was a cleaner process.

170

171 Mr. Gendron reviewed the 5 criteria contained in the public packet. The harm to the applicant
172 would be greater to the public because of the amount of materials and structures that would need
173 to be moved. The owners are willing to install erosion control under the deck to help mitigate.

174

175 Mr. Gendron stated that there would be disturbances in an area that has already been established.
176 Mr. Gendron clarified that every unit to the south would be affected if the deck needed to be
177 moved. Mr. Gendron stated that it would take significant effort to move the water lines. The deck
178 in 12 by 12 and 6.5 feet by 7.4 is in the WWPD.

179

180 The Conservation Commission letter stated that the Commission accepts the small impact of the
181 deck.

182

183 Mr. Derek Monson, Turtle Rock Road, addressed the Board. Mr. Monson stated that the project
184 has not complied with the approved plan as presented and they have not completed a portion of
185 the plan.

186
187 Chairman Scholz repeated the phone number to call if other residents wished to comment on the
188 plan.

189
190 **A motion was made by Ms. Gogumalla to go into Deliberative Session at 9:19pm Seconded**
191 **by Ms. Skinner. Roll call vote: Ms. Skinner, Ms. Gogumalla, Mr. Hughes, Chairman**
192 **Scholz- yes. Vote 4-0. Motion passes.**

193
194 Mr. Hughes stated that the cost to fix it is more burdensome than keeping it as is. Ms. Gogumalla
195 stated that this is not living space. Chairman Scholz does believe it does meet the substantial
196 justice prong and it is a corner lot in the subdivision and he does believe it meets the fifth criteria
197 as well.

198
199 **A motion was made by Ms. Gogumalla for Case #07-2020: Parcel 17-I-300-3 to grant relief**
200 **to allow 24 sf of newly constructed deck in the back of the unit from the following**
201 **Section(s) 601 and 601.3 within the WWPD where such use is not permitted per plan dated**
202 **February 2020 and signed by the Chair. Seconded by Mr. Hughes.**

203
204 **Roll call vote: Ms. Skinner, Ms. Gogumalla, Mr. Hughes, Chairman Scholz- yes.**

205
206 **Vote 4-0.**
207 **Motion passes.**

208 **The Chair advised of a 30-day appeal period.**

209
210 **Case #08-2020: Parcel 21-V-204B**
211 **Applicant – Meisner Brem Corp.**
212 **Owner – James Jamieson**
213 **Location – 12 Ministerial Road**
214 **Zoning District - Residential A District**

215
216 Variance relief is requested from **Section(s) 702 and Appendix A-1** to allow construction of a
217 new 1,386 sf two-bedroom single family dwelling (SFD) on a pre-existing non-conforming lot,
218 with two frontages Ministerial Road and Spruce Road. To allow a lot size of 13,792 +/- where a
219 minimum land area of 50,000 sf is required. To allow 100'+/- frontage on Ministerial Road (a
220 public road) and 118.2 +/- feet of frontage on Spruce Road (a private road/right of way) where
221 175' of frontage is required on a public road.

222
223 Ms. Skinner read the case and the list of abutters into the record.

224
225 Mr. Jamieson made a statement that allowed Mr. Kurt Meisner to represent him in the application.

226
227 Mr. Kurt Meisner addressed the Board and is representing the applicant for the construct a single
228 family 2-bedroom lot. The cottage on the lot has been removed in preparation for this
229 application. There is a state approved septic system. This variance includes a proposed new well

230 on the plan as well as a new septic system. The applicant is meeting the 50-foot setback on
231 Ministerial Road. There is a setback of 15.8 feet on one side. The average depth of abutting
232 properties has been considered in recent cases, hence, that is why it is covered here.
233

234 Mr. Meisner reviewed the 5 variance criteria contained in the public packet. There is room on the
235 lot for a septic system, a well and a 2-bedroom house. Ms. Gogumalla asked for the square
236 footage of the house, the footprint is 806 square feet, the deck is included in the calculation. The
237 inside square footage is 2300 square feet. The Board discussed the sheds on the property.
238 Chairman Scholz asked when the house was razed; the applicant stated it was razed in 2017.
239

240 Jim Jamison decided to raze the house in 2017 as it was a fire and safety hazard.
241

242 Mr. Arsenault stated that the neighbor is going to work on removing their shed from the
243 property. This was a one story, two-bedroom house on the property, it was 1100 square feet and
244 one story and now it will be larger. It is an Enviro Pipe septic system. There will be a drip line
245 trench that will infiltrate the roof run off.
246

247 Chairman Scholz asked about the driveway. There is an old driveway that will be removed and
248 will not be counted in the calculations. Chairman Scholz asked how heavily travelled Spruce
249 Road is. Mr. Jamison stated that there are 3 homes on Fish Road and one may be seasonal.
250

251 Discussion was opened to the public at 9:50pm. There were no comments.
252

253 Ms. Skinner read the letter from the Conservation Commission who would like more information
254 on the storm water management and a presentation from the developer.
255

256 Chairman Scholz repeated the phone number for the public as well.
257

258 Mr. Meisner stated that they do have a state approved septic system design. They have improved
259 the situation with the drip trenches. Mr. Meisner stated the plan does not need to go to the
260 Planning Board and it is a lot that exists currently.
261

262 Chairman Scholz asked if the old septic has been removed. Mr. Jamison stated that it has been.
263

264 **A motion was made by Ms. Skinner to go into Deliberative Session at 9:54pm. Seconded by**
265 **Ms. Gogumalla. Roll call vote: Ms. Skinner, Ms. Gogumalla, Mr. Hughes, Chairman**
266 **Scholz- yes. Vote 4-0. Motion passes.**
267

268 Chairman Scholz reviewed the 5 variance criteria contained in the public packet. Chairman
269 Scholz does believe this meets the first two criteria. Chairman Scholz does not believe it would
270 diminish property values and he does believe it meets the fifth criteria.
271

272 **A motion was made by Ms. Gogumalla to grant relief for Case #08-2020: Parcel 21-V-204B**
273 **as requested for to grant relief as requested from Section(s) 702 and Appendix A-1 to allow**
274 **construction of a new 1,386 sf two-bedroom single family dwelling (SFD) on a pre-existing**
275 **non-conforming lot, with two frontages Ministerial Road and Spruce Road. To allow a lot**

276 size of 13,792 +/- where a minimum land area of 50,000 sf is required. To allow 100'+/-
277 frontage on Ministerial Road (a public road) and 118.2 +/- feet of frontage on Spruce Road
278 (a private road/right of way) where 175' of frontage is required on a public road per plan
279 dated March 2, 2020. Seconded by Mr. Hughes.

280

281 Roll call vote: Ms. Skinner, Ms. Gogumalla, Mr. Hughes, Chairman Scholz- yes.

282

283 Vote 4-0.

284 Motion passes.

285 The Chair advised of the 30-day appeal period.

286

287 Public Meeting

288

289 Meeting Minutes-Review and Approve: April 28th 2020.

290

291 A motion was made by Ms. Skinner to approve the April 28th minutes as amended.

292 Seconded by Mr. Hughes. Roll call vote: Ms. Skinner, Ms. Gogumalla, Mr. Hughes,

293 Chairman Scholz- yes. Vote 4-0. Motion passes.

294

295 Legislative/Staff Updates

296

297 ZBA Alternate Member(s)

298

299 Mr. Arsenault stated that one applicant was interested in either the Planning Board or the Zoning
300 Board of Adjustment. Another applicant has also reached out and was interested in the ZBA.

301

302 Mr. Arsenault stated there are 2 cases for the next meeting from the same applicant.

303

304 A motion was made Ms. Skinner to adjourn at 10:10pm. Seconded by Mr. Hughes. Roll call
305 vote: Ms. Skinner, Ms. Gogumalla, Mr. Hughes, Chairman Scholz- yes. Vote 4-0. Motion
306 passes.

307

308 Respectfully submitted by Anitra Brodeur