



TOWN OF NORTHBRIDGE

ZONING BOARD OF APPEALS

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NORTHBRIDGE TOWN CLERK
DOREEN A. CEDRONE

Approved on March 12, 2015

ZONING BOARD OF APPEALS

MINUTES OF MEETING

FEBRUARY 12, 2015

This meeting was called to order at 7:00 P.M. by Thomas Hansson, Chairman. Other members present were:

Diane Woupio

Sharron Ampagoomian

Randy Kibbe

William Corkum

Absent from this meeting was Carol Snow.

Also present was Brenda Ouillette, Administrative Assistant.

A motion was made by Sharron Ampagoomian to approve the minutes of January 8, 2015. The motion was seconded by Diane Woupio and the vote was 5-0 in favor.

PUBLIC HEARING: JOHN NOGUIERA, APPLICANT (18-V-2014 & 1-V-2015)

This hearing was held to consider the petition of John Nogueira, 6 Hunter Circle, Milford, MA for a Variance from rear setback requirements pursuant to Article VI, Section 173-19 of the Town of Northbridge Zoning By-laws, Table of Area Regulations, and a petition for a Variance from the 75% contiguous upland requirement pursuant to Article VI, Section 173-19 Note ((9)) in order to allow the construction of a single family home. The property is located on Moon Hill Rd., shown on Assessors Map 31 as Parcel 25 consisting of 1.28 acres. The property is located in a Residential-1 zoning district and is owned by John Nogueira.

In a letter dated December 31, 2014, Mr. Norman Gamache from Guerriere & Halnon, Inc. waived the 65 day requirement to hold a public hearing for rear yard variance request in order to allow them more time to submit a second variance for the same property. (Copy on file)

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Sharron Ampagoomian read the public hearing notice. Assigned to this hearing were: Thomas Hansson, William Corkum, Sharron Ampagoomian, Diane Woupio, and Randy Kibbe.

Norman Gamache was present representing John Noguera who was also present.

Mr. Gamache stated that Moon Hill Rd. was relocated as part of the West Hill Dam flood Control Project. The new location cut through a parcel of land leaving just a triangular piece of land on the south side of the road. This piece of land contained about 21,000 sq. ft. of land and due to setback requirements, the shape of the property and the need for a septic system, the parcel was not built upon. In 1997 the previous owner, the applicant's father, was able to purchase 35,013 sq. ft. of adjoining property with the intention of complying with the area requirements of zoning and having additional area within which to place a house and a septic system. The applicant obtained the property from his father in 2001. Recently he decided to move forward with the permitting for a single family house. However when the wetlands were flagged it resulted in 27,806 sq. ft. of contiguous uplands on the property. The By-law requires a minimum of 75% of the minimum area requirements be contiguous uplands for a parcel to be considered a buildable lot. The relocation of a public roadway created an irregular shaped parcel of land with steep slopes and wetlands. The owner has made an effort to add additional land to this property in an effort to comply with zoning and would be prevented from making any use of this property if the variance for the upland requirement is not granted. The variance for the reduction of the rear yard setback to 25 ft. will provide more flexibility in the house location and more area for the septic system. The reduction will have no impact on the adjoining properties because the property abutting the rear property line is owned by the State. Mr. Gamache stated that the property has a unique shape and the parcel does not meet the requirement of 30,000 sq. ft. of upland.

Ludovico Ambrogi expressed concerns and was looking for a clarification as to the location of the property in relation to his. Mr. Gamache explained to him that his property was located on the other side of the road having no impact on his property.

Fred Augustini, 131 Moon Hill Rd. expressed his concerns. He stated that those properties were not divided up properly resulting in this parcel. He expressed concerns with the size of the house being placed on that parcel, yet to be determined. He strongly opposed the building of a house on that parcel as he did not want his property values lowered due a massive house being built there.

Jim Rice, 151 Moon Hill Rd. wanted to make the Board aware that there is a Brook near the property that gets pretty high in the spring and summer and there is a lot of water in that area.

A motion was made by Diane Woupio to close the public hearing and take the matter under advisement. The motion was seconded by Sharron Ampagoomian and the vote was 5-0 in favor.

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Board members agreed that due to the shape, and topography, and the amount of wetlands on the parcel, a hardship existed. The applicant is very limited as to where the well and septic system can be located due to the shape and the amount of wetlands on the property. Board members agreed that desirable relief could be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this chapter.

A motion was made by William Corkum to grant the variance for the 75% upland requirement subject to Conservation Commission approval and Board of Health approval. The motion was seconded by Diane Woupio, and the vote was 5-0 in favor.

A motion was made by William Corkum to grant the variance from rear setback requirements with the condition that the structure be constructed no closer than 25 feet from the rear property line as shown on the plan submitted subject to Board of Health and Conservation Commission approval. The motion was seconded by Diane Woupio and the vote was 5-0 in favor.

CONTINUED PUBLIC HEARING: TYRE PLACE, LLC APPLICANT **(14-SP-2014, 15-SP-2014, 16-V-2014, & 17-V-2014)**

This hearing was continued from January 8, 2015 to consider the petition for a Variance and the application for a Special Permit of Tyre Place LLC, 18 Garrison Heights, Oxford, MA in order to create a retreat lot as shown as Parcel 2 on a plan submitted prepared by Guerriere & Halnon consisting of 22.38 acres. The applicant is also seeking a Variance and Special Permit to create a second retreat lot shown as Parcel 3 on the same plan consisting of 11.43 acres. The property is located at 2094 Quaker St., shown on Assessor's Map 27 as Parcels 39 & 44 and located in a Residential-2 zoning district.

Assigned to this hearing on January 8, 2015 were Thomas Hansson, William Corkum, Sharron Ampagoomian, Diane Woupio and Carol Snow. Due to the absence of Carol Snow this evening, Randy Kibbe was assigned to replace her. Mr. Kibbe was present at the January 8th meeting.

On January 8, 2015 the Board asked that a title search be done on the property and attested to by an attorney indicating the ownership of the property. Assessor's records indicate that the property is owned by the Upton State Forest and has been exempt from taxes for many years. Board members were not comfortable proceeding without this being done first. (Please refer to Minutes of January 8, 2015)

Norman Gamache from Guerriere & Halnon was present on behalf of the applicant. He stated that the rear parcel was taken for taxes back in the 1940's and sold to Leo Smith in 1947 who sold it to John Barry back 1976. This parcel had no frontage. Just recently the Town took another parcel for taxes on Quaker St. which abuts this property. This parcel had 3 acres with more than adequate frontage for that area and it was purchased at auction by the Barry family under Tyre LLC allowing them an opportunity to access the rear parcel. Their intent is to get minimal use of the property with two houses being built at the rear of the property, one on 22 acres and one on 11 acres with both lots having frontage on Quaker St. The existing house that is there will remain on its own lot and still conform to zoning. Because the two adjoining lots

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are existing retreat lots allowed by Special Permits that were previously granted by the Zoning Board of Appeals, a variance is required because the lots cannot have contiguous frontage with any other lot which has been granted a Special Permit pursuant to this section of the By-law.

Ms. Ampagoomian expressed concerns over the confusion with the ownership of the property. Mr. Gamache replied that the confusion is with Assessor's Maps where the property is shown as belonging to the Upton State Forest. He believes it as a clerical error on their part. He tried to get something from the Upton State Forest and did speak with someone today and they stated that they hadn't had a chance to review their records and were thinking about getting a title examiner.

When asked about the taxes on the property by the Chairman Thomas Hansson, Mr. Gamache replied that they are being taxed for a 17.65 acre parcel. If there are any back taxes owed when the property is sold, they will be paid then.

Mr. Gamache continued by stating that at one time there was a telephone easement that ran through the property and there was an Assessor's Map from the 1970's showing it as a strip of land that ran down the middle of the property resulting in one parcel having one parcel number and the other parcel having another. The telephone Co. easement has since been extinguished with the rights going back to the Barry family.

Ms. Ampagoomian stated that in her opinion there is too much confusion with property ownership and it should go beyond this Board for a determination. Mr. Hansson replied that the Board asked for a title search to be done and one was submitted. Ms. Ampagoomian replied that she is aware of that but Mr. Gamache mentioned earlier that he tried to get information from the people associated with the Upton State Forest and was unable to obtain it. Mr. Gamache responded by stating that it is up to the Upton State Forest to prove that they own it because Tyre Place has the deed to it.

David McNeil, 2068 Quaker St. stated that he is concerned with the runoff from the hill behind him. Currently the runoff floods out his basement every spring. An additional house built on the hill behind him will only increase the runoff onto his property. He stated that he does not want to be sandwiched in with a driveway adjoining his and he doesn't want an increase in runoff resulting in his property being flooded.

Norman Wood, 2130 Quaker St. stated that Quaker St. is really dangerous now and two more driveways will only make it worse. He stated that he was totally against it. There was an automobile accident a few months ago in that same area resulting in a fatality.

Steven Dzicek, 2024 Quaker St. stated that there is a site distance issue at that location due to the hill. He stated that his uncle has an easement from Quaker St. to Puddon St. and a deed to prove it.

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Linda Dzicek, 2024 Quaker St. stated that he believes that the applicant does not own all that property and will provide the Board with the document prepared by a lawyer from Milford some years ago.

Arthur Masmanian, 2120 Quaker St. stated that there will be 5 driveways within 300 ft. on Quaker St. There is a hill within that area which is going to create a dangerous situation due to the limited site distance because of that hill.

Noreen Woodward, 1988 Quaker St. expressed concerns with increased water issues. Her property is below this one and she already has water issues. If this Special Permit is granted she asked that the Board condition it that there be a fence along the property that abuts hers for privacy. She purchased her property with the knowledge that the Upton State Forest owned that property and the elevation difference is quite significant to make her concerned.

Mr. Gamache requested a continuance of the public hearing in order to review the documents that will be provided. He stated that with all of the allegations being made this evening, he asked that the Board hold them to the same burden of proof that they had to submit, that being a title report.

A motion was made by Sharron Ampagoomian to grant a continuance of the public hearing until March 12, 2015. The motion was seconded by William Corkum and the vote was 5-0 in favor.

There being no further business, the meeting was adjourned.

Attested by,



Brenda M. Ouillette
Administrative Asst.

**THESE MINUTES ARE SUBJECT TO THE APPROVAL OF THE ZONING BOARD
OF APPEALS (Approved on March 12, 2015)**