

PUBLIC HEARING AND BUSINESS MEETING

- A. Call to Order - 7:00 PM:** E. Berkowitz called the meeting to order.
- B. Roll Call:** E. Berkowitz, Chairman; R. McDermott, Vice Chairman;
F. Ferreira, Jr., P. Young, Members
L. Ruest, Secretary; R. Vigneau, Building Inspector
Not Present: B. Richards, Member; R. Foster, Alternate Member;
K. Graham, Alternate Member

Chairman Berkowitz informed the applicants in attendance that membership of four voting members represents a quorum of the Board; however, the resulting votes will need to have three votes in favor or against in order for a decision of approval or denial. He explained that the applicants have the option of proceeding or continuing this hearing to the Board's next meeting of March 25.

C. Review Of The Minutes Of The Previous Meeting

MOTION: To approve the minutes of the January 22 meeting as written.

MOTION: R. McDermott
SECOND: F. Ferreira, Jr.
Unanimous

D. Public Hearings

- 1. Case 04-02:** Application from **Frank DePeters** for Variance to the terms of Article III, Section (3.7.2) *as corrected to 3.6.3* to permit a Private Road Subdivision on a lot lacking 250 foot continuous frontage. (Sanborn Road, Map 6, Lot 4)

Frank DePeters and his wife, Jane McGinn, were present. F. DePeters informed the Board that he is willing to continue with his application tonight. He introduced his real estate agent, Donna Carter, who presented the plan. It was also noted that one owner of the lot, John Sanborn, and his real estate agent, Dot Milbury, were present.

D. Carter referred the Board to the plan identifying a 40.99 acre lot. She stated that the proposal is to reduce the 250' split frontage to 75', giving the balance of the land (t-shaped area) back to the Sanborns to square off the abutting lot. F. DePeters plans to create a private road subdivision and is willing to place a two-lot maximum restriction in the deed. He informed the Board that he and his wife have two horses and would like to purchase this property to build a home and pasture. He added that he needs to create a second lot to cover the costs of the project.

Lengthy discussion took place with respect to frontage requirements. Reference was made to Private Road Subdivision Regulation 3.6.2, where it is felt that this lot meets the intent of the ordinance. However, other parts of the ordinance read differently. One part of the ordinance refers to the frontage for the lot of record and the other refers to frontage needed for the creation of the new lots on the private road.

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F. DePeters added that the private road would better serve the town as the town will not be required to maintain it. Approved test pit locations were identified on the plan. It was noted that the Conservation Commission has walked the site and has requested that should this plan be approved, that one shared driveway be made part of the plan so as to limit the number of wetland crossings to two.

Discussion was opened to abutters. Jack Savoy of 24 Sanborn Road inquired as to the entrance location of the new road. F. DePeters confirmed that the entrance location is between the two temporary stakes in place. Mr. Savoy stated that these stakes are located directly across the street from bedroom windows and requested relocation of the entrance. He was informed that with this plan, this is the only location.

Don Janik of 222 Exeter Road asked why the applicant does not buy land/property from another to get the frontage he needs. F. DePeters noted that the new private road will create adequate frontage for the parcels to be created. E. Berkowitz noted that one section of the ordinance indicates a need for 250' frontage on a lot of record and another indicates a need for 50' access for a private road. E. Berkowitz added that he doesn't feel the section referred to in the application request is correct. Following discussion, this was corrected as follows:

MOTION: To amend the applicant's request to read Article III, Section 3.6.3.

MOTION: P. Young
SECOND: R. McDermott
Unanimous

D. Janik asked for clarification of what the applicant is contesting and was told that the existing lot is required to have 250' of contiguous frontage, of which it does not. The applicant is looking for relief from that section of the zoning ordinance. D. Janik indicated that he doesn't feel this meets the criteria with respect to hardship.

Scott McDonald of 218 Exeter Road added that hardship should be inherent in the land and that if this is economic, it goes against the criteria. He stated he would be opposed to this request if the hardship is not inherent in the land. He requested the tree growth at the rear location of his property be preserved. E. Berkowitz noted that property owners have to have the ability to make use of their property, however, need to adhere to the regulations. Property owners have the right to remove trees from the 50' side line setback area.

Further discussion of the Board took place with regard to the fact that town roads require 50' of frontage. Discussion continued with respect to the fact that one of the owners of Map 6, Lot 4, also owns Map 6, Lot 5, individually. It was noted that this lot is vacant and that a lot line adjustment could be done to address the issue of frontage. It was also noted that access to Lot 4 could not be gained by using the t-shaped area as it is wetlands.

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Hearing no further questions from the public, E. Berkowitz asked for questions of the Board. R. McDermott stated that he is not in favor of making a less conforming lot. Further discussion took place with respect to adjusting lot lines with Lot 5 to obtain the necessary frontage. Again, the applicant stated that this is not an option, but that he is proposing a two-lot private road subdivision noting that he is willing to restrict the subdivision to two lots when in fact he could have three. His intention is to have area for his horses. He added, however, that he would need to create three lots with a traditional subdivision in order to cover the costs of a road.

Hearing no further comments or questions, E. Berkowitz closed the public hearing. The five criteria for granting a variance were reviewed at this time.

1. No diminution in value of surrounding properties will be suffered. 5 Agreed
2. Granting the permit would be of benefit to the public interest. *The Board agreed that in one sense, granting the permit would be of benefit to the town as a traditional road would saddle the town with maintenance of the road as well as add one additional lot.*
2 Agreed, 2 Disagreed
3. Denial of the permit would result in unnecessary hardship to the owner seeking it. *The Sanborns have the ability to do a lot line adjustment that could make it unnecessary to request relief.* 4 Against, No hardship imposed by the land.
4. Granting the permit would do substantial justice. 4 Against.
5. The use would not be contrary to the spirit of the ordinance. 4 Agreed.

MOTION: To grant **Case 04-02:** Application from **Frank DePeters** for Variance to the terms of Article III, Section (3.7.2) *as corrected to 3.6.3* to permit a Private Road Subdivision on a lot lacking 250 foot continuous frontage. (Sanborn Road, Map 6, Lot 4)

MOTION: R. McDermott
SECOND: P. Young
4 Opposed, Does NOT Pass

2. **Case 04-03:** Application from **Watson/NH** for Variances to the terms of the Building Code, Sections 7.1312 and 7.1313 and to the Zoning Ordinance, Article III, Section 8.4.2 and that these terms be waived to permit replacement of the septic system. (130 Lafayette Road, Map 8, Lot 55)

Anne (Tocky) Bailobrzkeski of Stockton Services and Diane Alexander, Property Manager for H. A. Mapes (owner of Watson/NH) were present. It was identified that there is no letter of authorization from the property owner for Tocky or Diane to act on this application.

MOTION: To continue this application to the March 25 meeting.

MOTION: F. Ferreira, Jr.
SECOND: P. Young
Unanimous

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- 3. Case 04-04:** Application from **Paul Nason** for Variance to the terms of the Building Code, Section 7.131 and that these terms be waived to permit replacement of a failed septic system. (299 Exeter Road Map 6 Lot 43)

Paul Nason and Jed Shepard of NH Soil Consultants were present. P. Young stepped down as she is an abutter to this property. Three voting members remained. J. Shepard informed the Board that he did not include the need for relief to system height requirements on the application cover sheet and therefore, it may be determined that this application was improperly noticed. He explained that his narrative explaining the need for relief includes the required information, but that the section on the cover sheet does not.

In view of the small membership of the Board and the fact that this application will need to be re-noticed, it was suggested to continue this application to March 25.

MOTION: To continue this application to the March 25 meeting to allow time to re-notify abutters.

MOTION: F. Ferreira, Jr.
SECOND: R. McDermott
Unanimous

P. Young resumed her seat on the Board.

E. Other Business

On behalf of the Board, E. Berkowitz thanked F. Ferreira, Jr. for his service to the ZBA. Thanks were extended to R. B. Vigneau for his monthly reports.

F. Comments or Questions from the Floor

No comments or questions were heard from the floor at this time.

G. Adjournment

MOTION: To adjourn the meeting at 8:00 p.m.

MOTION: F. Ferreira, Jr.
SECOND: R. McDermott
Unanimous