

Loudon Zoning Board of Adjustment
Meeting Minutes
October 25, 2018

Present:

Chairman Ned Lizotte, Vice Chairman Howard Pearl, Earl Tuson, Roy Merrill, Charlie Aznive and alternates Peter Pitman and Dennis Jakubowski

Minutes:

Regular Hearing August 23, 2018- Mr. Pearl made a correction to the minutes on the last page, the motion made by Mr. Pearl was seconded by Mr. Pitman. **Mr. Pearl made a motion to approve the minutes with the corrections. Mr. Tuson seconded the motion; All in favor. APPROVED.**

Discussions:

None

Public Hearings:

Application #Z18-14 Kim Pilote- Special Exception for reduced driveway setback, Map 21 Lot 41, R/R District- Attorney Daniel Muller from Cronin, Bisson & Zalinsky represented Kim Pilote whom was also present. Mr. Muller said the Pilote family purchased this home and the dirt driveway was already in place. Mr. Muller explained this lot has a drainage easement that goes onto the abutting property at 154 Bee Hole Road where the Little family lives. Mr. Muller said the dirt driveway had a lot of water runoff and they have mitigated the runoff by making the dirt driveway into gravel and adding a drainage system. Mr. Muller said they have talked about putting up a fence to further reduce water runoff and have created a berm. Mr. Muller said due to the topography of the lots the water naturally runs onto the Little's property. Mr. Muller said this setback on the driveway is similar to others in the neighborhood and the abutting Little property also has a reduced setback. Mr. Muller said this updated gravel driveway has now prevented from large water ponding on the abutting property. Mr. Tuson said he believes they will need a site walk on this property to better understand. Mr. Tuson asked for clarification on the map. Surveyor Jeff Green was in the audience and explained. Chairman Lizotte questioned how long the Pilote's lived at this residence. Mrs. Pilote said she has lived there for 14 years. Chairman Lizotte questioned if they had looked into side setback requirements. Mrs. Pilote said the driveway has always been there so she did not think about it. Abutter Jim Burdette did the work on the new drainage system and it has greatly eliminated issues. Mr. Burdette said this access has always been on the property since it was built. Chairman Lizotte wanted to clarify that this driveway hasn't always been there only since the house was built it's not a right of way. Mr. Aznive questioned the distance between the edge of the driveway and the abutting property line. Bill Lake said there are only inches between the edge of the driveway and the abutting property line. Mr. Lake said the applicant claims this is the only entrance into the property but there is another and this is a business entry. Mr. Lake looked into the Little's property to see if the driveway was in the 3 foot setback and it is a few feet which they are working on fixing. Mrs. Pilote said this access is not only for business use they access the basement and always have this way. Mr. Burdette said

the driveway is setback 5-7 feet from the abutting property line not inches. Mr. Muller wanted to point out the state RSA 236:13 has some conflict with the Town's Ordinance. Raymond D'Amante was present to represent the abutting property of Dave and Sigrid Little. Mr. D'Amante discussed the drainage issues on the drainage easement stating the Pilotes need to take care of the drainage issues on the Little's property and an easement doesn't mean they have no responsibilities. Mr. D'Amante provided many pictures of both properties to show drainage onto the Little's property. Mr. D'Amante said the new French drain the Pilote's put in dumps right onto the Little's property. Mr. D'Amante said the berm that has been put into place on the Pilote's property actually directs more water to the Little's property. Mr. D'Amante also stated that having the driveway now gravel and not dirt also has increased the water onto the property and only improved the Pilote's property. Mr. D'Amante said when the Pilote's purchased the property there was no drainage easement in the deed it was later put in. Mrs. Little showed two videos of how wet their property is in the spring. Mr. Burdette spoke saying the pipe that goes up to the Little's property is from the foundation drain put in when the house was built. Mr. Burdette said this property has always had a drainage easement and questioned if this was going to be a problem why would they buy the property. Mr. D'Amante stated the drainage easement was not in the deed and they only found out about it when it came from the title company. **Mr. Pearl made a motion to continue the application to the Site Walk on November 9th at 4:00pm. and the next meeting will be November 29th at 7:00. Mr. Aznive seconded; All were in favor.**

Mr. Aznive recused himself.

Chairman Lizotte appointed Mr. Jakubowski a voting member.

Application #Z18-15 Jennifer Stylianios- Special Exception for reduced setback, Map 15 Lot 1, R/R District-

Property owner Jennifer Stylianios and realtor Chuck Braxton presented the application. Several abutters were present in the audience, Morgan McCarthy representing Millican Nurseries, Rebecca Cole and Charlie & Pearl Aznive. Mrs. Stylianios said this property has been passed down in her family since her great grandparents and she is not able to sell. Mr. Braxton said the property has only 34 feet of road frontage so it doesn't meet the setback requirements. Mr. Braxton showed where the wetlands are located on the lot. Mr. Pitman said it looked like the driveway was going through the seasonal stream. Mr. Braxton said it is not going through the wetlands. Mr. Pearl said they would be working in the wetland buffer. Mr. Merrill said the Zoning Ordinance only allows a non conforming lot to be built on if it has at least 50 feet of road frontage. Mr. Pearl said there needs to be a Variance application for this property. Chairman Lizotte said Conservation also needs to weigh in on this application. Mr. Braxton informed the Board that the Conservation Committee signed the wetland permit from DES. Mr. Braxton said the permit was for a forestry crossing and they would need to apply for a change of use which they have done. Chairman Lizotte said this access was for logging and is not a driveway access for a home. Chairman Lizotte said this lot has wetland issues, setback issues and the question of the frontage length. Mr. Pearl questioned if this application should be withdrawn and the applicant apply for the Variance for road frontage first. Mr. Tuson said they would need to apply for this Special Exception as well so it would be best to proceed with the application and suggested doing a Site Walk before the next meeting. **Mr. Pearl made a motion to continue the application to the Site Walk on October 30th at 4:00pm and the next meeting will be November 29th at 7:00. Mr. Tuson seconded; All were in favor.**

Mr. Anive returned to the Board as a voting member.

Application #Z18-16 Riveredge Properties- Variance, the sue of suppression systems in new development instead of cistern or dry hydrant, Map 38 Lot 27, R/R District- Surveyor Web Stout and applicant Thomas

Berkeley presented the application. Abutter Karen Towle was present at the meeting. Mr. Stout explained that this Subdivision was approved by the Loudon Planning Board last week under the condition that Zoning approves it not to use a cistern otherwise they would use the proposed cistern plan. Mr. Stout explained 2 of the 7 lots in the Subdivision are covered by the existing cistern leaving 5 lots that are not. Mr. Merrill asked what the hardship is for this property. Mr. Stout said there are two cisterns located within less than 4000 feet and feels a cistern would be better placed in parts of town where there is no water source. Mr. Stout said the applicant will do sprinklers on each home and has a letter from the Fire Chief that says he is alright with this. Bill Lake from Code Enforcement said he was first under the impression that the cistern would cover all but two houses then visited the property and discovered only the first two would be covered. Mr. Lake said after some discussion between the applicant and Code Enforcement officers it was stated they approved the use of in home fire sprinkler systems in replace of a cistern. Mr. Lake said at a point sprinkler systems were allowed as an option until the State made Towns remove that option from the Ordinance. Mr. Lake said sprinkler systems are a great life saving system and provide people time to get out of the house which is the most important thing although it will not extinguish the fire. Mr. Lake felt the cistern was fairly close to the property. Chairman Lizotte said he spoke with the Fire Chief today who felt a cistern would be better for this property because the current cistern on School street doesn't cover the whole Subdivision. Chairman Lizotte questioned if a fire pond would be a cheaper option for the Town to maintain. Mr. Lake said the maintenance of the fire pond is more expensive. Mr. Aznive said he has heard of issues with sprinklers in homes. Mr. Lake said the problem with having sprinklers in a single family home is that the home owner has no requirement to do any type of maintenance on them where as a commercial property must have them serviced regularly to make sure they are working. Mr. Lake said some residents are against sprinkler systems so they disable them. Mr. Merrill said the applicant already got a longer road approved so that creates more of an issue getting into the property. Mr. Merrill also said that if they allow a Variance to not use the cistern every other development in Town would ask not to have one and it isn't fair to all the other Subdivisions that have been allowed before. Mr. Lake said the only reason this Subdivision had any question as to if they needed a cistern was because there is one so close to the property. Mr. Tuson said the Ordinance are the rules of the Town and that is what they have to go by. Mr. Merrill said when this application was before Planning Board the applicant spoke about cutting the Subdivision back in order to not provide a cistern but the applicant has gone ahead with the seven lot subdivision. Chairman Lizotte said to approve an application the applicant needs to have a hardship. Mr. Green wanted to clarify that the law that came into place was that Towns couldn't mandate sprinklers. Mr. Tuson said the Ordinance got muddy and the Town voted to remove the word sprinklers from the Ordinance. Chairman Lizotte went through the application with the applicant. **Mr. Tuson made a motion to deny the application due to not meeting questions 1,2 and 5 on the application. Mr. Pearl seconded; A roll call vote was taken, Mr. Merrill-yes, Mr. Pearl, Mr. Lizotte- yes, Mr. Tuson- yes, Mr. Aznive- yes.** Mr. Tuson said the cistern meets the needs of the community and there is no hardship for the applicant.

Application #Z18-17 John & Barbara Parent- Special Exception reduced setback, Map 30 Lot 4 & Map 30 Lot 4-1, R/R District- Surveyor Jeff Green presented the applicant on behalf of the applicants. Mr. Green explained he is proposed a 4 lot subdivision to the Planning Board which requires a reduced setback on two of the lots of 12.4 feet. Mr. Green explained that he is proposing a boundary line that will leave the garage on a lot by itself. Mr. Green said there is a cement pad on the lot that goes up to the boundary line. Chairman Lizotte questioned if the cement would be broken up to be out of the 12.4 reduced setbacks. Mr. Aznive said he could see this being an issue in the future if this concrete pad turns into something else like a shed. Mr. Merrill questioned if he was going to provide a cistern for this Subdivision. Mr. Green said he was just recently informed about the cistern and will discuss that with the Planning Board. Mr. Merrill said questioned if this

was a mute point to apply for this application because if they turn this into a three lot subdivision to avoid using a cistern they won't need the reduced setback. Mr. Green stated his reasoning for coming here tonight is because the applicant wants to build on the property that will have the garage left on it. Mr. Tuson questioned having an accessory building on a lot by itself. The Board agreed if they are building on this lot they can have the garage on the lot. Chairman Lizotte brought up a Subdivision in Concord that is very close together saying we have setbacks for a reason so the houses are not a cluster. Mr. Green said Loudon has some of the most restricted setback requirements around and having such restrictions makes land owners not able to use a large part of their land. Mr. Pearl questioned if the applicant would reduce the cement pad to the 12.4 feet. Mr. Green said he was looking for direction from the Board if they would require that. Mr. Merrill said he believes the cement pad should have to follow the reduced setback of 12.4 feet. Mr. Pearl questioned if they allowed the cement pad to have a 4 foot setback the applicant would have to come back to zoning to build on it. Mr. Lake said if it was approved for the setback they wouldn't be required. Mr. Pearl stated they could require putting a note on the plan that no building is to be built unless the applicant appears before the Zoning Board again. The Board discussed allowing a 12 foot reduced setback for both lots and requiring the applicant to remove the cement pad and the driveway in that area. Mr. Tuson asked the Board if they could grant this reduced setback for two lots with one application. Mr. Green said at this point it is only one application. Mr. Merrill said the application is listing both proposed lots. Mr. Pitman said right now it is only one lot so one application should be fine. Mr. Pearl said they can make this approval contingent on the Subdivision approval from Planning. Mr. Green said granting this special exception will only allow them to Subdivide under these conditions. Chairman Lizotte went through the application with Mr. Green. Mr. Pearl said for question number 5 regarding traffic Mr. Green listed this special exception will not increase traffic. Mr. Pearl said the Subdivision will increase it. Mr. Green said they are granting a reduced setback not the subdivision. Mr. Pearl said by granting this special exception it allows the subdivision that will create more traffic. Mr. Green agreed and made the change to the application. Mr. Aznive questioned if the Subdivision takes place what happens if the lot with only the garage on it doesn't get built. Mr. Pearl said they would have to build on the lot. Mr. Merrill said they granted one on Kenney road that never got built on and how could they enforce the garage comes down. **Mr. Lizotte made a motion to approve the application under the following conditions: Planning Board approval of the proposed lot line presented at this ZBA meeting to grant a 12 foot side setback for both proposed future lots and to remove any structure located within the 12 foot side setback. Mr. Pearl seconded; A roll call vote was taken, Mr. Merrill-yes, Mr. Pearl, Mr. Lizotte- yes, Mr. Tuson- yes, Mr. Aznive- yes. Approved.**

Board Discussion:

Mr. Lake questioned if there was anything in Zoning not allowing two driveways on the same property. Mr. Lake said the Road Agent brought up the issue but couldn't find anything in Zoning to enforce this. Mr. Aznive said this is a usage on a lot that it may have to have multiple driveways. Mr. Tuson said a property with a stream may require another access. The Board agreed this isn't in our Zoning and shouldn't be.

Adjournment:

Mr. Pitman moved to adjourn the meeting at 10:12 pm; seconded by Mr. Aznive; All were in favor.

Submitted by,
Danielle Bosco
Administrative Assistant

