

Loudon Zoning Board of Adjustment
Meeting Minutes
August 22, 2019
7:00pm

Present:

Vice-Chairman Howard Pearl, Roy Merrill, Charlie Aznive, Earl Tuson with alternates Todd Phelps and Peter Pitman. Mr. Ned Lizotte was on vacation.

Vice-Chairman Pearl asked Peter Pitman to vote in Mr. Lizotte's absence. Mr. Pitman agreed. Chief Blanchette of the Fire Department and Deputy William Lake of Code Enforcement were present in the audience.

Vice-Chairman Pearl called the meeting to order at 7:00 p. m.

Mr. Pearl asked all to stand for the pledge of allegiance to the flag.

Minutes:

Regular Minutes July 25, 2019- Mr. Pitman made a motion to accept the minutes as written. Mr. Phelps seconded the motion. All in favor. Yes. Approved.

Discussions: None

Public Hearings:

Application #Z19-12- Donald & Patricia Goodale-Special Exception for a reduced side setback of 24.6 feet instead of 30 feet for a driveway-

Mr. and Mrs. Goodale approached the board with their contractor Robert Harrison they are requesting a special exception for a reduced side set back under section 204.5 of the Loudon Zoning Ordinance. The driveway is for a residential dwelling in a residential neighborhood if it were built to meet the zoning setback requirements this would force the traffic exiting the lot to enter against the traffic flow of the cul-de-sac on Memory Lane. We are requesting a reduction of the side setback to be 24.6 feet instead of 30 feet. The driveway will be pitched a minimum of minus 2% from the road for 12 feet. There are no additional demands on municipal services, groundwater or existing roadways. The driveway will be constructed so that no runoff will drain onto adjacent properties and is located as far away from the property line to allow existing trees to remain between the property line and the driveway. There were no questions from the board members, no abutters in the audience. Mr. Tuson asked that the front page of the special exception request document the amount of the reduction of the side setback. Mr. Tuson made a motion to approve the application with an addition to the front page of the application to specify the amount of the reduced side set back request of 24.6 feet. Mr. Aznive seconded the motion. All in favor. Yes. Approved.

****Ms. Laura Hartz from Orr & Reno law firm representing Dr. Joann Fontaine has asked to withdraw the previous two applications #Z19-08 and #Z19-09 and to move forward with the newly rewritten applications of #Z19-13 and #Z19-04. Dr. Joann Fontaine will be known as Dr. Joann within this document.**

Application #Z19-13- Joann Fontaine-Special Exception: For a Major Home Occupation of a home-based veterinary clinic with the hours of Monday, Tuesday, Thursday 8 am to 6 pm; Wednesday & Saturday 9 am to 12 pm; Friday 8 am to 5 pm; and emergency on-call hours as needed. Mr. Aznive has recused himself from voting on these applications. Mr. Phelps will vote in Mr. Aznive place. Vice-Chairman Pearl stated they will review the two applications presented together. Ms. Laura Hartz of the law firm Orr & Reno spoke to the board regarding this request and stated the veterinary clinic will be conducted in the proposed addition attached to Dr. Joann's residence with 3 employees; one full time and two part-time. The clinic is incidental and subordinate to the residential use because the area of the house devoted to the clinic is approximately 900 square feet smaller than the rest of the house. The proposed addition will blend in with the house by using the same type of siding. Any retails sale of supplies (such as specialized dog food or tick medicine) will be incidental or in connection with the veterinary clinic. Dr. Joann proposes 4 off-street parking spaces, which complies with the ordinance of 1 parking space per 300 SF of veterinary clinic area. All parking for the clinic will be moved to the new parking area and the private driveway will be gated. This is a reasonably adequate amount of parking for her small number of patients. A sign is posted that is consistent with the sign regulations. There will be no exterior storage and no activity that will cause offensive noise, vibration, smoke, dust, odors, heat or glare. The town is welcome to come and inspect. There will be no additional demand on municipal services as the business will not increase as a result of the addition. Ms. Laura Hartz wishes to convey that Dr. Joann will be removing the temporary fill wanted sign as soon as fill is received. The septic system was constructed for a 3-bedroom home, currently, it is used as a 2-bedroom home. There is one bath for the residence and will be adding a half-bath to the clinic. This is within the design of the septic system. The home has well water. Any pet waste and pharmaceuticals are removed by a hazardous waste service on an as-needed basis and will not impact any municipal services. Vice-Chairman Pearl opened the meeting up to the abutters to speak for or against. Mrs. June Atkins stated there was no mention of the impact on the property values. She spoke with a realtor and was told that property values would go down if there is a clinic in the neighborhood. There is more noise and traffic. I don't like seeing the driveway and cars out my picture window. Mr. Charles Atkins, Ora George, Mary George, and Dan Plourde stated their concerns about stormwater run-off as the road floods in the spring and during heavy rains. They feel the blueberry bushes will not contain the water run-off. Mr. Matthew Moore spoke up and stated that he will be working on the design of a drainage system to elevate that issue and will bring it to the planning board when they are ready. Ms. Sandra Simms of the conservation committee is concerned about how damaged the wetlands are already. It doesn't look like wetlands now as it has been mowed. The conservation committee has its own wetland scientist with whom they met. They are concerned with the accuracy that the 40 blueberry bushes will be enough. Maybe they could move the addition to the other side of the driveway closer to the barn, this will put it completely out of the wetland area altogether. Board member Mr. Tuson stated that for a major home occupation as it is laid out in the ordinance, states a major home occupation must take place within the residence.

Patrick Boone, Robin Volk, and Dustin Bowles who are non-abutter's to Dr. Joann's property each spoke to the board. Stating they use Dr. Joann's services and it's a great service to have near-by. Mr. Boone also stated the appearance of the property has gotten better in the 5 years since Joann has had it. The traffic going up Oak Hill has increased over the last 10 years, so there are more fumes and noise which is more that you would get coming in and out of Dr. Joann's parking lot.

Ms. Laura Hartz spoke to the board for rebuttal. Dr. Joann has proposed paving the new driveway to improve the air quality at the request of some neighbors, even though a gravel driveway is better for the groundwater. Dr. Joann is willing to add vegetation to provide a screen for the neighbors, which will be worked out during the planning board meetings. Some comments have been made regarding enforcement, does the board have the authority to enforce if the blueberry bushes get washed away. That is the process here, if the board imposes that there must be blueberry bushes, then that is a condition of approval. It is up to the town to come and inspect that is how Dr. Joann will be held accountable. It is up to the town to enforce the ruling of the Zoning Board. Vice-Chairman Pearl closed public comments at 8:11 p.m. Mr. Tuson asked will the veterinary clinic only be conducted within the addition. Ms. Laura Hartz reviewed and provided clarification that the current surgery room will remain as well as the addition will be the clinic. Mr. Pitman made a motion to accept with conditions that the useable space within the structure for the veterinary clinic be capped at 1500 square feet. You must make a request before the Zoning Board of Adjustment for any expansion in the future. Mr. Phelps seconded the motion. All in favor. Yes. Motion passed.

Application #Z19-14- Joann Fontaine-Variance for a reduced wetlands buffer from 75 feet to 36 feet- for the construction of a proposed 24-foot x 42-foot addition and construction of a new driveway with 4 additional parking spaces. Ms. Laura Hartz of Orr & Reno spoke on behalf of Dr. Joann. The conservation committee has already stated that the wetlands were damaged prior to Dr. Joann owning the property. The existing residence is 61 feet from the wetlands, this house was built before the wetland buffer was established. With the new addition, the house will be 36 feet from the wetlands. Dr. Joann worked with the conservation committee on ways to alleviate damage to the wetland property and has received a recommendation from Tom Sokoloski a NH certified wetland scientist to plant a buffer of 40 blueberry brushes on the outside of the wetlands between the wetlands and the property to stop any runoff, improve water quality and add wildlife habitats. In addition, the conservation committee suggested Dr. Joann close any fence gates that people could access the wetland buffer. Ms. Hartz then presented the board with the following circumstance to show support for the variance. The variance does not alter the essential character of the neighborhood. The existing home overlaps with the wetland buffer because it was built before the wetland ordinance. The prior property owners damaged the wetland. Which was imposed after the house was built? The prior owners damaged the wetland, not Dr. Joann. Dr. Joann's proposal preserves most of the buffer, and—with the shrubs to protect the wetland—could improve the wetland. The neighborhood remains unchanged. There is no gain to the general public in denying the variance. But denying the variance would result in a loss to Dr. Joann. She would be unable to restore her screened-in porch and bedroom to living space. People bringing in their sick animals would have to walk through her kitchen to reach the clinic. Granting the variance would benefit the public because Dr. Joann is the only veterinary clinic in Loudon. There is no change that would affect property value. The addition would not change the area of Dr. Joann's house that is dedicated to the veterinary clinic. There will be no increase in the volume of business, the number of patients, or the

number of employees. Dr. Joann is Loudon's only veterinarian, and it is reasonable to give her permission to move the veterinary clinic from her porch and bedroom to a separate room with direct access for patients. Ms. Hartz concluded her presentation and asked if the board had any questions. The Vice-Chairman Howard asked the board are there any questions? No questions from the board. Mr. Merrill made a motion to accept the application with conditions to work with the Conservation Commission to develop a plan to best mitigate the runoff into the wetland to include the proposed blueberry bushes and other measures as recommended by Conservation. Mr. Pitman seconded the motion. All in favor. Yes. The variance passed.

Board Discussion:

Email from Mary Ann Steele- Asking if the board would consider listing actual street addresses on their agenda in addition to map and lot designation for properties and projects under review. Because the tax maps aren't online, most of us would need to be an abutter, or visit the town office to look at the map to have any idea what's going to be discussed at the meetings. Mr. Pitman made a motion to add the address if known to the agenda. There was no second to the motion, so the motion dies.

Vice-Chairman Pearl stated there is no official position of the board for this item.

Deputy Lake gave the board members a copy of House Bill 312 for their information. Chief Blanchette asked the board if going forward that the notice of decisions is more specific and clearer on timelines, conditions, continuations, etc. Notice of Decisions is legally binding not the meeting minutes. The chief suggested that before a notice goes out that it goes to a committee for review. The board members all agreed this is needs to be the practice going forward.

Adjournment:

**Mr. Merrill made a motion to adjourn. Mr. Pitman seconded the motion. All were in favor.
Meeting adjourned at 8:51 p.m.**

Submitted by,
Karen Hayes
Administrative Assistant