

TOWN OF LANCASTER  
BOARD OF APPEALS  
Town Hall, 695 Main Street  
Thursday, February 28, 2019

Present: Chair Jeanne Rich, Frank Sullivan, Scott Miller, Sarah Gulliver, Robert Baylis, Hannah Meyer, David Stadtherr and Matthew Mayo

Absent:

Also Present: Legal Counsel for the Town Adam Costa, from Mead, Talerman and Costa; Michael Antonellis, Director of Planning & Community Development

List of Documents:

- Board of Appeals Agenda: February 28, 2019
- Application: Lidstone & Perron Appeal of Building Inspector/Zoning Enforcement Officer's Determination, 290 Neck Road
- Letter to the board submitted by Ryan Aldrich
- Memo dated January 22, 2019 from HEI, Engineer Fred Hamwey.
- Memo Dated February 16, 2019 from HEI, Engineer Fred Hamwey, review of wetland bylaws.
- Memo dated February 25, 2019 from Conservation Agent David Koonce.
- Memo dated February 27, 2019 from Michael Antonellis
- Letter from resident Jeanne Rose
- Letter from Resident Thomas Frain
- Letter from Adam Koutza, MassWildlife
- Patrick Garner Wetland report
- Letters from Gregory Jackson
- Summary of issues submitted by Victoria Petracca and Attorney Dan Hill
- TetraTech review of stormwater, Sean Reardon

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There being a quorum present, Chair Rich called the meeting to order at 7:00 PM.

**98 Mary Catherine Drive- Variance**

Chair, Jeane Rich read the public hearing notice for the record.

Lance Hemenway, representative for the applicant, Albert Shpegal, gave an overview of the application. The applicant seeks to build a 24' by 24' detached garage approximately 6 feet from the side lot line, requiring a variance from the Board of Appeals of approximately 14 feet. The garage is situated in a way that the applicant feels makes the most sense, being located at the end of the driveway.

Mrs. Rich questioned the applicant to confirm the amount of relief requested. Mr. Hemenway stated that they can conform to the noted distance showed on the plan prepared by Alton Stone, P.E.

Mrs. Rich confirmed the location of the proposed retaining wall with the applicant.

Sarah Gulliver asked if there were any restrictions placed on Eagle Ridge regarding new buildings. None were confirmed by the board or the applicant.

Scott Miller asked to the applicant to confirm the height of the garage and to confirm the overhand distance.

Mr. Antonellis stated the existing variance on file only applies to existing structures.

Neighbor from 108 Mary Catherine Drive, John Kallagher, spoke in opposition to the garage stating that it impacts his view as a direct abutter.

Mrs. Rich asked about any accessory structures located on Mr. Kallagher's property.

Matthew Mayo asked for clarification regarding the scale of the photos submitted and the ability of the garage to meet setbacks.

The board discussed options of placement with the applicant.

Mr. Kallagher submitted photos for the record.

Scott Miller stated that the applicant did not answer how the proposed would not substantially derogate from the intent of the zoning bylaw.

Mr. Hemenway discussed that the design is such that it will not derogate from the intent of the zoning bylaw, given the land and topography on site.

Arthur Johnson, Board of trustees for Eagle Ridge, spoke in opposition to the garage stating it's too big and does not fit the character of the neighborhood then gave a background of discussions with the applicant and the Board of Trustees.

Sarah Gulliver stated that the application does not meeting variance requirements.

Hannah Meyer stated that she agrees with Ms. Gulliver.

David Staddtherr stated that there is plenty of room on the land for a garage that can confirm to zoning.

Michael Antonellis stated that the applicant may choose to request a Leave to Withdraw without prejudice. The applicant declined.

Upon a motion by Scott Miller and seconded by Sarah Gulliver, the board voted 5-0-0 to close the hearing.

Sarah Gulliver seconded the motion and

Scott Miller made a motion to deny the applicant's petition for a variance, Sarah Gulliver seconded the motion. The board voted 5-0-0 to deny the variance due to a lack of meeting the required Findings of Fact.

**Continuation Public Hearing, Appeal of the Building Inspector/Zoning Enforcement Officer's Determination-290 Neck Road, Robert Lidstone, Applicant and Abutter**

Petitions of Perron and Lidstone were taken contemporaneously.

**Public Hearing, Appeal of the Building Inspector/Zoning Enforcement Officer's Determination-290 Neck Road, Robert Perron, Applicant and Abutter**

*Present for the hearing were Mr. Robert Lidstone & Mr. Robert Perron. Also Present were Ryan Aldrich of 290 Neck Road and "Tom" of Neck Road to be heard.*

Chair Rich offered to the applicants to state additional information to the record.

Both Mr. Perron and Mr. Lidstone did not give any further testimony.

Chair Rich read into the record a letter submitted by Ryan Aldrich.

Tom Kennedy, Neck Road resident, present to be heard. Mr. Kennedy Stated he disagrees with determination of the Building determination.

Bob Perron, restated contentions from previous meetings. Mr. Perron expressed concerns regarding the rules governing expansion of a nonconforming use. Mr. Perron stated his disagreement with the determination of the Building Commissioner specifically relating to ability of the nonconforming use to expand without limits. Stated that Aldrich should be able to grow and expand as it relates to excavating only.

Chair Rich discussed the "grandfathered" status of the property as it pertains to the Building Commissioner's determination.

Mr. Perron discussed Special Permit options for the existing business.

Mrs. Gulliver stated concerns regarding the operation of the business at 290 Neck Road.

Jean Lidstone, resident, expressed concerns regarding hours of operation as well as additional businesses on the property.

Todd Pelmaccio, 343 Neck Road, present to express concerns regarding amount of traffic leaving the site.

Ryan Aldrich discussed why other trucks from other businesses may be visiting the property. Mr. Aldrich also wanted clarification on the parameters of the business.

Robert Baylis asked for clarification on amount of traffic. Mr. Aldrich expressed that it's difficult to quote an accurate figure, but gave an overview of how the business operated as it pertains to the traffic generated.

Mr. Kennedy re-stated issue regarding contending the Building Commissioner's determination on the nonconforming use. Mr. Kennedy stated that the business can be expanded some and trucks can be brought into the site to assist the business.

Mr. Antonellis stated that the board must either vote to support the determination of the Building Commissioner or overturn it.

Voting members on both matters were Robert Baylis, Scott Miller, Frank Sullivan, Sarah Gulliver and Jeanne Rich.

Mr. Miller made a motion to close the public hearing. That Motion was seconded by Ms. Gulliver and the motion passed 4-1-0.

Mr. Miller made a motion to deny the petition of Robert Perron and to uphold the decision of the Building Commissioner. That motion was seconded by Sarah Gulliver. The board voted 4-1-0 in the affirmative to pass the motion with Ms. Gulliver dissenting.

Mr. Miller made a motion to deny the petition of Robert Lidstone based on the receiving the appeal after the allowable appeal period. There was some discussion and Mr. Antonellis offered to the board that they may withdraw motions. Mr. Miller made a motion to withdraw the previous motion, which was seconded by Sarah Gulliver and was withdrawn 5-0-0.

Mr. Miller made a motion to deny the petition of Robert Lidstone and uphold the decision of the Building Commissioner for the reason that the letter issued by the Building Commissioner dealt with expansion of the business. Sarah Gulliver seconded the motion. The board voted 4-1-0 to pass the motion, with Ms. Gulliver dissenting.

**Continuation of Public Hearing, Comprehensive Permit, Goodridge Brook estates Development, Iqbal Ali, Crescent Builders, Inc.**

Present for the hearing were Iqbal Ali,, Crescent Builders, Inc.; Dean Harrison, Development Consultant; Rob Truax, GLM Engineering Consultants, Inc.; and Paul Haverty, Blatman, Bobrowski and Haverty, LLC.

Scott Miller recused himself.

Dean Harrison gave an overview of the changes from the last iteration of the plan. Mr. Harrison stated the applicant is still working on the Environmental Review and that certain items were already tackled as a part of the review to date.

Mr. Harrison then offered to the board to eliminate the building closest to the Bestway site and to increase the density of the remaining building to keep the same amount of units.

Mrs. Gulliver asked for clarification regarding height.

Bob Baylis asked if the applicant could produce alternative future proposed parking. The applicant stated that additional spaces would not be provided, but are willing to identify possible future parking. Mr. Baylis expressed concern regarding amount of parking.

The board went through the waivers list with the applicant.

Attorney Adam Costa asked for clarification regarding the parameters of the Environmental Impact study and discussed the difference between the Subdivision Rules and Regulations and the Wetland Bylaw requirements.

The applicant is still requesting waiver from the Environmental Review, however the applicant is still working towards providing some report that covers a portion of that review. Robert Truax discussed the scope of what that report should contain and the thresholds for other filings the project has crossed.

Chair Rich went over the wetland impacts as it pertains to the wetland bylaw.

Chair Rich stated that the applicant needs to show and explain why waivers are needed and why without the waivers the application would be uneconomic.

Attorney Dan Hill, representing residents, suggested all economic studies be reviewed by a qualified professional and highlighted letter from MassWildlife.

On Waiver number 2, regarding street width, the board expressed eliciting a response from the Fire Department before acting on the waiver. Mr. Truax stated turning templates for fire trucks will be provided.

Waiver #3, Board wants input from the Fire Department.

Mr. Mayo stated concern regarding a “cascade effect” wherein when one waiver is denied the entire plan then needs to change.

The board discussed access with the applicant to the site regarding Waver #3 and providing an emergency access. The Applicant stated there is no feasible emergency access.

Waiver #4, regarding right of way width. Mr. Truax discussed concern regarding the current design being substantially impacted without the waiver.

Mr. Antonellis asked for clarification regarding ownership of the proposed roads. The applicant stated they are intended to be public.

Waiver #5, regarding iron rods and concrete monuments.

Mr. Truax stated concerns regarding the amount of concrete monuments that would be required given the proposed development and suggested substituting for Iron Rods for at least a portion of the site.

The board discussed putting concrete on the front of the lawns and the rear portion of the lots may have iron rods.

Waiver #6, regarding centerline radius. The board discussed wanting input from the Fire Department and concerns about granting waiver.

Waiver, to allow multifamily use in Residential Zone. Mr. Antonellis explained that multifamily uses are not allowed in Residential Zones per the Zoning Bylaw, and that the applicant requires relief from that provision.

Chair Rich discussed asking for a pro forma. Attorney Costa and attorney Paul Haverty discussed the parameters for requesting a pro forma.

Regarding requested waiver from the height requirement. Iqbal Ali discussed removing 1 building and making up the difference on the remaining buildings. The board is requesting Fire Department input.

There was some discussion among the board about the logistics of the amount of stories and the proposed height.

Mr. Harrison discussed how the density will increase within the remaining 2 buildings.

Mr. Mayo expressed interest in seeing a rendering of the proposed increased height of the building from the perspective of the road.

Mrs. Gulliver suggested removing one building and making up only a portion of the difference within the remaining buildings. Attorney Haverty stated that anything less than the proposed amount of units would be uneconomic.

Attorney Costa suggested going through the remainder of the waivers before requesting a pro forma.

Waiver regarding minimum lot area and other dimensional requirements. The board discussed similar projects that may be a similar size for lot area. Specifically Eagle Ridge and Jones Crossing. Chair Rich asked staff for a comparison amongst the proposed development with existing and approved developments.

Chair Rich asked for differences in style and positioning of the proposed single family homes to break up the massing and monotony of design.

Mr. Harrison suggested a comparison between what was approved for Field Crest Estates and the currently proposed Goodridge Estates regarding waivers.

Regarding the request of fee waivers, the board wanted clarification of the board's ability to grant these waivers. Mr. Costa stated that it is within the board's purview.

The board expressed not being amendable to waiving fees.

Regarding sewer fees waiver, the applicant suggested withdrawing this request.

Regarding the intermittent stream for the wetland bylaws, the board stated this will be addressed through the Environmental Impact Analysis.

Mr. Baylis commented on wanting to see a proposed shading plan

Attorney Hill stated that a comment letter has been submitted to the board by TetraTech regarding drainage plans and asked that the board respond to the letter. Attorney Hill also stated concerns regarding fire access and auto-turn plans as well as additional fire code issues.

Attorney Hill discussed possible air pollution concerns regarding the Bestway site. Stated the site is not compatible for high density. Suggested this be made a part of the scope of the Environmental Analysis.

Attorney Hill stated that the site is an industrial area, the businesses paid for design work of the sewer and contemplated the expansion of certain businesses as a result of the proposed development and as that ties in to state funding for the MassWorks grant.

Arthur Johnson gave an overview of the issues he has identified in a letter to the board regarding fire code issues.

Attorney Paul Haverty stated the applicant will grant a 30 day extension of the Public Hearing and 40 Days in addition for the decision Deadline beyond the April 1 deadline.

Ms. Rich stated she would like revised plans in less than 2 weeks so engineering may review.

**Upon a motion by Matthew Mayo and seconded by Hannah Meyer, the board continued the hearing to March 28, 2018. The motion was approved 5-0-0.**

#### **2018 Annual Report**

Upon a motion by Matthew Mayo and seconded by Sarah Gulliver the board voted 5-0-0 to move the item to March 28, 2019.

#### **Approval of Minutes**

**October 25, 2018** – Upon a motion by Frank Sullivan and seconded by Bob Baylis the board voted 5-0-0 to approve the minutes

**December 27, 2018** - Upon a motion by Frank Sullivan and seconded by Bob Baylis the board voted 5-0-0 to approve the minutes

**With there being no other business before the Board, Chairman Rich called the meeting adjourned at 10:15 PM.**