

**FRANKLIN ZONING BOARD
REGULAR MEETING AND PUBLIC HEARING**

Wednesday, August 2, 2017 at 7:00 p.m.; City Council Chambers

Minutes

Call to Order

- ❑ **Salute to the Flag**
- ❑ **Roll Call: Present-Glen Feener, Jeffrey Dickinson, David Testerman, Kathlene Fleckenstein, Debbie Davis Absent-Cecile Cormier**
- ❑ **Approval of Minutes of the June 7, 2017 Public Meeting of the Board. Dickinson/Fleckenstein moved and seconded approval of the minutes as written. All in favor.**

Old Business: None

New Business: Chairman Feener stated that they would be hearing Z17-07 and Z17-08 prior to hearing Z17-06.

- ❑ **Z 17-07: Ralph Oliver requests a variance from Section 305-14, Lot and Yard Requirements to make his property at 33 Lake Shore Drive, Map/Lot # 034-035-00 [Map sheet J4] in the Lake Protection zone, less conforming by subdividing off a 25 foot strip and deeding it to his property at 32 Lake Shore Drive, Map/Lot 034-023-00, which is across the street, thereby creating lake access to that property.**

Planner Lewis informed the board for the record that although Mr. Oliver is a friend, he processed this application as he would any other application.

Mr. Oliver told the board of his wish to subdivide a 25 foot strip of property from 33 Lake Shore Drive and deed it to his other property across the road. The property at 33 Lake Shore Drive has 145' of frontage on both lake and road. It is less non-conforming than other properties in the area. His property at 32 Lake Shore Drive has a deeded right of way that is less than 10 feet wide, but it is right next to the 25 foot strip in question. Several other properties share the same deeded right-of-way. Mr. Oliver passed out photographs of the properties and the existing docks. Currently 33 Lake Shore is rental property, but with approval of the variance he would sell the property at 32 Lake Shore and keep 33 Lake Shore for their personal use. The deeded strip of land would enhance the eventual sale of 32 Lake Shore Drive. Mr. Oliver stated that John Sherman, an abutter, offered to write a letter of approval, but he didn't think it was necessary. Addressing the remarks of another abutter regarding congestion due to cars parked on the edge of the road, Mr. Oliver admitted that on one Saturday night the renters had a party and there were 5-6 extra cars. Normally there is plenty of off street parking at 33 Lake Shore Drive and there would be no impediment to the Right-of-Way with the deeding of the 25 foot strip of land.

Member Testerman asked if the transfer of the 25 feet was to create legal access to the lake for 32 Lake Shore Drive. Mr. Oliver confirmed that and stated that the strip could not be developed. There were two docks at 33 Lake Shore when he purchased it so there would not be any increase in dock density with the subdivision. Member Fleckenstein mentioned that the same results could be obtained from an easement. Mr. Oliver stated that the biggest benefit would be lessening the taxes on #33 and increasing the value of #32.

Chairman Feener opened the discussion to the public. Mr. James Beard (spelling) asked if one of the docks was taken down would a new buyer be able to install a new dock since there wouldn't be 75 feet of lake frontage. Mr. Lewis said that the dock would be considered grandfathered by DES.

Member Testerman / Member Fleckenstein motioned / seconded approval of the variance. For the record, Chair Feener read the letter from abutter Kyle Matzke expressing his concern that the subdivision of the property in question would create a safety issue with road congestion and impeded access to the shared right-of-way.

Member Dickinson suggested an addition to the motion that approval is subject to the condition that the applicant obtain subdivision approval from the Franklin Planning Board. All were in agreement with that addition to the motion. By a vote of 5-0-0 the motion passed.

- ❑ **Z 17-08: John Marrapese requests a variance from Section 305-14, Lot and Yard Requirements to build a 14' x 24' accessory structure that will not meet the side setback [15-feet proposed versus 50-feet required]. The property is at 307 Lake Shore Drive (Map/Lot 032-036-00 in the LP [Lake Protected] district, Map Sheet H5.**

Mr. Marrapese stated that he wanted to put in a storage shed, but in order to avoid blocking the lake view from his house, he wanted permission to put the shed closer to the side lot line than the 50 feet required for the LP district. Chairman Feener asked if the building was a temporary structure, one without a pour concrete foundation and Mr. Marrapese said that it will only have a gravel floor. Planner Lewis stated that a building permit will be required and a final inspection for a Certificate of Occupancy.

There was no public comment and Chair Feener read the two emails from abutters both of which expressed their approval. The discussion was brought back to the board and Member Fleckenstein / Member Dickinson motioned/seconded approval of the request which passed by a vote of 5-0-0.

- ❑ **Z 17-06: Marc Chauvette requests a variance from Section 305-14, Lot and Yard Requirements to construct a 3-season camp on his property at 41 Riverview Drive, Map/Lot # 115-024-00 in the R1 [Low Density Residential District], Map Sheet K7, that does not meet the 150-foot frontage requirement on a City accepted road. Riverview Drive is a private road.**

Mr. Chauvette addressed the board stating that he wished to present his property in the best monetary value possible so that he could sell it. The site along the Pemi currently has a camper, approved septic and well. Of the five parcels that he owns there are two with water frontage that he'd like to merge to create a lot sufficiently large to allow for the construction of a three-season house. The parcel in question has 150' frontage on a private road and a total area of 2,700 sq. feet. The parcels along Riverview Drive were established prior to the current zoning lot requirement of 40,000

sq. feet, but he would be willing to combine the two waterfront parcels to obtain the 40,000 sq. feet necessary. If he obtains the variance and building permit approval, he could create a marketable piece of property.

Member Testerman said that he understood that one of the issues is that the private road is inaccessible by emergency vehicles and asked if Mr. Chauvette would be prepared to improve the condition of the road either or ask other property owners to pitch in. Mr. Chauvette said that he couldn't afford that alone and he didn't see how you could force others to put in money to get this done. He added that what the city considers impassable by multi-ton four wheel drive vehicles isn't to who own property down there. Member Testerman reiterated that emergency services have reported that they may not be able to get in there in a timely fashion and asked Mr. Chauvette if he would be willing to sign a paper releasing the city from that responsibility. Mr. Chauvette said he would and then added that his properties are along the best stretch of the road.

Member Fleckenstein asked if the board requires him to combine the lots, would it require a survey. Mr. Chauvette told the board that he had a formal survey already. Member Dickinson asked for clarification, stating that the paperwork the board received mentioned the merging of three properties, not just two. Mr. Chauvette said that if they merged 024, the lot with the trailer, and 088 which abuts it and is also on the water, the total square footage becomes 42,800, thereby satisfying the zoning ordinance. Including the third piece of property would only increase the tax burden on the waterfront property.

Chair Feener asked if the camper presently on this property is allowable. Planner Lewis stated that in a previous Appeal of an Administrative decision regarding the Lynn Spain property, the board upheld his decision that camping is not permitted. He added that Mr. Chauvette has a DES approved septic and well and that he's taken a lot of steps homeowners would do to create a seasonal camp or a house. Mr. Chauvette added that they put the camp in in 1999 before the ordinance was struck. Mr. Chauvette presented a deed and a map that shows his ownership of the upper portion of Dottie's Lane and that they have had to give a Right of Way for others to use that lane.

The Chairman opened the discussion to the public. Mrs. Chauvette acknowledged her approval of the application. No others spoke either in favor or against the application.

Public hearing closed and discussion brought back to Board. Planner Lewis mentioned that he pointed out in the memo to the board that any time you are dealing with road law in New Hampshire, RSA 674.41 dealing with private roads, class six roads, you are in complex territory. Attempts to make contact with the city attorney haven't worked out due to various vacations, but the plan is to set up a meeting with him to review these issues. Planner Lewis suggested that it might be best to continue the public hearing to next month so that there is enough time to review all the documentation. Member Dickinson asked what was the rational for merging three lots together instead of just two. Planner Lewis stated the issue is development on a private roadway. He stated that Fire Chief LaChapelle has indicated that there are times when he would not take a vehicle down there. Time is of an essence in an emergency. The City of Franklin is not required to allow development on a private roadway and public safety is of primary concern. How much development on private roadways is a topic in need of discussion. The city can either refuse to allow development or limit the amount of development by requiring the merger of smaller lots.

Mr. Chauvette stated that there is already a year round house built there on the same road and that all he is asking for is a three season house permit.

Member Dickinson stated that he wasn't ready to make a decision tonight and made a motion that the hearing be continued at the next Zoning Board meeting. Member Fleckenstein seconded the motion. Mrs. Chauvette inquired why the materials weren't reviewed before now and Chairman Feener stated Mr. Lewis mentioned that he was unable to get together with the city attorney.

Mr. Chauvette added that with approval of the three season building permit, the non-conforming camper would be removed.

Chairman Feener asked for a vote of those in favor of continuing the meeting on Wednesday, September 6th. All were in favor.

Planner's Update: House legislation HB86 addressing how ZBAs vote on the application criteria was vetoed by the governor. Member Testerman stated that since it was vetoed the board will keep doing things as it is doing now.

Other Business: None

Public Comment: None

Adjournment: Testerman/Dickinson motioned for adjournment. All were in favor and the meeting adjourned at 7:50 pm.

The next scheduled meeting of the Zoning Board of Adjustments is Wednesday, Sept. 6, 2017, at 7:00 p.m.; the Deadline date for submission of applications for this meeting is Wednesday, August 16, 2017.