

PRESENT: Dever, Chairman; Pelczar, Vice-Chairman; Thorpe, Reichlen, Clark, Tivnan, Clerk

Thorpe moved, Reichlen seconded, THAT WE APPROVE THE MINUTES OF AUGUST 11, 2011 as presented. (Clark abstained)

PUBLIC HEARING

2954: DASLTK, LLC: An appeal for a SPECIAL EXCEPTION (ARTICLE V, SECTION D-6) to convert a commercial office building to a 7 unit residential multi-family building, Tax Map S17, Lot No.17E, located at 15 Northview Drive in the Commercial-Rte.3 South District and the Waukegan Watershed Overlay District.

Regina Nadeau-I was here a couple of months ago regarding this property. We came before you for a variance on density. We were granted the variance. We have been to the Planning Board and obtained conditional approval for the site plan. As a result of those, we are now before you for a Special Exception. We have increased the pervious area in the back parking area. The parking in the back of the building will allow seasonal vehicles but only during the season they are utilized. We have conditions to impose on all of the leases. They include, limiting the parking to the back of the building, no exterior hanging of laundry, no outside storage of any kind, and all activity behind the building. The building is wood sided and looks residential. The applicant has no intention of making any real architectural or exterior modifications. The use will not be detrimental to the character or enjoyment of the neighborhood or be injurious, noxious, or offensive for the reasons I just explained. The use will not be contrary to the public health, safety or welfare by reason of undue traffic congestion or hazards because the use of the building will actually represent a reduction in the number of occupants and there is easy access off Northview Drive onto Rte 3. We ask that you consider that all of these considerations would warrant the granting of a Special Exception. Hearing closed at 7:18 PM.

2955: LITTLE FAMILY 2007 REVOCABLE TRUST: An appeal for a VARIANCE (ARTICLE V, SECTION D-4B) to construct a new single family dwelling with a front setback of 36.8', 65' required, Tax Map I06, Lot No. 22, located at 288 Bear Island in the Shoreline District.

Dan Ellis (Ames Associates) - This site is on Bear Island. The existing building was built in the 1930's and is located 24.7' from the shoreline and the attached deck is 16.8' from the shoreline. There are two accessory buildings located to the rear of the lot and the leachfield that was installed in 1989 is working. The distance between the 65' shoreline setback and the 30' rear setback is about 14'. The proposal is to remove and replace the dwelling. It is proposed to be 36.8' from the shore at the closet point. The project includes the installation of storm water infiltration trenches around the dwelling. The reason for the variance ,as I stated, the distance between the setbacks is 14' and the existing leachfield and accessory structures to the rear of the lot limits how far back we can go. We don't believe granting the variance would diminish the values of surrounding properties because the proposed residence will be of modern construction. It should increase values. The variance would not be contrary to the public interest because, as a whole, the proposed project would better protect the public water. Granting the variance would do substantial justice because denying the variance would cause hardship to the applicant. Granting the variance would observe the spirit of the ordinance which is to protect lake water quality. This project would offer better protection to the lake. Literal enforcement of the provisions of the

ordinance would result in an unnecessary hardship because this property cannot be reasonable developed because the property is very shallow and the location of the leachfield. Clark – Is there any risk with the house being so close to the leachfield? David Ames – I designed the system in 1989 and the one most recently. The answer to that is no. This proposed foundation is at the toe of the fill of the old leachfield. As you can see on the plan, the leachfield is at an angle to the lot line and the house is parallel to the lot line and this created a swale, so any water coming off the roof will have an exit to the west. Clark – One plan says existing leachfield and one plan says proposed. Is the existing system going to be reused? Ames – Mr. Little asked if he should replace it. I said no, because even though it is some 24 years old, it has only been used 2-3 months a year. It is in effect more like 6 years old. To dig it all out and replace with a new one environmentally does not make sense. Hearing closed at 7:25 PM

2956: RICHARD & MARGARET TRACY: An appeal for a VARIANCE (ARTICLE V, SECTION D-COVERAGE) to construct a garage with lot coverage of 32.4%, 30% required, Tax Map R07, Lot No.28, located at 71 Collins Brook Road in the Shoreline District.

Dan Ellis – We are withdrawing this application.

2957: RICHARD & MARGARET TRACY: An appeal for a SPECIAL EXCEPTION (ARTICLE IV, SECTION 6C-2), to expand a non-conforming structure by more than 400 sq. ft., Tax Map R07, Lot No.28, located at 71 Collins Brook Road in the Shoreline District.

Dan Ellis (Ames Associates) – The existing house is 25' from the shoreline. The proposal is to repair the existing foundation and add a second floor of 1100 sf. of living space. This is more than the 400sf allowed by a building permit only but is allowed by Special Exception. No proposed change to the footprint. The general criteria for a Special Exception address use and there is no proposed change in use so it would not be detrimental to the character or enjoyment of the neighborhood. The specific criterion for this expansion is that the expansion does not encroach into a setback area beyond the pre-existing limit of encroachment. This does not. General criteria (b) again address use and there is no change in use. Specific criteria (b) address the expansion cannot be located in the 25' Natural Woodland Buffer. This expansion is outside the woodland buffer. General criteria (c) again address use. Therefore, the use will not be contrary to the public health, safety or welfare. Clark – I see there will be a new septic system. Ellis – Yes. Clark – I'm concerned with the lot coverage. I'm wondering if there is an opportunity here to compensate for the increased coverage of the garage by reducing some of the coverage on this parcel. Ellis – We just withdrew the application to exceed the lot coverage allowed. The Tracy's have decided to address the increase in coverage some other way. Right now we are just discussing the Special Exception for the residence. Hearing closed at 7:30 PM

2958: MATTHEW DEAVILLA: An appeal for a VARIANCE (ARTICLE V, SECTION D- 4B) to remove and replace an existing single family dwelling with a front setback of 28.3', 65' required, Tax Map R07, Lot No.15, located at 101 Collins Brook Road in the Shoreline District.

2959: MATTHEW DEAVILLA: An appeal for a VARIANCE (ARTICLE V, SECTION D- 4B) to construct a garage with a 19'side setback, 20' required and a 19' rear setback, 30' required, Tax Map R07, Lot No.15, located at 101 Collins Brook Road in the Shoreline District.

Nicol Roseberry (Ames Associates) – Pointed to areas on the plan that meet building setbacks. As you can see, the lot is non-conforming and the structures that do exist are non-conforming. The lot has hardships involved from the get-go. The stairs are very steep and hazardous. We propose to remove the existing garage and the new one will be at a greater distance to both sidelines at 19' although still

encroaching in the 65' setback but it would be increased in distance to the shoreline to 50'. This proposal will be more conforming than what is there now. There is no proposed change in the footprint of the new residence. The intent in the beginning was to have a second story addition; however, having contractors look at the property many conditions with the foundation were pointed out to him. The structure would not be able to support the addition. We are now going to rebuild in the same footprint. To safely access the dwelling, we are proposing a deck and an elevated footbridge so you have a level surface to reach the structure and allow for moving things in and out of the building. The grades change numerous times around the property. There is no other way to place this structure to get it further from the shoreline. In addressing the criteria for the variance for the house, granting the variance would not diminish the values of surrounding properties because we are building a modern structure of greater value. Granting the variance would not be contrary to the public interest because we are rebuilding in the same footprint. No part of the proposed structure will be closer to the water than the existing house. Granting the variance would do substantial justice because to rehab the existing structure in order to support the addition would be an undue financial hardship and with no outweighing public benefit. Granting the variance would observe the spirit of the ordinance. The ordinance would allow expansion of this existing non-conforming structure by special exception, as it is not located within the 25' woodland buffer. The only reason we are asking for the variance is because we are removing and replacing with a new one due to the conditions of the foundation. The proposed structure will not come closer to the shoreline than the existing one. The dimensions of the lot make a variance necessary. David Ames – I just want the Board to know this is not a pocket septic plan. There will be a new septic system. Thorpe – I don't see lot coverage on this plan. Roseberry - Existing is 5.8%, proposed is 13.8%. Hearing closed at 7:45 PM.

2960: LAWRENCE SULLIVAN: An appeal for a VARIANCE (ARTICLE V, SECTION D- 2B) to construct a deck with an 11'4" side setback, 30' required, Tax Map W04, Lot No.1E, located at 35 Black Brook Road in the Forestry/Rural District. (Applicant did not show)

Dever – Motion to continue to our next scheduled meeting?

Clark moved, Thorpe seconded, IN CASE # 2960, Lawrence Sullivan, I move the appeal for a variance (Article V, Section D- 2B) to construct a deck with an 11'4" side setback, 30' required, Tax Map W04, Lot No.1E, located at 35 Black Brook Road in the Forestry/Rural District. BE CONTINUED TO THE NEXT SCHEDULED MEETING. Voted -5-0 in favor.

2961: JOHN & DONNA ROETHEL: An appeal for a VARIANCE (ARTICLE IV, SECTION 6D-1) to expand a non-conforming structure by more than 400 sq. ft., in excess of 16' or 50% of the length of the plane being expanded, Tax Map U31, Lot. No.15, located at 21 Tommy's Cove Road in the Shoreline District.

Carl Johnson (Advanced Land Surveying Consultants) – We are here to expand an existing non-conforming structure. Expansions of non-conforming structures area allowed by Special Exception provided that the building planes is not expanded by more than 16" or up to 50%, whichever is greater. This restriction falls hard on existing non-conforming structures that are small. That is why we are here asking for a variance. Tommy's Cove Road is a private way that is unbounded and undefined. This area was developed in 1910 and at the time there was supposed to be a roadway constructed through there where all these lots would be accessed from. That did not happen. There were not many options for expanding this property. They really can't go back because of an existing ROW and utilities plus they would become closer to the property line. We are not going the full length of the house because the town's 25' setback runs through the front portion of the house. We

would then need a variance for that. The foot print now is 655sf. and with the expansion, it will be 1288 sf. This is very reasonable. In proposing this expansion we need State approval, which we have received. The proposed conditions plan showing the expansion also shows how they are going to address surface water and impervious surface. There are proposed vegetative buffers, a stepping stone path to the dock, and a new pervious paver patio which replaces the existing impervious patio. There will be three new areas where there will be plantings of native vegetation. The roof run off of the existing structure comes right down to the ground now. What is proposed is to not only gutter the roof drainage for the proposed expansion but to gutter the existing structure also and have the runoff go into two drywell systems. The house right now has an existing septic system to the back of the lot. We contacted DES and it is an approved four bedroom system. The current house has three bedrooms and there will be only one added bedroom with the expansion. In terms of the criteria for a variance, in my presentation I covered a few of them. This is a residential property and right now the Roethel's rent the property during peak rental season. This addition is intended to have extra living space when they retire up here. We don't believe this would diminish the values of surrounding properties because the addition is centered on the front and it's getting no closer to the abutter on the short side. This does not impede the existing Tommy's Cove Road access to the Widener property. It would not be contrary to the public interest because with the methods we are using to treat the storm water, we are better protecting the quality of the lake. Denial of the variance would result in an unnecessary hardship because this is a small house with a reasonable expansion. As a result of the granting of the variance, it would create substantial justice for the owners and therefore not be contrary to the spirit of the ordinance. Gerry Seidel- I live at 7 Tommy's Cove Road. I am impacted because the primary access to the Roethel's house is across my land. Tommy's Cove Road is my driveway. This is a rental property advertised to sleep 8 people. Any addition will expand the number of renters. This will increase the traffic. Johnson – The Zoning Board as I understand it, does not control whether or not a property is used for residence or rental. I understand his concerns with the problems with Tommy's Cove Road, but this would be no different than if an older couple lived in the house and sold it to a family with six kids. It's a valid concern but I don't believe it applies to the ordinance. Hearing closed at 8:10PM

DELIBERATION

2954: DASLK, LLC:

Clark – It seems to me the presenter has done a good job covering all criteria for a Special Exception. I see no problem with this.

Clark moved, Reichlen seconded, IN CASE # 2954 DASLK, LLC., I MOVE THE APPEAL FOR A SPECIAL EXCEPTION (ARTICLE V, SECTION D-6) TO CONVERT A COMMERCIAL OFFICE BUILDING TO A 7- UNIT RESIDENTIAL MULTI-FAMILY BUILDING, TAX MAP S17, LOT NO.17E, LOCATED AT 15 NORTHVIEW DRIVE IN THE COMMERCIAL-RTE.3 SOUTH DISTRICT AND THE WAUKEWAN WATERSHED OVERLAY DISTRICT BE GRANTED, AS IT MEETS THE CRITERIA FOR A SPECIAL EXCEPTION. Voted 5-0 in favor.

Dever - Thirty day appeal period

2955: LITTLE FAMILY 2007 REVOCABLE TRUST:

Clark – It seems to me again that the presenter has covered all five criteria for a variance and there is certainly a hardship on this property. They answered my septic question to my satisfaction. I see no problem with granting this variance. Thorpe- I agree. Let’s go down the criteria.

1. Granting the variance would not diminish the values of surrounding properties: All agreed it would not.
2. Granting the variance would not be contrary to the public interest. All agreed it would not.
3. Granting the variance would do substantial justice. All agreed it would.
4. Granting the variance would observe the spirit of the ordinance. All agreed it would.
5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. All agreed it would. Thorpe – Because of the location of the septic system, it really puts constraints on where the building could go.

Clark moved, Thorpe seconded, IN CASE #2955, LITTLE FAMILY 2007 REVOCABLE TRUST, I MOVE THE APPEAL FOR A VARIANCE (ARTICLE V, SECTION D-4B) TO CONSTRUCT A NEW SINGLE FAMILY DWELLING WITH A FRONT SETBACK OF 36.8’, 65’ REQUIRED, TAX MAP I06, LOT NO. 22, LOCATED AT 288 BEAR ISLAND IN THE SHORELINE DISTRICT BE GRANTED, AS IT MEETS THE FIVE CRITERIA FOR A VARIANCE. Voted 5-0 in favor.

Dever - Thirty day appeal period

2957: RICHARD & MARGARET TRACY:

Clark – I think they have met the criteria for a Special Exception.

Thorpe moved, Clark seconded, IN CASE # 2957, RICHARD & MARGARET TRACY, I MOVE THE APPEAL FOR A SPECIAL EXCEPTION (ARTICLE IV, SECTION 6C-2), TO EXPAND A NON-CONFORMING STRUCTURE BY MORE THAN 400 SQ. FT., TAX MAP R07, LOT NO.28, LOCATED AT 71 COLLINS BROOK ROAD IN THE SHORELINE DISTRICT BE GRANTED, AS IT MEETS THE CRITERIA FOR A SPECIAL EXCEPTION. Voted 5-0 in favor.

Dever - Thirty day appeal period

2958: MATTHEW DEAVILA:

Clark – I just want to say this is a property that has the clearest case of hardship of all that I have considered. Dever – I didn’t know this lot even existed.

1. Granting the variance would not diminish the values of surrounding properties: All agreed it would not.
2. Granting the variance would not be contrary to the public interest. All agreed it would not.
3. Granting the variance would do substantial justice. All agreed it would.
4. Granting the variance would observe the spirit of the ordinance. All agreed it would.
5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. All agreed it would.

Reichlen moved, Pelczar seconded, IN CASE #2958, MATTHEW DEAVILA, I MOVE THE APPEAL FOR A VARIANCE (ARTICLE V, SECTION D- 4B) TO REMOVE AND REPLACE AN EXISTING SINGLE FAMILY DWELLING WITH A FRONT SETBACK OF 28.3', 65' REQUIRED, TAX MAP R07, LOT NO.15, LOCATED AT 101 COLLINS BROOK ROAD IN THE SHORELINE DISTRICT BE GRANTED, AS IT MEETS THE CRITERIA FOR A VARIANCE. Voted 5-0 in favor.

Dever - Thirty day appeal period

2959: MATTHEW DEAVILA:

Dever – Did we all look at the garage? I'm surprised you even put your boat trailer in there.

1. Granting the variance would not diminish the values of surrounding properties: All agreed it would not.
2. Granting the variance would not be contrary to the public interest. All agreed it would not.
3. Granting the variance would do substantial justice. All agreed it would.
4. Granting the variance would observe the spirit of the ordinance. All agreed it would.
5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. All agreed it would.

Clark moved, Thorpe seconded, IN CASE #2959, MATTHEW DEAVILA, I MOVE THE APPEAL FOR A VARIANCE (ARTICLE V, SECTION D- 4B) TO CONSTRUCT A GARAGE WITH A 19' SIDE SETBACK, 20' REQUIRED AND A 19' REAR SETBACK, 30' REQUIRED, TAX MAP R07, LOT NO.15, LOCATED AT 101 COLLINS BROOK ROAD IN THE SHORELINE DISTRICT BE GRANTED, AS IT MEETS THE FIVE CRITERIA FOR A VARIANCE. Voted 5-0 in favor.

Dever - Thirty day appeal period.

2961: JOHN & DONNA ROETHEL:

Clark – I'd like to address Mr. Seidel's comment about the additional use relative to the property. While I understand what it is like to have renters down the street; we would be granting a variance for the physical property, not for some reason that allows them to have more people in there. There is no limit to the number of people that can use property in our zoning ordinance.

1. Granting the variance would not diminish the values of surrounding properties: All agreed it would not.
2. Granting the variance would not be contrary to the public interest. All agreed it would not.
3. Granting the variance would do substantial justice. All agreed it would.
4. Granting the variance would observe the spirit of the ordinance. All agreed it would.
5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship. All agreed it would. Clark – They are really limited by the placement of the road in this case. It is a very tight property.

Pelczar moved, Clark seconded, in case #2961, JOHN & DONNA ROETHEL, I MOVE THE APPEAL FOR A VARIANCE (ARTICLE IV, SECTION 6D-1) TO EXPAND A NON-CONFORMING STRUCTURE BY MORE THAN 400 SQ. FT., IN EXCESS OF 16' OR 50% OF THE LENGTH OF THE PLANE BEING EXPANDED, TAX MAP U31, LOT. NO.15, LOCATED AT 21 TOMMY'S COVE ROAD IN THE SHORELINE DISTRICT BE GRANTED, AS IT MEETS THE FIVE CRITERIA FOR A VARIANCE. Voted 5-0 in favor.

Dever - Thirty day appeal period.

Meeting adjourned at 8:45 PM

Respectfully submitted,

Christine Tivnan
Planning/Zoning Clerk

Approved by the Meredith Zoning Board on October 13, 2011

Mike Pelczar –Vice -Chairman