

September 18, 2008

Present: Polly Roberts, Brad Sedito, Todd Catlin

Alternates: Georgia Middlebrook, Roderick Wyant III

Absent: Randolph Snook, Alt. Georgia Middlebrook, Alt. Peter Bowman

Staff: Shelley White

Others: Stephanie Trzyna, Peter Herbst, Robert Slaymaker, Dennis McMorrow, Tammy Marquis, Greg Esker

Brad Sedito, Chairman called the meeting to order at 7:31pm.

PUBLIC HEARING

7:32 pm

Mr. Sedito seated regular members Polly Roberts, Todd Catlin, himself, Alt. Rod Wyant and Alt. Georgia Middlebrook.

ZBA-0821, Request of Brinkmann, 50 Orchard Lane, petition for special exception, Zoning Regulation 12.14.1, 12.14.3(noise generating equipment) to install generator.

Ms. Stephanie Trzyna from Stephen Lasar, Architects was present to represent Alice and Klaus Brinkmann of 50 Orchard Lane. Ms. Trzyna presented a map titled Property Boundary Survey, 50 Orchard Lane, by T. Michael Alex, dated 8/31/08. Ms. Trzyna explained that the Brinkmanns would like to place the generator an additional 70 feet to the east of the 25 foot maximum line. It will be installed in an existing valley and rock wall. The generator will be closest the neighbors west of the property that are 3200 feet away.

Mr. Sedito asked to see the specs on the generator.

Ms. Roberts said the position of the generator will have less impact on the neighbors.

Motion: to close the public hearing to consider application ZBA-0821, Request of Brinkmann, 50 Orchard Lane, application for special exception, Zoning Regulation 12.14.1, 12.14.3 (noise generating equipment) to install generator, by Rod Wyant, seconded by Todd Catlin, by a vote of 5-0

MEETING

Mr. Catlin stated that he would rather see the generator in a building. He feels that it is positioned to have less impact on the neighbors.

Mr. Wyant agrees with Mr. Catlin and supports the application.

Ms. Roberts agrees and believes that the generator is well sited.

Mr. Sedito & Ms. Middlebrook agree and are in support of the application.

Motion: to approve application ZBA-0821, Request of Brinkmann, 50 Orchard Lane, application for special exception, Zoning Regulation 12.14.1, 12.14.3 (noise generating equipment) to install generator, by a vote of 5-0.

7.41 pm

Mr. Sedito seated regular members Polly Roberts, Todd Catlin, himself, Alt. Rod Wyant and Alt. Georgia Middlebrook.

PUBLIC HEARING

ZBA-0822 Request of Marquis, 104 Blackville Road, petition for special exception, Zoning Regulation 11.6.1.c (front and rear setback), 17.4.a (increasing non conformity), for construction of deck.

AND

ZBA-0823, Request of Marquis, 104 Blackville Road, application for variance, Zoning Regulation 11.5.1.a (lot coverage), 12.1.1 (watercourse setback), 17.4.a(increasing non conformity), for construction of deck.

Ms. TammyAnn Marquis was present to represent this application. She presented drawings and photos of the existing deck. She also presented a map prepared for Lynn M. & Russell Mackie, dated August 1, 1991, Linwood R. Gee & Son Inc.

It was noted by Mr. Sedito that the coverage of the lot was roughly the same.

Mr. Catlin asked what was under the deck and asked if the deck was no closer to the watercourse than the previous shed that was there.

Ms. Marquis stated that there was a slab and that the deck is the same distance from the watercourse as the shed was. Ms. Marquis stated that she had been to the Inlands/Wetlands Commission and was approved.

Mr. Sedito looked at the site map and took measurements.

The Commissioners examined the site map and ask questions regarding the set backs.

Mr. Sedito stated that the Commission prefers to have a hearing before the work is done, yet, there is an obvious hardship with the size of the lot.

Mr. Terry Tiernan, of 109 Blackville, stated that he is in favor of the application, and that the deck was an improvement as far as looks and safety.

Motion: to close the public hearing to consider application ZBA-0822 Request of Marquis, 104 Blackville Road, petition for special exception, Zoning Regulation 11.6.1.c (front and rear setback), 17.4.a (increasing non conformity), for construction of deck, by Rod Wyant, seconded by Polly Roberts, by vote of 5-0.

Motion: to close the public hearing to consider application ZBA-0823, Request of Marquis, 104 Blackville Road, application for variance, Zoning Regulation 11.5.1.a (lot coverage), 12.1.1 (watercourse setback), 17.4.a(increasing non conformity), for construction of deck., by Rod Wyant, seconded by Polly Roberts, by vote 5-0.

MEETING

Ms. Roberts stated, in regard to the request for the special exception, that the deck is reasonable in scope and there is not much one could do because of the size of the lot. Regarding the variance, Ms. Roberts stated that the physical location of the property and the fact that it is 1/10th of an acre, sandwiched between Mallory Brook and the road is a hardship.

Mr. Wyant agrees with Ms. Robert and believes the small size and location of the lot is a hardship.

Mr. Catlin stated that he does not have a problem with these applications that it supports continued use and the property is difficult because of the size and Ms. Marquis has the support of her neighbors.

Ms. Middlebrook agrees with the other commissioners and says that the deck improves the use of the house as well as the appearance.

Mr. Sedito agrees the deck continues the use of a family dwelling and is reasonable in scope. Regarding the variance, he stated that it predates zoning and there is a small increase in lot coverage and Inland/Wetlands approved the deck, and he is in favor.

Motion: to approve application ZBA-0822 Request of Marquis, 104 Blackville Road, petition for special exception, Zoning Regulation 11.6.1.c (front and rear setback), 17.4.a (increasing non conformity), for construction of deck, by vote of 5-0.

Motion: to approve application ZBA-0823, Request of Marquis, 104 Blackville Road, application for variance, Zoning Regulation 11.5.1.a (lot coverage), 12.1.1 (watercourse setback), 17.4.a(increasing non conformity), for construction of deck, by 5-0 vote.

7:59 pm

Mr. Sedito seated regular members Polly Roberts, Todd Catlin, himself, Alt. Rod Wyant and Alt. Georgia Middlebrook.

PUBLIC HEARING

ZBA-0824, Request of Puertas, 72 Horse Heaven Road, petition for special exception, Zoning Regulation 12.14.1, 12.14.3 (noise generating equipment), to install a generator.

Mr. Greg Esker was present to represent Mr. Miguel Puertas of 72 Horse Heaven Road. Mr. Esker explained that the generator has already been installed and he presented pictures of the site of installation. The generator has been installed 32 feet away from the house between the garage and a large boulder that acts as a natural barrier.

The Commissioners examined the Site Analysis Plan, dated September 2003, prepared by T. Michael Alex.

Mr. Esker stated that the generator has been in used since October of 2007 to use during construction of

the home and none of the neighbors have complained. Mr. Esker stated that the only other place to put the generator would be next to the garage and that would throw more noise out and disturb the neighbors.

Mr. Sedito stated that as long as it operates below 70 decibels it is okay.

Motion: to close the public hearing to consider application ZBA-0824, Request of Puertas, 72 Horse Heaven Road, petition for special exception, Zoning Regulation 12.14.1, 12.14.3 (noise generating equipment), to install a generator, by Polly Roberts, seconded by Rod Wyant, by 5-0 vote.

MEETING

Ms. Middlebrook stated that it was well thought out and placed and is in favor.

Mr. Catlin stated that he has no problem with the location but he was not happy that it was installed before approval. Mr. Catlin stated that he is not in favor of this application for this reason.

Mr. Wyant is in favor and thinks the generator is well positioned.

Ms. Roberts agrees with Mr. Catlin and thinks there should be a penalty but she is satisfied with the position of the generator and is in favor.

Mr. Sedito stated that he would like to further discuss the possibility of a penalty. He stated that he is looking at the application as if it was not installed and believes that it is properly placed and is satisfied because the neighbors have not complained.

Motion: to approve application ZBA-0824, Request of Puertas, 72 Horse Heaven Road, petition for special exception, Zoning Regulation 12.14.1, 12.14.3 (noise generating equipment), to install a generator, by 4-1 vote, Todd Catlin was not in favor.

8:15 pm

PUBLIC HEARING

Mr. Sedito seated regular members Polly Roberts, Todd Catlin, himself, Alt. Rod Wyant and Alt. Georgia Middlebrook.

ZBA-0825, Request of Slaymaker, 17 Sunset Lane, application for variance, Zoning Regulation 12.1.1, 12.1.3 (wetland and watercourse setback), to build new home and septic system.

Attorney Peter Herbst, Mr. Robert Slaymaker and Mr. Dennis McMorrow, engineer, were present to represent this application. Attny. Herbst stated that the property is 88%-90% wetlands. The house was constructed in 1944 and is 384 sq. ft. Attny. Herbst stated that the proposed improvements have been approved by Inlands/Wetlands Commission. Both the house and the septic system are within wetlands.

Mr. Slaymaker is proposing to put in a new septic system in a location that will be out of wetlands and a newly constructed house that will less direct impact to the wetlands, closer to the road and modestly larger at 1400 sq. ft. The old house will be torn down and the property owner has a wetlands restoration plan that has been approved by the Inlands/Wetlands Commission.

Mr. Sedito pointed asked if there were plans for a garage. Mr. Slaymaker stated there were not.

Motion: to close the public hearing to consider application ZBA-0825, Request of Slaymaker, 17 Sunset Lane, application for variance, Zoning Regulation 12.1.1, 12.1.3 (wetland and watercourse setback), to build new home and septic system, by Polly Roberts, seconded by Rod Wyant, by 5-0 vote.

MEETING

Mr. Catlin stated that the existing home is very small, there will be an improvement of wetlands by moving the house and septic system and the proposed new construction is modest and in a better location and he is in favor of the application.

Mr. Wyant stated that the plans were well thought out and he is in favor.

Ms. Roberts agrees that the proposed house is very modest and the septic system is in a better spot.

Ms. Middlebrook stated that this property poses a definite hardship and the location of the leaching field is an improvement.

Mr. Sedito stated that the proposed plan is a definite improvement and is satisfied if Inlands/Wetlands approve it.

Motion: to approve application ZBA-0825, Request of Slaymaker, 17 Sunset Lane, application for variance, Zoning Regulation 12.1.1, 12.1.3 (wetland and watercourse setback), to build new home and septic system, by 5-0 vote.

8:29 pm

OTHER BUSINESS

The Commissioners discussed how many applications were scheduled for hearing for the October 18th meeting.

Mr. Sedito suggested that the Board rehear ZBA-0627, White, 6 Parsonage Lane application on a separate date.

Ms. White is to poll ZBA Commissioners to see if they are available.

Mr. Sedito asked if the Commissioners had any questions on the White/Jacobson ruling.

8:50 pm

Motion: to adjourn at 8:50 pm by Mr. Wyant, seconded by Ms. Roberts, by a 5-0 vote.

Submitted subject to approval,
Shelley White, Land Use Clerk