

Town of Alfred
Zoning Board of Appeals Minutes
June 10, 2021
6:00p.m.

Members Present: Dennis Brewster, John Caramihalis, Julie Gerrish, Cynthia Swaney, Rick Hambleton and John Morin

Absent: Rick Carter

Others Present: Patrick Desmond, Crystal Desmond, Leah Rachin, Joe Olszewski, Mel Joslyn, Nancy Joslyn, Joan Colby, Jim Allaire, Paula Allaire, Chris Carpenter, Glenn Charette and Tammy Bellman

Chairman Brewster called the meeting to order at 6:03p.m. A quorum is attained with the members present at the regular meeting.

The Board Members introduced themselves.

Mr. Caramihalis recused himself from the Board due to a conflict and went to sit in the audience. Previous discussion – know what took place.

Ms. Swaney moved to accept the agenda as presented with second by Mr. Hambleton. No further discussions. Vote: Brewster – yea; Gerrish – yea; Swaney – yea; Hambleton – yea; and Morin – yea.

New Business & Public Hearing

Public Hearing - Continuation

Patrick Desmond – Administrative Appeal for the denial of the permit was based on a misinterpretation of the ordinance regarding Map 5 Lot 15-1 – Mr. Brewster open the Public Hearing at 6:06pm. Mr. Brewster listed the previous meeting dates relating to this continuation; April 10 Site Walk; April 12 Meeting; May 24 Meeting that was continued to June 10 due to lack of a quorum. A brief synopsis was provided by Mr. Brewster on the meetings and site walk noted. The process was reviewed by Mr. Brewster for those in the audience. Mr. Brewster asked for any new information on the case that has not been heard to date.

Mr. Desmond noted he had no new information.

Mr. Caramihalis - Requested to go over the information and clarify information: another abutter has brought up the fact that they have a deed stating that Cable Bridge Road to Gore Road is 50' in width – thought that this would be addressed by Legal.

Mr. Brewster – The Joslyn deed is very confusing; Cable Bridge Road is not 50' wide.

Mr. Caramihalis – Previous discussion – know what took place; spoke with Code and Glenn Charette did not talk with Patrick; Patrick does have a 50' wide right-of-way (ROW); the abutters are against his using Crestview Drive – it would up a can of worms; has deeded ROW down Cable Bridge Road; has a 50' wide access through Crestview Drive – which the ordinance says needs; the Payeur permit was issued in error and a second permit was issued also in error for a second building – for property located past the Desmond property.

Ms. Rachin – Clarification – please – Mr. Desmond's property has no relevance to the other property.

Mr. Caramihalis – Is relevant – precedence setting.

Ms. Rachin – Understandable with information presented.

Mr. Brewster – Requested clarification on the second building.

Mr. Caramihalis – A garage – non-habitable/horse barn within 12 months – 50' right-of-way deeded access' build house on 40 acre parcel; road being taken care of.

Mr. Brewster – Work within the statutes.

Ms. Rachin – Know this is a complicated matter, deeds, minutes, information; I am reminding the Board here to decide based on the administrative appeal of the CEO is within your jurisdiction; look at the decision of the CEO on January 21; look at the provision; look at the evidence; did CEO error in denial of the permit; if wrong – grant the appeal; if not then you can approve; who has the burden of proof – Mr. Desmond needs to prove to you that the CEO denied the permit in error; the ordinance at issue is 160-92 Access to Lots – understand the two provisions of the ordinance – an existing lot and a new lot created after the ordinance; they are both the same – need a 50' wide ROW; the Desmond's have two ROW listed on their deed – a 50' of Crestview and across Cable Bridge Road. (1) First inquiry – is a ROW – may be used provided it is 50' or 33' wide if street is less. (2) Driveway permit – under NFPA must be 20' wide – not met (3) as long as he has 50' access – he can use to other ROW as he doesn't have to access the 50' ROW access. Evidence – Desmond deed has several ROWs – 3 different ROW from 1. Brackett Hill; 2. Cable Bridge Road has no dimensions (per Lester Roberts at a Planning Board meeting only 16') 3. Grondin – that traveled way; 4. Travel Way; 5. A departure on deed of Mr. Joslyn talks of 50' ROW to Gore Road. A growth permit was granted to Rhoel's the previous owners.

Mr. Brewster – To Mr. Charette - The growth permit only puts you in-line for a building permit?

Mr. Caramihalis – A septic design is also required.

Mr. Charette – Yes only a place holder.

Mr. Brewster – Does Mr. Desmond have a current growth permit? Or current septic design?

Ms. Rachin – My view - past decisions of the CEO/Planning Board are not precedence setting – they are not binding. Growth Permit and HHE-200 have expired. If issued in error – not binding. If the foundation was in with permit – a different situation.

Ms. Desmond – It is a conflict of interest with CEO being an abutter and making the decision.

Ms. Rachin – Within his rights to make a decision and in the record if you opt to move forward. Whether he got it right or wrong it is not this Boards decision.

Mr. Allaire – Requested to address the merits of this requirement.

Ms. Rachin – Asked if he was speaking as the abutter or the CEO?

Mr. Allaire – The abutter. What sense is it to not get an emergency vehicle down the road? 50' get the emergency vehicle to the emergency; what they can get it into the scene but not out of the location. Mr. Desmond's letter is a concern. Two years attempting to get the permit – he initially came in two years ago and then did not return until now. Construction trades jump through hoops in obtaining a permit. Was told there was not enough sight distance on Gore Road; 8% slope for driveway – is probably 20% - would need to bring in fill; CEO told it would be difficult. Cable Bridge Road is not a legal road. Two mistakes have been made. The road was looked at during a drought – was very narrow. Do we want to make another mistake?

Mr. Caramihalis – Interrupted with he had a growth permit and septic design.

Ms. Rachin – To DCEO Charrette – whether or not require a land use analysis?

Ms. Gerrish – No current Growth Permit?

Mr. Brewster – To DCEO – is it current?

Mr. Charrette – Not current.

Ms. Desmond –The ordinance does not say we have to use driveway that can allow emergency vehicle. Why others use it and we cannot. You have to look at the ordinance.

Mr. Desmond – Is Cable Bridge Road a private road or a driveway?

Ms. Rachin – Not relevant – bring back to ordinance – definition of a street. Who owns the underlying property is not relevant the 50' wide ROW deed access that they do not want to use – not relevant. Is relevant that does not meet the 50' wide or 33' wide ROW per the ordinance. Ms. Desmond's point well taken. Will be determined with discussion.

Mr. Desmond – Sight distance on Gore Road?

Ms. Rachin – What I heard are concerns – my understanding is on notice of decision from CEO.

Mr. Caramihalis – Mr. Desmond has offered to put a turnaround in for emergency use and Cable Bridge Road only way to get there – build a large turnaround for fire truck.

Ms. Gerrish moved to close the Public Hearing at 6:58pm with second by Ms. Swaney. No further discussion. Vote: Brewster – yea; Gerrish – yea; Swaney – yea; Hambleton – yea; Morin – yea.

Mr. Morin stated for the record that he has reviewed the administrative record as well as listened to the recording of the proceedings to this date. He hereby stated that he was apprised of the relevant documents, submissions, and issues presented in this appeal.

The Board discussed the appeal in length. Ms. Rachin noted that the findings need be very specific with the criteria of either approval or denial.

Ms. Gerrish moved to motion that Mr. Allaire, CEO did not make an error that it was not a misinterpretation of the ordinance with second by Mr. Brewster. No further discussion. Vote: Brewster – yea; Gerrish – yea; Swaney – abstain; Hambleton – yea; Morin – yea. Mr. Brewster – the Desmond case has been denied. Based on the discussion held Ms. Rachin will draft the Findings of Fact and Conclusion for the Board to approve and sign within 7 days. Ms. Bellman will post the Agenda for the meeting to be held on Saturday, June 12, 2021 at 9am here at the Town hall. The appeal process will be noted in the Findings.

The Board took a five-minute break.

Mr. Caramihalis did not return to the meeting.

Mr. Brewster called the meeting order at 7:30pm. Mr. Morin moved to continue with the agenda with second by Mr. Hambleton. No further discussion. Vote: Brewster – yea; Gerrish – yea; Swaney – yea; Hambleton – yea; Morin – yea.

Old Business

Jacob Roy – Variance Findings of Fact and Conclusions – Will be addressed at the June 12, 2021 meeting once Mr. Hambleton has had the opportunity to review ALL of the records.

Minutes

April 10 & 12, 2021 – Mr. Brewster moved to accept the minutes of April 10 and April 12, 2021 as written with second by Ms. Gerrish. No further discussion. Vote: Brewster – yea; Gerrish – yea; Swaney – yea; Hambleton – yea; Morin – yea.

May 10, 2021 – Continued on June 12, 2021.

May 24, 2021 - Mr. Brewster moved to accept the minutes of May 24, 2021 as written with second by Ms. Gerrish. No further discussion. Vote: Brewster – yea; Gerrish – yea; Swaney – abstain; Hambleton – yea; Morin – yea.

Communication

York County Commissioners – Sampling Wells Up-Date – Rick deRochemont reached out to Jim Allaire and Kerry Smart, Alfred Water District regarding the sampling wells at 149 Jordan Springs Road. As you are aware, it was brought up during the zoning board meeting that the Water District was having difficulty obtaining samples from the monitoring wells on our property. After the issue was brought to the county's attention, Don-Rite Plumbing was scheduled to inspect the well. Sturgeon Creek Enterprises was brought in to jet the well. SW Cole was hired to complete an inspection to determine if there were any failures. After inspecting these wells, it has been determined that the wells are as drilled at 50-foot depth and are functioning as designed. They determined that the failure to obtain a decent sample was due to the severe drought conditions. Monitoring wells are not designed to be as deep as the sampling is for surface contaminants only.

Miscellaneous

Ms. Gerrish brought up an issue with Mr. Brewster resigning from the Zoning Board of Appeals. Ms. Gerrish has requested that he rescind the resignation. Mr. Brewster discussed the request with the Board; all members were in favor. Ms. Bellman was requested to approach the Board of Selectmen with this request. Ms. Gerrish suggested an Executive Session in two weeks.

The meeting time on June 12, 2021 was changed by the Board to 8am here at the Town hall.

Adjournment

Ms. Gerrish moved to adjourn the meeting at 8:02pm with second by Mr. Morin. No further discussion. Vote: Brewster – yea; Gerrish – yea; Swaney – yea; Hambleton – yea; and Morin - yea. The meeting was adjourned.

These minutes were approved on June 26, 2021



Julie Gerrish, Secretary/Acting-Chair