

APPROVED

Town of Grantham Zoning Board of Adjustment Minutes July 7, 2016

Chairman Conrad Frey called the meeting to order at 7:00 p.m. on Thursday, July 7, 2016 in the lower level of the Grantham Town Hall located at 300 Route 10 South.

Present: Chair Conrad Frey; Members Richard Mansfield; Myron Cummings; Margery Bostrom; Tanya McIntire; Alternates Peter Guillette; Peter Gardiner and Selectmen's Representative Sheridan Brown.

Public: Michael DiFabio; Erin Darrow; Brian Hastings; Robert Fuller.

Approval of Minutes

Chair Frey asked the Board members if there were any corrections to the minutes from the May 26, 2016 meeting. Mansfield stated on page two; third paragraph, first line should read "system free flow" not system free throw. Chair Frey asked for a motion to approve the minutes as amended. Cummings made motion and seconded by Mansfield?

Unanimously Approved

Old Business

Appeal - #07-2016-1 Map 234 Lot 061

Michael DiFabio, property owner

Erin Darrow, Right Angle Engineering PLLC / applicant

Chair Frey stated that before the Board got into tonight's meeting (and he wasn't present due to medical reasons at the first meeting) he wanted to clarify the differences between an appeal and a rehearing and proceeded to explain to everyone present. Frey next explained that at the last hearing some abutters had been omitted from the original mailing list and had since been included in the mailings for this evening's hearing. Frey next asked if there were any abutters present that had not been at the meeting on May 26, 2016. Abutter Robert Fuller said he had been at the last meeting. Frey said that the condition that had been placed on the application at the last meeting had been in conflict with Department of Environmental Services (DES). Frey continued that this was the only thing going to be discussed tonight so as not to reopen the case.

Chair Frey said Selectmen's Representative Sheridan Brown had brought some information to his attention with rules DES has on plantings of vegetation surrounding the areas of the new septic system so that it is green from abutters view and abutters privacy is protected. Frey said the applicant also needs to submit a landscape plan incorporating these measures before construction can begin to the Eastman Environmental Control Committee.

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Chair Frey stated that only the members that were present at the original meeting on May 26, 2016 would be able to make a decision on this hearing tonight so that would exclude himself and McIntire. Frey next asked applicant Erin Darrow to state her reasoning for the change.

Darrow stated that they wanted to address the condition that was placed on their application at the last meeting that a pump be required, will not work for this type of septic system and would not be approved from Department of Environmental Services (DES). Due to the elevations in this system, given the location of the proposed house the pump is not needed so therefore they now have an approved septic system that is gravity fed from DES.

Abutter Robert Fuller asked Frey if at this time he could ask a question. Frey stated yes. Fuller asked Darrow if they could design a system with the pump or design a system without a pump. Darrow said due to location and DES rules this system would be without a pump.

Cummings next spoke of what was said at the last meeting on May 26, 2016 and how Darrow had mentioned that due to the location more than likely there would be a pump and that is how he had come up with the decision to add the condition that a pump be required and would be a necessity. DiFabio said that he wasn't an expert on this; he was going by what DES has said. Darrow stated that the system they would be installing is necessary and approved by DES. Cummings stated that his biggest concern was protecting the homeowner from any future problems. DiFabio thanked Cummings for his concern.

Chair Frey asked if there were any further discussion with regards to the "condition" of the pump. Selectman Brown stated that he had spoken to a DES representative and he (the DES representative) was told that he wasn't aware of any one specific rule to approve the system with a pump or not. Darrow stated that she and her designer had over 25 years of experience dealing with these types of situations and this particular design was better without the pump and she had also contacted someone from DES. At this time Frey stated that it is the consensus that you can operate without a pump and in the future if one was needed you could put one in.

At this time Zoning Board Alternate Peter Guillette arrived after attending a Planning Board meeting. Frey asked for him to sit in on this hearing since he was present at the original one on May 26, 2016.

Chair Frey asked if anyone was against rescinding the original "condition" that a pump was needed for the septic system. The Board agreed they were not against it. The Board voted to have the first condition removed. ***Unanimously Approved***

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Chair Frey wanted to know if there had been anything about landscaping at the last meeting. Darrow stated what they had discussed at the last meeting was upon completion they would be revegetating the area in compliance with the DES rules and Eastman Environmental Control Committee (ECC) Darrow said that basically what that means is going around the leach field and re-vegetate the buffer that had been disturbed. Darrow also mentioned that quite a few of the trees that exist now are old and falling down in the area where the leach field will be going.

Selectman Brown stated that his concern that every condition brings with it the burden of enforcing it if it is not adhered to by the applicant. That burden falls to the Board of Selectmen, which already has enforcement matters to deal with. When conditions are vague, Brown said, it leads to non-enforcement or requires legal action to settle a dispute. The point of conditions is to allow for a variance while minimizing its impact upon abutters. This helps ensure consistency with the spirit of the zoning ordinance. Brown noted extensive discussion at the last hearing on this application about the purpose of setbacks and measures to protect abutters' privacy and views. He also expressed concern about the cumulative impact of variances that reduce required setbacks but don't go as far as they can through conditions to minimize visual impacts. Brown asked the Zoning Board members to consider making the language of the existing condition related to replanting of vegetation more precise in safeguarding abutters' views and privacy and requiring the vegetation to be approved as part a plan that must be submitted to the Eastman Environmental Control (ECC) committee prior to construction. By making the condition prospective in its effect rather than purely retrospective, it provides greater insurance that the vegetation will be replaced by giving abutters the ability to seek enforcement of the landscape plan within the Eastman Community Association rather than relying on the Town to enforce the condition if adequate vegetation is not restored.

Chair Frey asked the Board members if they would consider what Brown is saying to be part of the conditions to be met. The Board members continued to further discuss the re-wording of the second condition.

Chairman Frey recognized Brian Hastings and he told the Board that in his business, Hastings Construction, he also was an installer of septic systems and nobody is going to install a pump if it is not needed, if gravity works they have to use gravity. Hasting stated that Eastman has a good system and their engineer looks at all of these plans before they are installed and has a guideline of where the septic system will be installed and makes sure and protects the vegetation in the areas of question where any septic system is to be installed.

Chair Frey and Board members decided on the following changes in the second condition to read as follows:

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New Condition:

“While maintaining compliance with NH Department of Environmental Services (NHDES) laws and rules, vegetation shall be planted surrounding the septic system so that to the greatest extent possible it is screened from abutters’ view and their privacy protected. Construction shall commence only after the applicant has submitted a landscape plan incorporating these measures and has received approval of the plan by the Eastman Environmental Control Committee.”

Unanimously Approved

Darrow and DiFabio thanked the Board.

Other

Chair Frey stated that Brian Hastings was here this evening to ask the Board some questions pertaining to the zoning of his property that was grandfathered in before Zoning came into effect back in March of 1990.

Hastings stated that after reading through the Zoning Board Ordinance he was wondering what he could do because he was possibly reaching a point where he might want to sell the property or have his children end up with it. His concern was with his business being a construction company and technically a commercial business back before zoning in the 1960’s.

Frey explained that once the property is grandfathered, the use grandfathered cannot change unless a variance is granted.

Hastings thanked the Board for their time and information.

Adjournment

Chair Frey stated there being no further business a motion was made by P. Gardiner and second M. Cummings to adjourn the meeting at 7:50 p.m.

Unanimously Approved

The next meeting of the Zoning Board will take place on August 25, 2016. Application deadline for that meeting is August 5, 2016.

Respectfully Submitted,
Martha Norris
ZBA Clerk