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WEARE ZONING BOARD OF ADJUSTMENTS
MEETING MINUTES
December 5, 2023

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PRESENT: Chairman Jack Dearborn; Vice Chairman Michael Meyer; Bobbi-Jo Plamondon, Member; Marc Morette, Member; Malcom Wright, Member.

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Town Administrator: Naomi L. Bolton

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GUESTS: David Nelson; Emily Bainton

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Chairman Jack Dearborn called the meeting to order at 7:30 PM.

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I. INTRODUCTION/ADMINISTRATIVE ITEMS: Chair Dearborn explained the process of how the meeting would be conducted. He asked all members present to introduce themselves.

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II. PUBLIC HEARINGS:

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Case #23-2023: Joseph A. Dussault, Trustee of Joseph A. Dussault Revocable Trust (Owner); Town of Weare (Applicant); 407 Riverdale Road; Tax Map 412-130; Village Zone – Variance, Article 14, Section 14.2. The owner is donating 510 square feet of his existing, non-conforming lot to the Town of Weare to improve the intersection of River Road and Riverdale Road.

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Mr. Dussault provided written permission for Town Administrator Naomi Bolton to present the application. Town Administrator Bolton gave an overview of the property and the reason for needing the variance. Several years ago, Mr. Dussault offered the Town a corner of his property to improve the intersection of River Road and Riverdale Road. The Town paid to have the property surveyed. The plan takes 510 square feet of Mr. Dussault’s property and donates it to the Town. This is the first step. It requires a variance because it makes an already non-conforming more non-conforming by reducing the 510 square feet. If this is approved, the next step is for the Planning Board, to the Selectman to accept the donation and then to have legal paperwork done to complete this project.

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Town Administrator Bolton was then asked to address the five points of hardship. The replies are as follows:

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1. The Variance will not be contrary to the public interest because: The variance will not alter the essential character of the neighborhood; it will just be providing the Town the ability to make a better/safer intersection. It will allow trucks to be able to make a better turning radius without crossing over onto the oncoming traffic. It will also benefit the owner, so that the traffic is not causing any damage or trespassing onto private property.

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2. Describe how the spirit of the ordinance is observed: By reducing the existing lot by 510 SF to increase the safety of the intersection and all motorists will enhance the safety and welfare for all traveling motorists using that intersection. Vehicles will not have to cross over into the

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47 other lane to make the turn. They will also not be trespassing and causing damage to private
48 property.
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50 **3. Describe how substantial justice is done:** Substantial justice will be done to allow the Town
51 this additional 510 SF of intersection to make a safer, better intersection for all that travel the
52 public way. The benefits for the safety of all will outweigh the harm to the general public and
53 the owner's private property, if not allowed to improve the intersection.
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55 **4. Describe how the values of the surrounding properties are not diminished:** The property
56 values will not be diminished as there will be no change other than it will allow the Town to
57 own the property to be able to make a safer intersection. The owner's property will not incur
58 damage to make this safer. It is currently being used at times when traffic makes turns. This
59 will just make all the traffic motions be on Town owned property versus private property.
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61 **5. Literal enforcement of the provisions of the ordinance would result in unnecessary
62 hardship:**

63 **A. Describe the special conditions of the property that distinguish it from other
64 properties in the area:** The location of the intersection is in the village, where
65 properties are located very close to one another. Back hundreds of years ago this was
66 sufficient, but as the community has grown and more vehicles, including tractor trailers
67 are using the road, the small intersection needs improvement to be safe for all.
68 Goffstown has closed their end of Parker Station Road to no thru trucking, forcing all
69 the trucks that use River Road to make a sharp turn to the right and head out to Route
70 114 in that direction. At times trucks have to use part of the oncoming lane to make
71 the turn. This variance would allow the Town to improve the intersection and to keep
72 all the traffic on Town property versus the private property owner.
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74 **i. Owing to the special conditions identified above, please indicate how no fair
75 and substantial relationship exists between the general public purposes of the
76 ordinance and the specific application of that provision to the property:** The
77 special conditions of the property is that currently it is a pre-existing, non-
78 conforming lot regarding the size. Zoning, when created, made the minimum size
79 of 1.93 acres and this lot was created in 1830, 150 years prior to the Town having
80 zoning. Over time, traffic has increased in volume and kinds of traffic (trucks).
81 Allowing 510 SF to be donated to the Town to make a safer intersection far
82 outweighs the specific provision of lot size.
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84 **ii. Owing to the special conditions identified above, please indicate how the
85 proposed use is a reasonable one; (explain how the special conditions of the
86 property and the zoning restriction interferes with the reasonable use of the
87 property):** The proposed use of 510 SF to improve the intersection is a reasonable
88 one. Due to the lot size and location this request for safety for the public a reasonable
89 one. The strict adherence of the zoning ordinance in this application poses a danger
90 to anyone that uses the intersection, especially when the neighboring abutting Town
91 closed off thru truck traffic forcing everyone to take a sharp right. This would allow
92 the Town to redesign the road to keep all traffic on their side of the road and to keep
93 from damaging the property owner's property.
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95 **The definition of "unnecessary hardship" set forth in subparagraph (5) shall apply whether the
96 provision of the ordinance from which a variance is sought is a restriction on use, a dimensional or
97 other limitation on a permitted use, or any other requirement of the ordinance.**

98 **B. Please describe the special conditions of the property that distinguish it from other**
99 **properties in the area:** The special conditions of the property is that it is close to the
100 intersection and created over 150 years ago when traffic was far different than today,
101 in numbers of vehicles using the road and types of vehicles (large trucks). Allowing
102 the owner to donate 150 SF to the Town to make the intersection for all motorists is a
103 huge benefit.

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105 **Owing to the special conditions identified above, please indicate how the property**
106 **cannot be reasonably used in strict conformance with the ordinance, and a variance is**
107 **therefore necessary to enable a reasonable use of it:** Keeping in strict conformance of
108 the ordinance by not allowing the owner to donate 510 SF of the corner of the owner's
109 property to the Town to improve safety would be a safety issue for the Town and anyone
110 that uses the roadway. A variance is needed to make the current pre-existing, non-
111 conforming, more non-conforming in order to improve the safety for all. Denying this
112 variance would be denying the public the ability to have a safe intersection and the owner
113 continual property damage. It is a reasonable use of the 510 SF.

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115 Being there were no further questions from the Board, Chairman Dearborn asked for any:

116 **Approving Abutters:** David Nelson, 10 River Road stated that this is a fantastic idea and looking forward
117 he would like to see the Town consider a possible four-way intersection with stop signs. It was just done
118 in the Gorham Pond Road area in Goffstown, and it is a huge improvement for safety to all.

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120 Emily Bainton, 11 River Road stated that she also thinks this is a fantastic idea. She is also concerned
121 about all the truck noise in that area.

122 **Disapproving Abutters:** None

123 **Public at Large:** None

124 **Other Boards:** None

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126 Chairman Dearborn stated that for the record he will go back around a second time.

127 **Rebuttal of Applicant:** Town Administrator Bolton stated she was all set.

128 **Approving Abutters:** None

129 **Disapproving Abutters:** None

130 **Public at Large:** None

131 **Other Boards:** None

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133 Being there were no further questions or comments, Chairman Dearborn closed the public hearing at 7:44
134 PM.

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136 **Malcolm Wright made a motion to accept point one; seconded by Vice Chairman Meyer. Discussion:**
137 Chairman Dearborn stated that the spirit of the ordinance is to allow orderly growth. This request makes
138 the property more non-conforming, but it makes sense to mitigate the hazards. **Motion passed 5-0-0.**

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140 **Malcolm Wright made a motion to accept point two; seconded by Bobbi-Jo Plamondon. Discussion:**
141 Chairman Dearborn stated again that the spirit is for orderly grown and safety and approval of this would
142 be a significant benefit for all traffic that uses the intersection. **Motion passed 5-0-0.**

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144 **Vice Chairman Meyer made a motion to accept point three; seconded by Bobbi-Jo Plamondon.**
145 **Discussion:** Chairman Dearborn stated that substantial justice is done for the Town and the applicant. It
146 will make a safer intersection for the Town and eliminate the possible property damage to the owner.
147 **Motion passed 5-0-0.**

149 **Bobbi-Jo Plamondon made a motion to accept point four; seconded by Vice Chairman Meyer.**
150 **Discussion:** Chairman Dearborn stated that this is not affecting any property to allow the Town to make a
151 safer interaction. Marc Morette stated that it will be welcoming and has no negative impact to surrounding
152 properties. **Motion passed 5-0-0.**
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154 **Malcolm Wright made a motion to accept point five in its entirety; seconded by Bobbi-Jo Plamondon.**
155 **Discussion:** Chairman Dearborn stated that the literal enforcement allows hazardous conditions to exist.
156 This is very nice of the owner to help the Town. Vice Chairman Meyer stated the ordinance allows for
157 safety and this variance allows the town the ability to make it safe for all. **Motion passed 5-0-0.**
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159 **MINUTES:**

160 **Vice Chairman Meyer motioned to accept minutes from November 7, 2023, as amended, and Mark**
161 **Morette. All in favor 5-0-0.**
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163 **Motion to adjourn made by Marc Morette at 7:55 p.m. Seconded by Malcolm Wright. Vote passed**
164 **5-0-0**
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166 **ADJOURNMENT**

167 A True Record.

168 *Naomi L. Bolton*

169 Naomi L. Bolton, Town Administrator