



WEARE ZONING BOARD OF ADJUSTMENTS
MEETING MINUTES
September 12, 2023

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

Finance Administrator: Beth Rouse

GUESTS: Police Chief Chris Moore, Finance Administrator Beth Rouse, Tom Clow, Kim & Jim Allatt (Applicants), Diana & Garrett Proulx (Applicants), Craig Francisco

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

I. INTRODUCTION/ADMINISTRATIVE ITEMS: Chair Dearborn explained the process of the Variance and how the meeting would be conducted.

II. PUBLIC HEARINGS:

Case #14-2023: Town of Weare (Owner); Police Department, Chief Chris Moore (Applicant); 888 Concord Stage Road (East Fire Station), Tax Map 403-211; Rural Agricultural Zone – Variance, Article 32, Sections 32.1; 32.2.2; 32.4.1; 32.6.1; 32.6.4; 32.6.5; 32.7.1F & 32.7.2. The applicant is requesting to erect a 120' ground-mounted, self-supporting lattice tower made of steel and welded construction on the southeast corner.

The Zoning Board reviewed all documentation submitted with the application for completeness.

Malcolm Wright moved; Marc Morette seconded to accept Case #14-2023 as complete. The vote passed 5-0-0.

Police Chief Chris Moore said they will be using ARPA Funds to be able to erect a 120' ground-mounted, self-supporting lattice tower. They will be working with two-way communication. Currently, they have poor radio communication. They have investigated the cost and they would like to keep costs low. One of the biggest things is reoccurring fees and have investigated existing towers and most want to negotiate at least a ten-year lease. The fees can typically be \$20,000 to \$30,000 annually and they would like to get away from that. The proposed project would include a 120' self-supported lattice tower made of steel and welded construction on the southeast corner. Chief Moore said that electronic radio components supporting the project would be added to the interior of the existing building. They have spoken with the Fire Department and they have made a space for the radio components so they do not have to put an external cabinet out in public view. There would be an underground conduit conducting the two areas. Retaining walls may be needed since there is a slight slope. Chief Moore said the Department of Public Works is going to do some work and a security fence will be put around the Tower. The BOS discussed some possible landscaping.

1. **The Variance will not be contrary to the public interest because:** Chief Moore said the variance is necessary as it is in the public's interest to complete the improvements required to provide an effective and efficient emergency communication system. The current system compromises the public and employees' health, safety, and welfare as it does not provide adequate or reliable coverage in the Town. The inability to communicate effectively and request potentially life-saving resources could lead to delays in victims receiving medical assistance or a critical incident scene not being properly managed or resolved which could lead to additional damage or injury.
2. **Describe how the spirit of the ordinance is observed:** Chief Moore said that not completing these upgrades to the emergency radio communication system is a threat to the public and employee's health, safety, and welfare. The variance would not injure the public rights of others.
3. **Describe how substantial justice is done:** Chief Moore said by applying for the variance on behalf of the Town not granting the variance to permit the project could cause harm to the public and employees.
4. **Describe how the values of the surrounding properties are not diminished:** Chief Moore said many studies correlate government expenditures to property values. Desired school systems, high crime areas, and distance to fire services all impact property values. Providing the infrastructure necessary for effective and efficient emergency radio communications is a component of ensuring property values are maximized. Professional emergency services must communicate critical needs promptly to ensure incidents are properly managed. Failure to manage critical incidents would increase the risk to citizens and employees.
5. **Literal enforcement of the provisions of the ordinance would result in unnecessary hardship:**
 - a. **Describe the special conditions of the property that distinguish it from other properties in the area:** Not applicable
 - b. **Describe the special conditions of the property that distinguish it from other properties:** Coverage projections were completed by two-way communications utilizing various existing and projected tower sites in the area. A site that would cover the north-eastern portion of Weare needs to be identified. Existing cell towers were first analyzed to determine if they would provide sufficient coverage however, excessive reoccurring lease fees for space on the towers eliminated them from contention. Constructing a new tower on existing town property proved to be the most financially feasible option where citizens would not be unnecessarily burdened with higher taxes necessary for a lease agreement. As radio coverage is directly correlated to elevation, this town property presented the best opportunity to ensure adequate coverage without creating financial hardship.
 - c. **Owing to the special conditions identified above, indicate how the property cannot be reasonably used in strict conformance with the ordinance, and a variance is, therefore, necessary to enable the reasonable use of it;** If zoning variances were granted, a 120' ground-mounted self-supporting lattice tower would be erected on existing town property which would provide the necessary communication coverage for emergency services without excessive financial burdens, This is the only town property available in the area which would suffice the needs of the project. The size and location of the property will require multiple variances. If the variances were not granted, this site would be eliminated from contention and the project would likely fail as there are existing spending timelines present as the project is being funded through the American Rescue Plan Act. Failure of the project would put citizens' and employee's health, safety, and welfare at risk. Chief Moore said after speaking with the Town Counsel and reading ordinance 32.1 it encourages carriers to locate on existing buildings and structures whenever possible and 32.3 defines a carrier as a company that

99 provides wireless telecommunication services. The Town of Weare is not a carrier. The
100 recommendation from Town Counsel by granting the variance in and of itself exempts
101 us from the rest of the variances. Chief Moore said the spirit of the ordinance was to
102 ensure commercial construction had oversight and did not sully the landscape with
103 unnecessary construction.
104

105 Wright asked if radio communications were outdated. Chief Moore said if you go down 114 there will be
106 areas where you do not have any cell service. Chief Moore said they tried various components in their
107 command vehicles to boost the cell service and there are many occasions where they lose coverage. Wright
108 asked if long-term maintenance costs had been calculated yet. Chief Moore said they have not negotiated
109 that with two-way yet. Chief Moore said they are contracted with Goffstown and two-way also did their
110 radio dispatch services and if there are any issues, they should be able to be resolved quickly. There will
111 be a maintenance contract. Morette asked if the visibility of the tower had been an issue. Chief Moore said
112 he typed a letter and sent it to residents explaining the scope of the work and to contact him if they had any
113 questions. No one had contacted Chief Moore; he did make contact with four people in the area where the
114 work will be done and they were in support of the project. Morette asked if the town would get money back
115 for leasing out the tower. Chief Moore said the communications tower is purely for town infrastructure the
116 only thing that might go on in the future is if the Fire Department needed something added to the tower.
117

118 **Chair Dearborn opened the Public Hearing.**
119

120 Thomas Clow of 125 Concord Stage Road speaking as public at large said he was on the BOS for twelve
121 years and now has been off for six. In his time serving on the BOS, there has been a communication
122 problem and they have tinkered with the system on many occasions. He said there needs to be a system
123 that works where Officers can reach out for immediate help if needed. Mr. Clow said he is for the project
124 and it is long overdue.
125

126 Michael E. Cook of 859 Concord Stage Road sent in a letter in support of the project. Chair Dearborn read
127 it into the record.
128

129 **Chair Dearborn closed the Public Hearing.**
130

131 **Morette made a motion to accept prong one. Seconded by Wright. Motion passes 5-0-0.**
132

133 Morette said it makes sense to him to allow for the communication tower because without the
134 communication there's no sense in having a police department. Vice Chair Meyer said the purpose of this
135 project is to benefit the public interest for a functional Police Department.
136

137 **Morette made a motion to accept prong two. Seconded by Wright. Motion passes 5-0-0.**
138

139 Vice Chair Meyer said that he believes that the spirit of the ordinance is truly intended for commercial
140 entities. Even though it specifically talks about towers not being considered infrastructure it is because this
141 is the Town's ability to provide health and welfare for the citizens. Wright said that granting the variance
142 does the opposite of threatening the health and welfare.
143

144 **Morette made a motion to accept prong three. Seconded by Vice Chair Meyer. Motion passes 5-0-0.**
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146 Chair Dearborn said the substantial justice is to the Town itself. We have a full-time Police Department
147 but do not have the communication up to date that allows them to effectively communicate across town.
148

149 **Morette made a motion to accept prong four. Seconded by Plamondon. Motion passes 5-0-0.**
150

Chair Dearborn said he does not see how it will diminish the property values. Vice Chair Meyer said being that it will be near the Fire Department this is a generally accepted structure and is fitting.

Morette made a motion to accept prong five in its entirety. Seconded by Plamondon. Motion passes 5-0-0.

Vice Chair Meyer said the hardship would be on the Town and its residents because of its inability to have effective communications. It may also cause the town to have to look at different cell phone providers and could be a tax burden if the variance is not granted.

Case #15-2023: James C. & Kimberly R. Allatt (Owners & Applicants); Horse Spring Hill Road; Tax Map 409-168; Residential Zone – Variance Article 17, Section 17.1.1. The applicants are proposing the construction of a residential structure on Horse Hill Spring Road, a Class VI Road.

The Zoning Board reviewed all documentation submitted with the application for completeness.

Wright moved; Vice Chair Meyer seconded to accept Case #15-2023 as complete. The vote passed 5-0-0.

1. The Variance will not be contrary to the public interest because: The property is within the residential zone, where residences are permitted. The residential structure will be setback from Horse Spring Hill Road and meet the building codes. The driveway from River Road, along Horse Spring Road to access this lot will be constructed to meet the driveway regulations, therefore emergency vehicles will be capable of accessing the site.

2. Describe how the spirit of the ordinance is observed: The Zoning Ordinance prohibits the issuance of building permits on Class VI Roads as a general rule. The Town has allowed building permits for residential structures on Class VI Roads in the past. This parcel is zoned residential, so the underlying spirit of the ordinance would be to allow a residential lot to be used for residential purposes.

3. Describe how substantial justice is done: This lot was originally three separate lots that were created in 1971 and they have since been merged into one lot in the residential zone. The lot meets all the existing zoning requirements for the residential zone, except for frontage. That is because the frontage is on a Class VI Road. Substantial justice will be done because the residentially zoned lots were created in 1971 for this exact purpose.

4. Describe how the values of the surrounding properties are not diminished: The area is somewhat rural, while zoned residential. The proposed structure will be adequately buffered by natural vegetation. The building of a new residential structure on a vacant lot may increase the surrounding property values by providing a new property to measure comparable sales in the future. Potential alternative uses could have a significant negative impact, which residential would not.

5. Literal enforcement of the provisions of the ordinance would result in unnecessary hardship:

a. Describe the special conditions of the property that distinguish it from other properties in the area: The property's distinguishing characteristic is that the only frontage is on a Class VI Road. The owner has explored other options such as accessing the lot from Barnard Hill Road; however, a driveway would be extremely difficult to build in that location. River Road provides better access but still is not ideal to access the lot. The view from River Road would just be another driveway.

b. Describe the special conditions of the property that distinguish it from other properties: The driveway would be constructed to the Town's specifications. These specifications require a twelve-foot-wide travelway with two-foot shoulders. There are many other specifications including ten percent minimum slopes. All these specifications will be met when accessing the lot from River Road. A turnaround will be constructed within fifty feet of the dwelling.

c. Owing to the special conditions identified above, indicate how the property cannot be reasonably used in strict conformance with the ordinance, and a variance is, therefore, necessary to

enable the reasonable use of it; The proposed use is a residential unit on the lot. This use is consistent with the use of other residentially zoned lots.

Chair Dearborn opened the Public Hearing.

Chair Dearborn closed the Public Hearing due to no public comment.

Morette made a motion to accept prong one. Seconded by Wright. Motion passes 5-0-0.

Chair Dearborn said the following conditions are minimum conditions and requirements for a variance approval of a Class VI Road. The conditions read as follows:

- 1.) The applicant shall be required to post the necessary sign(s) at the transition from a Class VI road in accordance with the Town of Weare sign policy and be consistent with NH RSA 674:41,1,(d)
- 2.) The applicant shall be required to complete a Town of Weare Liability disclaimer and file the disclaimer with the Hillsborough County Registry of deeds, and be consistent with NH RSA 674:41,1(d)
- 3.) The applicant shall take the necessary actions to be in practical compliance with the Town of Weare Planning Board Subdivision Regulation for driveway permit requirements and the Town of Weare Zoning Ordinance, Article 36. The Town of Weare's Public Works Director shall be the authority to interpret the practical implementation of this condition.
- 4.) The applicant shall be required to take the necessary actions to comply with E911 signage requirements for proper residence location identification to support emergency vehicles for life and safety responses.

Chair Dearborn said there is no public interest in the property.

Vice Chair Meyer made a motion to accept prong two. Seconded by Morette. Motion passes 5-0-0.

Chair Dearborn said this is a residential zone and the issue is the classification of the road and its requirements to obtain a building permit. Chair Dearborn said the spirit of the ordinance is observed.

Wright made a motion to accept prong three. Seconded by Vice Chair Meyer. Motion passes 5-0-0.

Chair Dearborn said there is no injustice to the Town of Weare and there would be substantial justice for the applicant.

Wright made a motion to accept prong four. Seconded by Wright. Motion passes 5-0-0.

Chair Dearborn said this in a residential zone and they can only build what is allowed in a residential zone and it will not be seen from River Road.

Morette made a motion to accept prong five in its entirety. Seconded by Vice Chair Meyer. Motion passes 5-0-0.

Chair Dearborn said it would be an unnecessary hardship if they took the issues away from the road.

Request for Renewal of Variance: Carl D. Landon, Tax Map #103-018 & #103-035, Russell Drive – Current variance expires on September 7, 2023. (Request was received 8-10-23)

254 Chair Dearborn said that Carl D. Landon is requesting a variance for a renewal extension concerning Article
255 17 and Article 17.1.1.
256
257 **Wright motioned to accept the renewal of Variance for Carl D. Landon, Tax Map 103/018 & 103/035**
258 **Russell Drive – Current variance expires on September 7, 2023. Vice Chairman Meyer seconded.**
259 **All in favor 5-0-0.**
260
261 **Morette motioned to accept minutes from July 11, 2023, as written, and Vice Chairman Meyer**
262 **seconded. All in favor 5-0-0.**
263
264 **Vice Chairman Meyer motioned to accept minutes from August 1, 2023, as written, and Morette**
265 **seconded. All in favor 5-0-0.**
266
267 **Motion to adjourn made by Chair Dearborn at 8:24 p.m. Seconded by Vice Chair Meyer. Vote passes**
268 **5-0-0**
269
270 **ADJOURNMENT**
271 A True Record.
272 *Kearsten O'Brien*
273 Kearsten O'Brien, Minute Taker