

Brentwood Board of Adjustment
1 Dalton Road
Brentwood, NH 03833
Minutes May 12, 2014

Members Present: Michael Hureau, Chairman
Doug Cowie

Bob Gilbert
Bruce Stevens, Alternate

Chairman Hureau declared the meeting open at 7:00 pm and introduced the members of the Board.

Public Hearing

Request for Variance:

Ridgeview Construction, LLC requests a variance from Articles 400.005.007, 400.005.008 and 700.002.006.002, to allow the construction of a single family home and septic system. Property is located at 31 Homestead Lane, referenced by tax map 206.034 in the res/agr zone, and is currently owned by Anthony and Judy Braden. Present were property owner Anthony Braden, Shane Carter of Ridgeview Construction, LLC and several abutters.

Chairman Hureau introduced members of the Board, and explained to the applicant that there were only four members present and only three would vote, whereas if there were a full board in attendance, there would be 5 voting members. He offered the applicant the opportunity to continue the hearing to next month, with the hopes of a full board, or they could begin tonight. Hureau went on to say that he understands there are questions regarding this lot by DES, and this hearing may need to be continued, pending any further information. The applicant chose to begin this evening.

Hureau read the list of abutters, the legal notice and the definition of a variance. He also read the letter from RCCD explaining the inability to meet the town's regulations in the above mentioned articles. St. Hilaire provided copies of the original 2002 subdivision where this was a 6+ acre lot that met all town requirements for a legal lot of record. In 2007 there was a Lot Line Adjustment done, resulting in the lot being more than 19 acres. The original 6 acres was not changed, it just had 13 acres added to the back land.

Carter presented his reasons for the variance request. He said that this piece passes all state requirements for siting a septic system, but not Town requirements. He read the 5 supporting reasons for granting the three variances. He said the lot was legally created 12 years ago, but the ordinances have changed. St. Hilaire said that the ordinances were the same. He said they want to use the same area for the septic and house that is shown on the 2002 plan. Stevens said there was a question as to why the text pits did not pass now, and got permission to visit the site. He said he asked DES to come out to visit the property, to try to orientate the septic design to the plan, that the fill was next to a stream. He said the area has been filled with sand, and Carter agreed, saying it was done by a previous owner. He asked if the second test pit did not pass because of the 15 feet of material over it, and Carter said yes. The DES rep would like the septic design overlaid onto the original plan so they could see exactly where it is going, that it will help the ZBA. Carter said the prior owner brought in a lot of fill, and leveled a sloping

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area. He said there is enough room for septic and home, only if the variances are granted for the 50 foot setback from poorly drained soil.

Stevens said the town did not require soil testing on the additional 13 acres during the original subdivision, as it was part of a large parcel, not to be developed. He said now that this has been added to the 6 acre piece, he thinks it is a fair question to ask that it be investigated to see if they can find a place on the lot that would support the septic and house. Carter said the 13 acres is predominantly wet, appears to be an old pit that was dug out.

He said this would not be contrary to the public interest because the use was prior granted. The spirit of the ordinance would be observed because it is in concert with what was previously approved. He the test pit failed because they had to go down too far, over 12 feet. He said with the 12 feet of fill, it creates loss of aeration, where the soil types change, and what was a soil type that met criteria, now with no air movement, it turns to black sludge, because of lack of oxygen and the coverage. DES requires that you dig down to original soils, and the test pits need to be within 50 feet of each other, a town requirement.

Carter said granting the variances would do substantial justice because the owners bought a legal lot in which they wish to build a home, and raise a family. The value of surrounding homes would not be diminished because it is a large lot, will confirm to the restrictive covenants, and will enhance surrounding properties. He said they cleaned up the area from trash, etc that had been collecting on the site. Denial of the variances would result in unnecessary hardship because there is no fair and substantial relationship between the public purpose of this ordinance and this application of that provision to this property. He again stated that this meets state requirements.

Stevens said that as a result of the fill, there is siltation going into the stream, and that the DES will determine if any remediation will be required by the State.

Cowie asked who visited the site and what was found. Stevens, St. Hilaire, planner Glenn Greenwood and a DES rep visited the site and St. Hilaire said the fill goes right up against a seasonal stream, and Stevens said the town has buffers to wetlands. He said the fill has eroded and there is no stabilization. He asked how a house could be built on sandy soil, and Carter said there is engineering for this and they will truck in structural fill, add filter fabric and compact it properly. Stevens wants to see some sort of designation done for the 13 acres by a soil scientist. He would like a statement perhaps, that the 13 acres is not buildable.

Cowie also wants to see an overlay showing the entire parcel and the proposed building area. Carter said the conditions are not the fault of the owner or the town, they were there when the land was bought. Stevens said that DES may want some the fill moved, and that may change the available buildable area again, he said there is not enough information. Carter said the depth of the fill varies anywhere from 2 feet to as much as much as 16 feet in others. Barden said that he plans to stabilize the site with a rock wall when he builds.

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Abutter Tom Cicali expressed concern that this will diminish his property value, having a large house stuck behind his, high up on a hill. He is concerned that if the septic fails, it will all go into his yard.

The Board and Carter agreed that the following needed to be done:

1. An overlay of the septic design that ties into the original subdivision plan.
2. Report of the site visit done by NHDES.
3. A statement from a wetland scientist that there is not a buildable area in the additional 13 acres.

Motion made by Cowie, 2nd by Gilbert to continue this hearing to June 9th at 7:00 pm: all were in favor.

Motion made by Cowie, 2nd by Gilbert to approve the February 10 minutes: the motion carried with Cowie and Gilbert abstaining as they were not present.

Motion made by Gilbert, 2nd by Cowie to appoint Hureau as chairman: all were in favor.

Motion made by Cowie, 2nd by Gilbert to adjourn at 8:05: all were in favor.

Respectfully Submitted,

Kathy St. Hilaire