

MEETING MINUTES
Zoning Board of Appeals
March 21, 2019

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2019 JUN 10 P 1:09

TOWN OF LUDLOW

Members Present: Paul Zielinski; Kathleen Bernardo; Joseph Wlodyka; Manuel Lopes; Alan Aubin; Nicole Parker

Members absent: Anthony Jarvis

Vice-Chairman Paul Zielinski called the meeting to order at 7:00 p.m.

First Order of Business: Pledge of Allegiance

The Board held a public hearing on the application of Ken Hamel for the property located at 0 Rosewood Drive, Ludlow, MA (Assessors Map 17, Parcel 3B, Zoning: Agricultural). The subject of the hearing is a variance of 12 feet to the front yard setback with a front yard setback of 28 feet where 40 feet is required according to Ludlow Zoning Bylaw Table 2 – Table of Dimensional Regulations”.

Mr. Zielinski: parties, come on up please. First order of business, we've got a bill from Turley Publications for \$85.56, I'll give that to you, let you make that out to them.

Mr. Wlodyka: can I have the postal receipts?

Mr. Zielinski: okay, if you can go ahead and tell us what you'd like to do.

Mr. Hamel: my name is Ken Hamel, we live at 70 Cislak Drive in Ludlow, we're looking to build a house over on Rosewood and we're asking for a variance for a few reasons. Number one, it's zoned agricultural so they have a 40-foot setback, we're looking to reduce it to at least 28 feet, if we could do more, we're not perfectly precise and that would be great but that's up to you, but I just need 28 feet for multiple reasons. The building envelope basically narrows as it goes back so we can't really push the house back and we kind of have to twist the house because the way of the retention pond in front of the house, you wouldn't be able to turn a car in the driveway to get into the house the way the driveway would have to be so we have to kind of twist the house which also prevents us from pushing it back in the building envelope. It requires 40 feet and our opinion is that the spirit of the rule is for frontage off the road, we don't want houses being closer than other houses, as you can see on the plan our house is gonna be at least 250 feet set back from the road anyways so it wouldn't affect any of our neighbors. Also the twisting of the lot kind of, the way the house lies the, if you notice the left side comes in so as you push the house back you can't. So that's pretty much the entire reasoning like we just can't get our house to fit on that lot the way the building envelope with the agricultural zoning dictates.

Mr. Zielinski: okay, questions from the Board?

Mr. Hamel: there also, I'm sorry, there also is a restriction in the covenant as far as ranch's go, the size, you have to have to be in the neighborhood so the house has to be a specific size to meet the covenant which also restricts us in the building envelope because the house has to be so big for a single-story house.

Ms. Hamel: we can't go smaller.

Mr. Aubin: are the other lots in this development agriculture as well or is this the only one?

Mr. Hamel: yes they all are yes. To my knowledge.

Mr. Aubin: I didn't know if anybody

Mr. Hamel: yeah I believe they all are.

Mr. Lopes: do you have a measurement from the street to where the house is setback, do you have an actual measurement on that?

Mr. Hamel: it would be over 250 feet

Ms. Hamel: it's 225 to the end of the fence so then another 28

Mr. Hamel: the retention pond, it's probably 253, basically would be the measurement.

Mr. Lopes: yup I see it there.

Mr. Wlodyka: it shows 225.19 on the

Mr. Hamel: yeah plus the 28 feet back from there, yeah so it'd be over 250.

Mr. Wlodyka: do you have sewer or septic up there?

Mr. Hamel: there is sewer.

Mr. Wlodyka: there is sewer, town sewer?

Mr. Hamel: we will have to do a well though, there's no town water

Mr. Wlodyka: oh you'll have to do a well, okay.

Mr. Hamel: yes.

Mr. Wlodyka: do you have, on this plan, do you have the proposed location of the well?

Mr. Hamel: I do not.

Mr. Wlodyka: because I think there's something with the distance between the retention basin and any septic or run-off to the distance to the well.

Mr. Hamel: there would be no septic here.

Mr. Wlodyka: but the retention basin would come into play on that so

Mr. Hamel: for the well?

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Mr. Wlodyka: I believe so yeah, we'll have to check into that, do you know off-hand?

Ms. Converse: I don't.

Mr. Wlodyka: I think there is something with any kind of run-off, I think there's a 100-foot buffer.....

Mr. Hamel: we have plenty of room in the back yard to put a well wherever it would be required.

Ms. Hamel: yeah we would follow that.

Mr. Wlodyka: there's no other run-off behind from any of the other properties behind you or anything?

Ms. Hamel: nope. It's all pretty open, it's pretty open after, behind the house, it's pretty open space.

Mr. Lopes: it's all clear land back there?

Ms. Hamel: yeah it's pretty clear.

Mr. Hamel: yeah there's no trees or anything back there, it's all open.

Mr. Lopes: the nearest house to you would probably be lot 2?

Mr. Hamel: yes which is not there yet so I don't know where they plan on building but there's no house there as of this time.

Ms. Hamel: but they'll be forward.

Mr. Lopes: oh it's Center Street?

Mr. Hamel: no the only house is actually at the lot up here (pointing to a map) which actually is over here.

Mr. Lopes: where you're going to be setting your house there's a property line here

Mr. Hamel: there's just their back yard, there's nothing back there

Mr. Lopes: what's over here?

Mr. Hamel: nothing, just open land

Ms. Hamel: on Center Street, there's two houses

Mr. Hamel: he's talking way back, the houses are on Center Street

Mr. Lopes and Mr. & Mrs. Hamel are looking at a map.

Mr. Wlodyka: that's a pretty long driveway.

Mr. Hamel: yes it is.

Mr. Wlodyka: you doing the snow blowing?

Ms. Hamel: yeah me.

Mr. Hamel: yeah I'm gonna make her do it.

Ms. Hamel: that's part of the plan if we get this, I have to snow blow the driveway.

Mr. Hamel: and that was the other concern too, if you see the long driveway, right at the corner of the retention fence, like to get the driveway to twist to the house we had to kind of angle the house towards the driveway so the garage was facing it because we wouldn't be able to turn a car around very easily unless we twisted the house to aim that way.

Mr. Lopes: there is a fence around that retention pond?

Mr. Hamel: correct, yeah.

Mr. Wlodyka: do you have an attached garage there?

Mr. Hamel: correct.

Mr. Wlodyka: and that's just to the left of the porch as shown on the

Mr. Hamel: yes, I actually have a copy of the plan if you want to see the house plan itself, I brought it with me.

Mr. Wlodyka: that would be helpful yes, we can pass it around. And this is the front door that would face Rosewood?

Ms. Hamel: yes.

Mr. Hamel: correct.

Mr. Lopes: it's kind of an estate lot setup, except for thethat come into the front, we don't have anything in our governing if that's considered front yard or what should be the distance from the front of the house to

Ms. Bernardo: the only problem is very few parcels have a lot right in front of it.....so

Mr. Lopes: if it was this way then it would be like an estate lot

Mr. Hamel: right because

Mr. Lopes: except it has more

Mr. Hamel: to the right of the retention area is considered our frontage because we own that land also to the right of it, which is 167 feet

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Ms. Bernardo: frontage isn't your issue.

Mr. Hamel: no, right, exactly, yeah.

Mr. Wlodyka: so you own that part of the property too?

Mr. Hamel: yes we do, or we would.

Ms. Hamel: yeah, left and right of the retention pond.

Mr. Aubin: do you know what the square, what the covenant calls, I mean in your letter your referencing the neighborhood covenant, do you know what the covenant calls for? I'm guessing its minimum square footage of your home.

Mr. Hamel: it was 2,000 square feet for a one-story ranch and I believe it was 22

Mr. Chaves: 2,300

Mr. Hamel: for a two-story house.

Mr. Aubin: so this is a one-story?

Mr. Hamel: yes

Mr. Aubin: and you said it was 20

Mr. Hamel: 2,000 square feet

Mr. Aubin: 2,000 for a single?

Mr. Hamel: yes.

Mr. Aubin: what's the square footage of this?

Mr. Hamel: I think it's 2,100 and, just around 2,100

Mr. Aubin: I just did a rough estimate but now I, there's some weird angles there I wasn't gonna do all the math, so about 2,100?

Mr. Hamel: yes. Because if you see the plan, there's a bonus room above the garage which is counted in the square footage.

Mr. Aubin: correct.

Mr. Hamel: so we made the footprint smaller to get it to fit on the building envelope as itnow, that's why we

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Mr. Aubin: yes I see it, I should have just looked at the plan, the bonus room is 300 square feet and the downstairs is 1,800 square feet.

Mr. Hamel: yeah the downstairs is 1,850

Mr. Aubin: 1,814

Mr. Hamel: okay, yeah

Mr. Wlodyka: you show a 15-foot easement on the part of the parcel that has 167 feet of frontage, what does, what is that for?

Mr. Hamel: I do not know personally, I'm assuming it's for the Town, for the drainage for the retention area but I would be guessing.

Mr. Chaves: excuse me, I can comment on that if you don't mind. I'm one of the owners of the

Mr. Zielinski: could you state your name and address please.

Mr. Chaves: Joseph Chaves, 2 Rosewood Drive, Ludlow, I'm one of the abutters, and what that does is there's two retention areas and that is a run-off from the first retention area over to the second one which is closest to the road.

Mr. Wlodyka: okay so then that other Town of Ludlow parcel is the second retention area?

Mr. Chaves: I believe so yes, that's correct, the one that's closest to the road.

Mr. Wlodyka: okay, yeah, closest to Center Street?

Mr. Hamel: correct.

Ms. Hamel: yeah that's it.

Mr. Wlodyka: is there like an underground pipe between the two or is it just an open swale?

Mr. Chaves: open swale.

Ms. Hamel: that's usually where all the water is, is the one near Center Street.

Mr. Lopes: total square footage of the lot is 42,499, that includes the whole parcel, including that

Mr. Hamel: the stuff to the front right, yes.

Mr. Zielinski: I really have to comment on this, you probably have the most unusually shaped lot I've ever seen, ever.

Ms. Hamel: it's gonna be great.

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Mr. Zielinski: we usually get a pie shape or something like that but this is like beyond that.

Mr. Wlodyka: pie with a bite out of it.

Mr. Zielinski: pie with several bites.

Mr. Hamel: it'll look beautiful set back so far from the road and nobody will see me back there.

Mr. Lopes: how is that retention pond right now is it holding, is there water level

Mr. Hamel: there's never any water in it

Mr. Hamel: and anything that does holds all the way in the front so it's

Ms. Hamel: it goes to the other retention pond.

Mr. Lopes: we've had a lot of water

Mr. Hamel: and we've driven by to look at it before we purchase it to make sure and there hasn't been anything in there, within 24 hours anything that is there is gone and like you said, we've had a lot of rain, a couple months ago and

Mr. Lopes: all the water tables are pretty high right now. I know the pond on Holyoke Street, that

Ms. Hamel: never seen water in it yet.

Mr. Hamel: I know the excavator who has done a lot of the work in that and he tells me the soils are perfect so that made me more comfortable also knowing that.

Mr. Zielinski: I've walked that neighborhood a lot with friends and I've never seen any water in there.

Mr. Wlodyka: so do you know off-hand, we're looking at Rosewood here, this is your lot with the swale, with the retention basins and your odd shaped lot here, now there's two lots, 3A and 4 that face Center Street, do you have any idea if they have Town sewer or a septic system or if they have Town water or a well?

Mr. Hamel: I would have no idea what they have.

Mr. Zielinski: I'm gonna take a guess and say they are probably on Town sewer and water.

Mr. Hamel: I would assume they would yes.

Mr. Zielinski: because they're right on Center Street because all that's piped.

Mr. Wlodyka: I'm just worried about the, you know, the proximity if you have to put a well in of to any kind of encroachment within 100 feet if they did have a septic system or something.

Mr. Zielinski: which they may still have regardless.

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Mr. Wlodyka: that's a good possibility.

Mr. Lopes: they would run into that when they apply for drilling a well, they'd check all that

Mr. Wlodyka: who checks all that?

Mr. Lopes: I think it's, I think that's governed by the Health Department isn't it?

Mr. Hamel: yes. It would be an issue as we file for the building permit.

Mr. Wlodyka: as I recall when I built my house I had to ensure as the builder that it was within all the parameters of it so that would be something I'd like to, I'd like to ask that we find out if there is any old septic abandoned or not, I don't know if it comes into play, you know, if it's an abandoned septic system or anything like that.

Mr. Hamel: but all that would come into play with the engineers and the Board of Health when we apply for the permit.

Ms. Hamel: yeah that would be part of the building process which we have to first know if we can get the lot.

Mr. Wlodyka: that'd be something I think that you would want to know before you purchase the lot, you know, if you're able to put a well where you wanted to.

Mr. Hamel: Oh we definitely would research that before we purchased it.

Ms. Hamel: that would be basically our next step in line is to make sure we can get everything done, but it all depends if we can do the variance.

Mr. Hamel: we have like 120 feet behind our house so I'm sure at some point we'd be able to configure to put it in a spot where it would, if it became an issue I'm sure we would have plenty of room to make it work.

Ms. Hamel: because even without the variance, that's an issue, you know, that's something regardless, we would have to deal with.

Mr. Zielinski: any abutters here, any public comment?

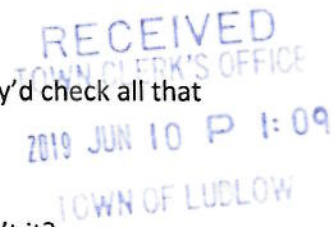
Audience member: we're abutters.

Mr. Zielinski: do you have any comment?

Audience member: I'm here to support.

Mr. Zielinski: if you could just say your name and address and then say that.

Ms. Ferris: Christine Ferris, 7 Olivia Circle, I'd be one of their neighbors and I'm here to support the proposal based upon the configuration of the lot to allow them to have proper access through their



driveway and to their garage so on and so forth. They met every other covenant, they've gone to all of the efforts of getting the drawings done completely and it's a matter of a few feet away from, another few feet beyond a 250-foot setback as it is. So really what they're asking for instead of 40 feet from the fence to be 28 feet from the fence but at the end of the day they're still 250 feet off the road.

Mr. Zielinski: okay, thank you. Any other comments from the Board? Questions?

Mr. Aubin: should we go through the, what we have to do to do a variance?

Mr. Zielinski: you could go through that, be my guest.

Mr. Aubin: don't you have it in front of you? I don't have it in front of me. The Chairman usually does that.

Mr. Zielinski: yes Mr. Aubin.

Ms. Bernardo: so it's really on 12 feet. So is it 30 feet from the edge of the garage and 28 feet from the edge of the porch?

Mr. Hamel: correct.

Mr. Zielinski: a variance of 12.

Mr. Lopes: the setbacks are from the street, especially in a case like this where that is a lot that is never gonna be built on.

Mr. Hamel: I think the spirit of the rule is 40 feet but this is an odd situation. I think the 40-foot setback is there to protect neighbors from people doing things they shouldn't be doing.

Mr. Zielinski: so there are three findings we have to confirm so the first finding deals with soil, shape and topography which I don't think you have a problem with. So I'll let Ms. Bernardo continue with the other two since she's got those open.

Ms. Bernardo: Mr. Chairman, I'd like to make a motion for discussion. I make a motion that the Board grant the petitioner's request for a variance of 12 feet to the minimum front yard setback. The Board finding that the proposal of the petitioner and the structure meet all other zoning requirements, also that the hardship to this parcel obviously is that the structure of the required footage of 2000 sq. ft. required by the subdivision covenant is not feasible without the variance and also that for the public good this is no more detrimental to this neighborhood than any other structure within the subdivision and therefore it does not derogate from the intent or purpose of the ordinance or the bylaw.

Mr. Zielinski: do I hear a second?

Mr. Lopes: Second.

Mr. Wlodyka: I'd like to propose that we add a clause in there that provided the well is not gonna encroach in any septic system because we don't know anything, you know, within the other two lots that are on

Center Street, if there is a septic system or anything like that so according to the Board of Health's regulation of 100 feet buffer from any septic system or any runoff, a well cannot be installed.

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Mr. Zielinski: are we sure about the 100 feet?

Mr. Wlodyka: the 100 feet is definite, I'm pretty sure about that.

Mr. Lopes: it's 100 feet to septic, I'm not sure about any runoff language.

Mr. Wlodyka: I would think septic is a runoff, it would make logical sense that any runoff might be part of the same, however it should

Mr. Lopes: I don't see septic as runoff because a septic is more of a leaching, it's a leach field where it leaches into the ground, it's not, runoff sounds more like a surface runoff.

Mr. Wlodyka: as long as it adheres to the Board of Health's regulations as far as septic system or runoff. How would that be?

Ms. Bernardo: is that a motion to amend?

Mr. Wlodyka: yes

Mr. Zielinski: that was a motion to amend.

Ms. Bernardo: okay then, how about we, I'm not repeating myself because I can't possibly, amend it just to say, is it sufficient that the well adhere to all Board of Health and Town requirements?

Mr. Wlodyka: that's fine.

Ms. Bernardo: excellent.

Mr. Aubin: can we also add based on the plans as submitted as well, not to deviate, as, the house is to be built as the plans that were submitted?

Mr. Zielinski: okay. Motion has been made, amended as such and seconded, so all those in favor? Vote 5-0 all in favor.

Mr. Hamel: thank you.

Mr. Zielinski: the hearing for 0 Rosewood Drive is closed at 7:29 pm.

Correspondence:

4. Memo from the Town Clerk – Reorganization after the Town Election (March 25, 2019).

New Business:

The Board signed the meeting minutes of January 17, 2019; February 7, 2019; February 21, 2019.

Mr. Zielinski: I'll entertain a motion to go into executive session for the purpose of discussing pending litigation with Way Finders, Inc., for Chapter 40B Housing project at 188 Fuller Street, as Chairman I declare an open meeting may have a detrimental effect on the litigating position of the public body

Ms. Bernardo made a motion to go into executive session at 7:33 pm and not return to open session.

Mr. Wlodyka, yes; Mr. Zielinski, yes; Ms. Bernardo, yes; Mr. Lopes, yes; Mr. Aubin, yes; Ms. Parker, yes.
Vote 6-0 all in favor.

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Chairman
Joseph Wlodyka
Jeffrey
William S. Bernardo
W.S.
Board of Appeals

Transcribed by:

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