

Zoning Board of Adjustment Public Meeting  
Richmond Veterans Hall

July 13, 2022

7:00 PM

**Members Present**

Alan Schmidt, Chairman  
Mark Beauregard, Vice Chairman  
Lloyd Condon  
Antoinette Cincotta  
Thomas Tague  
David Bryan, Alternate

**Members Absent**

Robert Gow, Alternate

Public: Don Patnaude, Doug Bersaw, Chris Daugherty, Jon Bushbaum, Lisa Traeger.

**1. Meeting called to order/roll call:**

Meeting called to order at 7:00 PM.

**2. Hearing on Map 407 Lot 18:**

Chairman Schmidt called the public hearing to order. Public Hearing for map 407 Lot 18 owned by Steven Lovering from Hampstead NH. Applicant is represented by Jon Buschbaum from Nelson, NH.

Chairman Schmidt went over the Rules of Procedure with all in attendance.

Lloyd Condon, abutter recused himself at 7:03 PM and left the table.

Buschbaum started to discuss the application. Bryan (alternate) was seated for Condon @ 7:04.

Buschbaum continued that this was a residential site of 13.9 acres with an approved driveway permit from the State of NH DOT. Buschbaum met with the Conservation Commission (Chairman Taylor & Drew) in reference to the wetlands.

Logging had been done to open the lot. The drainage does run down into the Tully Brook water shed and they have applied through NH DES for a dredge and fill permit to install a culvert. The applicant has moved to Hampstead while waiting for his permit.

The home will be a 28 X 24 single story. The home, septic and well all meet Wetland Conservation District setbacks.

Discussion on site walk and the question of having a certified person on the site walk with the board. It was noted that the Conservation Commission will be doing a site walk on Thursday July 21<sup>st</sup> at 8:00 AM. Drew has recused himself due to a personal conflict of interest.

It was determined to do the site walk with the Conservation Commission on July 21<sup>st</sup> at 8:00 AM.

Motion made by Beauregard to do a site walk July 21<sup>st</sup> at 8:00 AM. Seconded by Tague. All in favor. None opposed. Motion carries.

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Chairman Schmidt asked for any abutters who would like to speak for the Special Exception.

Daugherty asked what is the Special Exception for within the Wetland Conservation District? House is out of wetland setback. Buschbaum clarified on a map to satisfy Daugherty's question.

Buschbaum is considering a 2' culvert but any size can get inserted. He believes the State of NH will want a metal culvert for Aquatic passing. There was a study done and at this time they have not found any signs of aquatic life in that area. The plastic pipe is too smooth, and the aquatic life can't grasp it.

Condon asked if there was a letter of authorization on file. The answer yes. Distance from septic to wetlands is 75' as proposed. Answer yes.

Condon held up a sample plot plan that was incorrect. It was clarified that the sample was given to the applicant and included in the kit from the Selectmen. It has nothing to do with the present application.

Abutter Traeger asked for the floor, she had no objection to put a driveway in and use his property.

Abutter Patnaude asked for the floor, he would love to have a neighbor and no objections.

Abutter Daugherty asked for the floor and had no objections he had to ask for a Special Exception for wetlands.

Chairman Schmidt asked for anyone was in opposition to the Special Exception.

No one spoke.

Abutters are welcome to attend the site walk on July 21<sup>st</sup> at 8:00 AM. Patnaude who lives across the street offered his driveway for members to park their cars the morning of the site walk:

Bryan stepped down and Condon was seated @ 7:20 PM.

### 3. Minutes of April 13, 2022:

#### Changes to the minutes of February 9.2022 from the April 13, 2022, corrected minutes.

It was noted that the minutes of February 9.2022 should be moved under 1. Meeting Called to order/roll call, 5<sup>th</sup> line down.

Page 2, under 2. Minutes of February 9, 2022, Page 3, 4<sup>th</sup> line down, change the correction to: **stated that the meeting was adjourned, and he was ordering a site walk. Cincotta said Vice Beaugard just couldn't. Both require a board vote.**

Under 5<sup>th</sup> section down, change to read: Motion made by Cincotta to **find that the prerequisites for the variance were satisfied and to grant the variance.**

Under the eleventh section, Strike, **After a brief discussion.** Then change: Motion made by Condon to set up the site walk. Seconded by Gow. Change to: **There was a** motion made by Condon to set up a site walk.

Page 3, under 3. Serving the ZBA: Second paragraph down, fourth line change the word decode to **decide.**

Under 4, Discussion on Rules of Procedure, first paragraph, fifth line down, add the word scheduled. Should read: 1. **Scheduled** Meetings and hearings.

Page 4, Second line down Change Condon to Tague. Should read: Seconded by **Tague.**

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Fourth line down,

Fourth section down, second line down, after the word flaw add: **as under Richmond Rules of Procedure over**. Should read: There have been flaws **as under Richmond Rules of Procedure over** inaccurate notices and proper service of notices to abutters **that renders the board decision void**.

Seventh section down, first line make the word hearing plural. Should be hearings

Same line change the word havening to **having**.

Twelve sections down strike **Cincotta said the Selectmen told her that it was Beauregard that made the comment**,

Page 5, Fourth section down, first line, first word change the word Concotta to **Cincotta**.

Motion made by Condon to approve the minutes as amended. Seconded by Tague.

Three in favor. One opposed. No abstentions. Motion carries.

Under 4 in the changes to the minutes of April 13, 2022. There was a discussion in reference to adding the word **scheduled** to the Rules of Procedure Richmond Board of Adjustment, under **Meetings**. Change would reflect **Scheduled** Meetings/Hearings.

Rules of Procedure under **Amendments** reads: These rules of procedure may be amended by a majority vote of members of the board provided that such **amendment is read at two successive meetings immediately preceding the meeting at which the vote is to be taken**.

Board discussed amending the Amendments to allow the change to happen at one meeting with one vote of the board. Question as to whether the timeframe is a requirement of the board per the State on NH. Cincotta will research and bring the results to the next meeting for further action.

#### **4. Discussion on recording minutes:**

Discussion on recording of meeting minutes and how best to proceed. The final copy of all minutes are to be a paper copy. Other forms of recording minutes can be done but the keeping of such record, archival and reproduction can become a burden to the town and could include an off-site location for storage.

Recommendation to record the minutes and once the paper copy has been approved to destroy the recording.

This method allows for the final stage of minutes required by the State of NH to be recorded on paper within 10 years eliminating the burden of storage for the recording.

Suggestion to have the town attorney look at the research and to guide the ZBA in the best direction.

Motion made by Condon to ask Attorney Boldt his opinion on recording minutes. Seconded by Vice Beauregard.

This is a multistep process to draft a letter, the Chairman meets with the Selectmen to ask approval, once it gets approved the Chairman can contact the Attorney.

The ideal plan would be to record the meeting, put it on Zoom and have the individual members review and comment on the minutes individually. Question: If the entire board has viewed the Zoom meeting individually does that constitute a quorum of the board and does the recording now become a stored file? Or does the quorum only take affect if 3 members or more of the board meet jointly to view the recording?

Chairman Schmidt repeated all in favor of having a letter drafted to discuss with Attorney Boldt to clarify the ZBA minutes based on the RSA and his recommendations.

Four in favor. None opposed. Motion carries.

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**5. Discussion on Zoning Wetland setback:**

Discussion on whether a driveway should require a Special Exception or a Variance? At this time, it will not affect this hearing as the town needs to get it straight. Chairman Schmidt based his opinion on the Richmond Zoning Ordinances.

**Page 11, Article 4 under 403 Uses Permitted by Special Exception.** Presently we have criteria for four of the uses listed. There is no criteria for Wetlands.

**Page 17, Article 6 under 604 Special Exceptions.** Streets, roads, and other access ways? Does other access ways mean a driveway?

**604.2** The undertaking of a use not otherwise permitted in the Wetland Conservation District which may include the erection of a structure, dredging, filling, draining, or to otherwise altering the surface configurations of the land. Showing no conflict with Section 602.

**Page 22, Article 11 under 1105 Special Exception more specifically 1105.1 General Provision that Apply to all Special Exceptions Uses.** This was the criteria used for the Special Exception and basically was answered with words used in variances.

**Page 35, Article 17 under 1767 Structure-Any man-made object or construction having an ascertainable stationary location on, above, or below the surface of the land or water.**

Chairman Schmidt made the point that driveways have always been considered a structure.

It was discussed that there were other items in the Zoning that were structures, but they only required a Special Exception.

**Article 3 General Provision, under 312 Commercial Wireless Communications Facilities.**

Chairman Schmidt said that was a stand-alone ordinance and was Commercial.

There are two interpretations of what a driveway is and how the ZBA should approach them either with a variance or special exception?

Chairman Schmidt just wants clarification on whether a driveway is considered a structure and if it is allowed through a Special Exception and should it be added into Article 4 with access ways? Should criteria be used for the Special Exception?

Accept a motion to continue the hearing until Thursday July 21, 2022 @ 8:00 AM. Condon accepted the motion. Seconded by Tague.

All in favor. None opposed. Motion carries.

**6. Other:**

No other.

Motion made by Vice Beauregard to adjourn the meeting Seconded by Tague. All in favor. None opposed.

Motion carries.

Meeting adjourned at 8:34 PM.

Respectfully Submitted

Kandace Mattson