Zoning Board of Adjustments

Public Meeting

December 1, 2021

Members: Gary Carney, chair, Mark Florence, Alternate Ralph Marinaccio

Visitors: Tim Ferwarda, Mr. Mrs. Kimball, Jed Schwartz, Nan Schwartz, Aaron Mills, and George, Lynn Hunting

Gary Carney, opened the meeting at 7:00 pm to introduce the board.

Marinaccio moved to accept the minutes from October 22, 2021 Florence second all voted in favor.

Carney: Please note by law the Zoning of Adjustment should have 5 board members which at this time we have three members. A decision needs to be made by the majority of three, (which you need three votes). As an applicant, you have the right to postpone until the board has 5 members. Carney expressed he is not sure when the board will accomplish that. Carney also explained that Hatch one of the board members has accused himself of the Kimball appeal and Marinaccio is filling in as an alternate.

Carney: Asked if there was anyone here tonight wanting to postpone their appeal.

Kimball’s agreed to move forward.

Carney: Open the Public Hearing to Mr. Kimball, 1230 Faxon Hill Road requesting a variance from the wetlands on his property, and would like to put up a garage.

Kimball: read all his responses to the 5 criteria and explained that when he bought the property back in 2004 there were no issues with the wetlands and he did his due diligence to make sure what his future plans were for the property would work as he phased his construction projects. Then the Land Use Ordinance of the town changed to 50’ away from the wetlands which now affects us from building the garage and needed a variance from the wetlands that he felt as a landowner a loss to an individual but should out way the injustice this is causing on my property.

Mr. Kimball explained some history before 2004 and what property owners were able to do until the LUO changed, he explained he had hired an engineer (Tim Ferwarda) Meridian at the time, to work on civil plans we went above and beyond placing rain gardens, planting, etc., to protect the wetlands.

Marinaccio: Possible pipe at driveway?

Kimball: there are wetlands there. Kimball also explained they planed he placed a second rain garden on the property.

Marinaccio: The proposed garage what protection from the heavy rain coming off the roof of the garage could the rain garden handle the extra flow.

Mrs. Kimball: It was our intention for the rain garden for a lot of run-offs.

Marinaccio: I walked the property it is very compact can it handle the garage and all the vehicles etc. my concern is a lot of water is there something else you can do?

Ferwarda: Suggested to make the rain garden bigger

Marinaccio: I suggest maybe look at the eaves and maybe place a trench around the perimeter

Kimball: whatever the board wants.

Florence: reviewed the site plan with the board and Mr. Kimball understanding that the wetlands are only on the West side of the property.

Florence: who defines the wetlands?

Mills: The Core of Army Engineers qualifies the wetlands, plants within the Shoreland soils, etc. Mr. Kimball’s property was certified as wetlands.

Florence reviewed Criteria # 5 it’s important to look at all the lots in your area 9 out of 13 have road frontage on Faxon Hill to the South they are all unique. My concern is important, the other thing I did was a map of all the wetlands and there are quite a few.

Kimball: My lots are unique due to the wetlands going across and dividing my property.

Ferwarda: the garage is going on an existing impervious service it will not increase the run-off.

Kimball: two vehicles, a motorcycle, etc., would be better parked in an enclosed area, and I am having a woodshop on the second floor and this would not be a business.

Ferwarda: Having the vehicles inside not on the ground from any leaks would benefit from the wetlands another way to protect the lake.

George, Lynn Hunting located at 1244 Faxon Hill Road support the application we know they will do the work the correct way.

Mills: I am familiar with the property and I do remember a change of events that it was Department of Environmental Service complaint that you redesign the rain gardens. My questions what is the vegetation proposed

Kimball Blueberry bushes, mint keep it all-natural and maintain a drip edge with gravel and mulch.

Mills: I recommend having Kimball hire an engineer to study and recommend additional filtration run-off etc.

The board asked could you go smaller, Kimball’s we already have.

Mills: Conservation Commission recommends a professional engineer to have another study done the last one was in 2009 should be certified stamp plan. We have a setback to protect our wetlands, retention run-off impervious services, retain some buffer not to create toxin flowing into our lakes, erosion, loon nest nearby, habitat is important to our buffer, to protect the value of our lakes and wetlands.

Carney: Any further comments?

A public hearing will close and discuss the criteria, you’re welcome to stay; DeFosse explained the Public Hearing is now closed there will be no further public comments if you are here to listen to the board discussion.

Marinaccio moved to close the public hearing Florence second all voted in favor. 8:01 pm

Old Business: none

New Business: Reminder next meeting will be held on January 5, 2022, at 7 PM at the Town Hall 2nd floor.

Board moved to approve to place Duese as a continuance with a no-show.

Appeal deliberation Kimball

Florence: concerns are what if everyone is doing it, I don’t feel it's injustice if we deny the Kimball’s. If everyone did this on the road we would have a problem. This garage will accelerate the flow of the water.

Carney: a ditch, crushed rock will stop the velocity of the water. Maybe a professional engineer can come out and take a look at it and recommend vegetation to retain the buffer.

Florence: Concern, if the flow goes to the neighbor and so on, along with wetland, absolutely we need to consider accumulative. Also, our first obligation is to the LUO.

Florence my second issue is Criteria # 5 unnecessary hardship. Use is reasonable, reading I do not think it’s unfair. I feel you cannot use the excuse of the LUO change.

Florence and the board reviewed an ISO case ROW the board continued to hash out # 5 with no agreement on the hardship. The board agreed to continue to write NHMA legal for guidance, continued to January 5, 2022, at 7 pm at the Town Hall, upper level.

Meeting adjourned at 9:40 pm

Respectfully submitted

Deborah DeFosse