Hopkinton Zoning Board of Adjustment
Minutes
March 7, 2006

Chairman Janet Krzyzaniak opened the Hopkinton Zoning Board of Adjustment public hearing of Tuesday, March 7, 2006, at 7:00 PM in the Town Hall. Members present: Toni Gray, Charles Koontz, George Langwasser and John Boatwright.

Chairman Krzyzaniak gave a brief outline of the Rules of Procedure that govern the hearing.

I. Application.

TH06-1V-3-1 Constance M. Doherty – Attorney Patrick McNicholas addressed the Board representing Constance Doherty, requesting a Variance to construct a single family home on a non-conforming lot with reduced setbacks and no frontage on a public road. The property is located off Robin Lane in the R-4 (residential/agricultural) district, shown on Tax Map 225 as Lot 80. The application was submitted in accordance with paragraphs 4.3 and 5.2.1 of the Hopkinton Zoning Ordinance.

Attorney McNicholas explained that Mrs. Doherty's lot is a pre-existing non-conforming lot that was created in 1962. The lot dimensions are 60-feet frontage and 160-feet in depth. A variance is required from the setback requirements for the R-4 district and due to the fact that the lot lacks the required 50-feet of frontage along a Town road. There are currently five (5) other residences along Robin Lane. The intent of the application is to have the lot declared buildable for a modest 24′ x 32′ or 24′ x 36′ residence. Mrs. Doherty has yet to submit building plans as she is waiting to see if the Board declares her lot buildable.

Attorney McNicholas reviewed the requirements for Variance in accordance with Section 15.8.3 of the Hopkinton Zoning Ordinance.

1. The proposed use would not diminish surrounding property values because:

   "The use would be consistent with the surrounding properties."

2. Granting the variance would not be contrary to the public interest because:

   "The previously existing non-conforming lot was taxed as a building lot for a majority of the time Mrs. Doherty owned the lot. The lot would be put to productive use consistent with the neighborhood."

3. By granting the variance substantial justice would be done because:

   "The owner would have the productive use of a prior existing non-conforming lot rendered useless by current frontage and setback requirements. When the lot was created in 1962, the owner could have built a residence as is currently proposed."

4. The spirit and intent of the Ordinance will not be broken by granting the variance because:

   "The proposed use is consistent with residential uses in the area and there are already five (5) other houses on the private right-of-way."

5. Special conditions exist such that literal enforcement of the ordinance results in unnecessary hardship.

   (a) An area variance is needed to enable the applicant's proposed use of the property given the special conditions of the property.

   "The setback and frontage restrictions interfere with any use of the property. This pre-existing non-conforming lot was created in the early sixties and is similar to other lots on the private right-of-way, five of which have residences on them."

   (b) The benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance.

   "The only way the applicant could remedy the private way issue would be to improve Robin Lane to Town standards. That is not reasonably feasible. The other five residences on Robin Lane have been there for over 40 years. Applicant will sign a private way agreement."

Attorney McNicholas noted that he had sent formal letters to the abutters and had received no negative comments.

Mrs. Gray inquired as to when the Town discontinued taxing the lot as a building lot. In response, Attorney McNicholas stated that the lot was taxed from 1976 to 2001 as a building lot. Since, 2001 the value of the lot was decreased.

Mrs. Gray inquired as to the plowing of the road. In response, Attorney McNicholas assumed that the plowing has been done privately by the owners of the properties. The road is currently plowed past Mrs. Doherty's lot to a house just beyond.

Mr. Koontz questioned whether there are other residences in the area that are on non-conforming lots. Attorney McNicholas replied yes, stating that by today's standards the lots are non-conforming.

At this time, Attorney McNicholas listed approvals that had been granted for other property owners in the past years. For example, Roberts approved in 1996, Spilewski approved in 1996, and Kirsch approved in 1997.

Mr. Boatwright inquired as to whether the proposed residence would be occupied year-round or seasonally. Attorney McNicholas assumed the residence would be

utilized year-round, indicating that the maximum size residence that could be constructed would be 24′ x 32′.

At this point in time, the Board discussed the potential size and location of the residence. Mr. Langwasser then questioned the owner's ability to receive approval for a septic system based on the size of the lot and location of the proposed residence. Attorney McNicholas could not envision more than two-bedrooms, noting that if they were not successful at receiving the necessary septic permit that the lot then could not be build on.

Mrs. Gray expressed difficulty in understanding that actual proposed location of the house, septic system and well on the property. Mrs. Gray was not so concerned with the granting of the variance to utilize the lot as a building lot, but rather the granting of a variance with less than the required setbacks for the district. She suggested that it would be beneficial to the Board for the Applicant to provide a detail sketch map of the location of the proposed septic system, well, driveway, and residence with setbacks noted. Additionally, she asked that the abutting residences be shown with the location of their residences, wells, and septic systems from the Doherty property.

Attorney McNicholas suggested that the Board table the application so to allow him an opportunity to provide the detailed sketch map.

Following brief discussion, a motion was made by Mrs. Gray, seconded by Mr. Boatwright, to vote on the variance allowing less than the required 50-feet of road frontage along a Town Road. The second variance allowing less than the required setbacks is to be withdrawn by the Applicant until such time as he reapplies with the necessary sketch map. With five members voting, two voted in favor of voting and three voted in opposition. The motion failed.

Mr. Langwasser believed that it would be more appropriate for the Board to act on the application as one as the two variance issues are related, rather than separating out the two variance issues.

Mrs. Gray, seconded by Mr. Langwasser, moved to table Application TH06-1V-3-1 to the April 4, 2006 hearing, pending receipt of additional information as previously noted. Motion carried unanimously (Gray, Langwasser, Koontz, Boatwright, and Krzyzaniak).

TH06-1S-3-2 KaLea Anne Thoits— KaLea Anne Thoits addressed the Board to request a Special Exception to operate a metaphysical gift and supply shop as a home business. The property is located 67 Burnham Intervale Road in the M-1 (industrial) district, shown on Tax Map 221 as Lot 17. The application was submitted in accordance with paragraph 2.1.H.1, Table of Uses 3.6.A.8 and paragraph 3.7.3 of the Hopkinton Zoning Ordinance.

Mrs. Thoits explained her interest in operating the gift and supply shop in her detached barn that is 500 square feet in size.

TH06-1SP-3-3 Deborah A. Curtis, President of the Hopkinton State Fair—Applicant requests a Special Use Permit to hold an event known as the Amateur Radio and Computer Flea Market. The event is to be held on May 5 and 6, 2006 and October 6 and 7, 2006 with an estimated attendance of between 2,000 and 3,000 people per day. The event will take place on property owned by the Hopkinton State Fair Association, Inc., shown on Tax Map 222 as Lots 57.2, 59, 60, 61 and 79.

TH06-2SP-3-4 Deborah A. Curtis, President of the Hopkinton State Fair—Applicant requests a Special Use Permit to hold an event known as the Annual Sheep and Wool Festival. The event is to be held on May 13 and 14, 2006 with an estimated attendance of between 2,500 and 4,000 people per day. The event will take place on property owned by the Hopkinton State Fair Association, Inc., shown on Tax Map 222 as Lots 57.2, 59, 60, 61 and 79.

TH06-3SP-3-5 Drew Drummon, NH Lodging & Restaurant Association—Applicant requests a Special Use Permit to hold an event celebrating the NH Hospitality Industry. The event is to be held on July 29, 2006 with an estimated attendance of approximately 3,000 people per day. The event will take place on property owned by the Hopkinton State Fair Association, Inc., shown on Tax Map 222 as Lots 57.2, 59, 60, 61 and 79.

II. Review of the Minutes and Notice of Decision of November 1, 2005 and March 7, 2006.

Review of the minutes were deferred to the May 2, 2006 meeting.

III. Adjournment.

Chairman Krzyzaniak declared the meeting adjourned at 10:40 PM. The next scheduled meeting of the Board is Tuesday, May 2, 2006, at 7:00 PM in the Town Hall.

Karen L. Robertson
Planning Director

Pursuant to New Hampshire RSA 677:2, any party to the action or proceedings, or any person directly affected thereby, may apply for a rehearing. Application, in writing, must be submitted to the Zoning Board of Adjustment within thirty (30) calendar days beginning the date upon which the Board voted to approve or disapprove the application. Such a request must set forth the grounds on which it is claimed the decision is unlawful or unreasonable. The Board must decide to grant or deny the rehearing within thirty (30) days.