

MINUTES  
ALTERNATIVE LOT DIMENSION  
SPECIAL PERMIT HEARING  
GREGORY SMALL AND CLAIRE ANACHREON

Thursday, July 12, 2007

Meeting was called to order at 9:00 PM

Members present were: Rene Wood, Anthony Gulotta, David Smith Sr. and Christopher Tomich. Margaret Martin was absent due to illness. She will listen to the complete audio tape, attest to that, then may participate in decision-making with the rest of the Board.

D. Smith Sr. read the notice of the public hearing into the record.

R. Wood thanked the applicant for his flexibility since the hearing was originally scheduled for 6/21, but had to be rescheduled because of a mistake in printing. She reviewed the procedure for the hearing.

Mike Parsons presented the application. Also present were Greg Small and his attorney, Nick Parsenious. Mr. Parsons explained the land maps, he also presented a letter from the building inspector, who is the inspector for both Sheffield and New Marlboro; both towns boarder the property in questions. He explained that the town line becomes transparent for purposes of zoning. In order to have 50 feet of frontage the lot needs to be 3.5 acres in size, this lot is well beyond that, it's a little over 8 acres. To qualify for the alternative lot dimension the property needed to exist prior to January 1994. In the project narrative, he describes the history of this property. The lot was created on August 26, 1988 by David and Joan Jaquier. At that time, they conveyed an agricultural preservation restriction which Mr. Parsons stated created the line dividing the Jaquier's property and defining the property currently under consideration. After studying those deeds, Mr. Parsons understands that the lot was created by an agricultural preservation restriction.

The proposed use will be residential. They will need the following permits: well permit, driveway permit, disposal permit, occupancy permit and a special permit for a common driveway.

Greg Small submitted tax records showing that the lots at issue were separate parcels prior to 1994.

R. Wood said that she did not know an APR could create a lot and questioned that taking such documentation to the registry of deeds would create a lot line. She asked how a lot can be created in MA other than through a Form A or Sub-Division Control.

Mike Parsons explained that APRs now require surveying out parcels accepted by the APR or any restriction so that there's a clear record of what rules apply to what property. In 1988 it was done with a handwritten deed.

R. Wood said she was not aware from a legal point of view that an APR created a lot line.

Mike Parsons said the way an APR causes lot line to be created is analogous to the way a Planning Board endorsement of a Form A does not create lot lines but allows the lines to be subsequently created. Lots A, B and the strip existed as a distinct parcel of land on January 25, 1994.

Attorney Parsenius explained that an APR is a permanent grant in perpetuity in contrast to a 60A or 60B lien. Both of these parcels were in Chapter 60. He stated that the APR caused the 43 acres to exist.

C. Tomich asked about access, and Mr. Parsons assured him that he would see that there is access at a site visit. Mr. Parsons added that there are no letters from abutters or Town Boards as a result of this Special Permit Application

R. Wood stated that she is still left with the large and unresolved question of whether an APR has any standing from a legal point of view in creating a lot line and asked if the applicant wished to explore this and present a statement or legal research saying that the APR creates a lot line? If the applicant has submitted all the information that they wish to, she suggested the Board consult with Town Counsel.

Mike Parsons said he would like to continue this hearing so that he could seek the advice of the register of deeds and gather more information. Attorney Parsenius also said he would provide an explanation.

The hearing was continued to August 9 at 8:00 PM and concluded at 9:55 PM.

Respectfully submitted

Nadia Milleron  
Secretary to the Planning Board