



ZONING BOARD OF ADJUSTMENT

Approved Minutes

July 28, 2020 - 7:30 pm @ Community Development Department

Physical Location: 3 North Lowell Road (Community Development Department)

Live Broadcast: WCTV Channel 20 – Local Cable TV

Live Stream: <http://www.wctv21.com/>

Attendance:

Chairman Mike Scholz- present via Zoom at home and alone

Vice Chair Bruce Breton-excused

Neelima Gogumalla- present at Community Development

Nick Shea- present via Zoom at home and alone

Betty Dunn- present via Zoom at home and alone and seated for Pam Skinner

Pam Skinner- excused

Kevin Hughes, alternate- present at Community Development and seated for Vice Chair Breton

Staff:

Brian Arsenault: ZBA Administrator/ Code Enforcement

Anitra Lincicum, minute taker

Call to Order

Chairman Scholz explained that Executive Order 2020-04 allowed the meeting to held remotely:

“As Chair of the ZBA, I find that due to the State of Emergency declared by the Governor as a result of the COVID-19 pandemic and in accordance with the Governor’s Emergency Order #12 pursuant to Executive Order 2020-04, the public body is authorized to meet electronically. Please note that all votes that are taken during the meeting shall be done by roll call vote only.”

Let’s start the meeting by taking a roll call attendance. When each member states their presence, please also state whether there is anyone in the room with you during the meeting, which is required under the Right-to-Know law.”

The Chairman read the phone number for the public after helping a resident navigate connecting to the meeting remotely.

Public Hearing

Case #11-2020: Parcel 12-A-500

(Continued from June 9, 2020)

Applicant - New Hampshire Catholic Charities

Owner – New Hampshire Catholic Charities

45 **Location – 21 Searles Road**
46 **Zoning District - Rural District and Cobbetts Pond & Canobie Lake**
47 **Watershed Protection Overlay District (WPOD)**
48

49 Variance relief is requested from **Section(s) 706.4 and 706.8** to allow four signs to be installed.
50 Specifically from **Sec. 706.4 and Sec. 706.8**: To allow a building sign to be erected larger than
51 the dimensions of signs permitted and the entrance sign to be erected larger than the dimensions
52 of signs permitted with no front lot line setback and along Searles Road two retaining wall signs
53 larger than the dimensions of signs permitted with no front lot line setback.
54

55 Attorney Daniel Muller, Attorney Owner’s Representative, addressed the Board and is
56 representing the applicant. Attorney Muller is requesting the case be continued to September 8th,
57 2020. The applicant would like to redesign the signs. The applicant may also need additional
58 zoning relief and they would like to make sure the relief is appropriate. Mr. Arsenault stated that
59 additional relief may be required by the applicant depending on what is proposed. Mr. Arsenault
60 asked if a new posting was necessary based on the potential change in the relief. Ms. Dunn stated
61 that if the relief changes, then the posting will need to change if the relief is no longer
62 appropriate. Chairman Scholz stated that if there is additional relief that is needed, there will still
63 be time to make sure the new posting will reflect the necessary relief prior to the meeting based
64 on the application deadline. The applicant will have until August 18th to ask for additional relief
65 for the sake of additional posting information if needed. Attorney Muller does believe that that
66 will be an appropriate amount of time to review the design and to coordinate with staff. The
67 applicant understands that the original application may need to be withdrawn and a new
68 application may need to be filed if the variance relief changes.

69
70 **A motion was made by Ms. Gogumalla to continue Case #11-2020 to September 8th, 2020.**
71 **Seconded by Mr. Hughes. Roll call vote: Chairman Scholz, Ms. Gogumalla, Mr. Shea, Ms.**
72 **Dunn, Mr. Hughes- yes. Vote 5-0. Motion passes.**
73

74 **Ms. Dunn recused herself from Case #17-2020.**
75

76 **Case #17-2020: Parcel 17-I-110** (Continued from July 14, 2020)
77 **Applicant – The Dubai Group, Inc. – Doug MacGuire, PE**
78 **Owner – Branden and Cheryl Tsetsilas**
79 **Location – 29 Walkey Road**
80 **Zoning District - Residential A District and Cobbetts Pond & Canobie Lake**
81 **Watershed Protection Overlay District (WPOD)**
82

83 Variance relief is requested from the following **Section(s) 200, 603.1.3, 702 & Appendix A-1.**
84 Specifically from **Sec. 200**: To allow an accessory building as the only structure on the lot,
85 where the detached building which is subordinate to the main use or building and located on the
86 same lot with the main building is required. And from **Sec. 603.1.3** to allow for an accessory
87 building as the permitted use on the lot where such use is not permitted. And from **Section(s)**
88 **702 and Appendix A-1**: To allow construction of a new 816 sf accessory building (garage) on a
89 pre-existing non-conforming lot, with two frontages Walkey Road and Cobbetts Pond. To allow
90 a lot size of 4,301 sf, where a minimum land area of 50,000 sf is required. To allow 96.4’

91 frontage on Walkey Road (a private road/right of way) where 175' of frontage is required on a
92 public road. To allow a front yard setback of 9' (Walkey Road) and to allow a modified front
93 yard setback of 18' (Cobbetts Pond), where 50' is required. To allow an east side yard setback of
94 15' and a west side yard setback of 22' where 30' is required.

95
96 The Chair advised the applicant of the 4 member board and asked the applicant if he would like
97 to continue the case. The applicant stated he would like to proceed with the 4 member board.
98

99 Mr. Doug MacGuire of the Dubay Group and Owner Representative, addressed the Board. Ms.
100 Dunn is recusing herself from the case. Mr. MacGuire was asked if he would like to continue in
101 front of a 4-member Board. Mr. MacGuire said he would. Mr. MacGuire stated that the two
102 takeaways during the last presentation was about drainage and about the removal of the pine
103 trees. Mr. MacGuire stated that it was necessary to move forward with the Shoreland Protection
104 permit eventually so the applicant did put together the drainage and plant removal as well. There
105 is also gravel parking on the more detailed plan. Mr. MacGuire stated they have a reduction in
106 overall impervious surface area and there would also be a porous paver driveway omitting the
107 need for a roof recharge system. Mr. MacGuire stated that the pine trees are being removed from
108 the property as well. The proposal will include 7 new trees and blueberry bushes which will
109 allow the area to naturalize. There is more buffering and absorption of any run off. There will be
110 a more buffered shore front with these planting according to Mr. MacGuire.

111
112 Chairman Scholz asked about the hydrological study and why the roof run off was not necessary.
113 Mr. MacGuire went back to the existing conditions of the property. Currently, there is a
114 compacted surface that is not infiltrating water at present and acting as impervious surface. There
115 is a pre and post analysis in the study as well and Mr. MacGuire spoke to the figures in the study;
116 they are minimal because the area of the lot is so small. In the post development condition, there
117 is a reduction in run off rate in all storm events due to elimination of the gravel area and the
118 addition of the porous pavers. Mr. MacGuire stated there is a reduction of impervious surface
119 even with the vegetative buffer that the applicant is not taking credit for.

120
121 Chairman Scholz is not sure why there is not ground infiltration for the roof on the application.
122 Mr. MacGuire stated that the gravel is acting like impervious surface even when it is listed as
123 such. Mr. MacGuire stated they are doing this the same way they would for any size lot but the
124 impact is insignificant. Chairman Scholz asked about grading. Mr. MacGuire stated that the lot
125 will drop about 4 feet and that height will be made up within the height of the structure.

126
127 Mr. Shea asked about the Shoreland Protection Permit; he asked what factors were considered
128 for that permit. Mr. MacGuire stated that they look to see if it was a lot of record. Mr. MacGuire
129 stated that the state will look to see if they are under a certain percent of impervious coverage.
130 The drainage study will also be evaluated. The mitigation will also be looked at and what is
131 being planted and what is being removed in terms of vegetation. Mr. MacGuire stated they also
132 look at lot coverage. Mr. Shea asked if they were looking at the run off and the vegetation. Mr.
133 MacGuire stated they were looking at that and the mitigation as well.

134
135 Mr. Arsenault stated that the blueberries that were added were not part of the hydrological study.
136 Mr. MacGuire stated he appreciates that point from Mr. Arsenault. Mr. MacGuire stated that the

137 13 bushes will be part of the root structure on the lot and in the area. The blueberries bushes will
138 allow for both treatment and mitigation. Mr. MacGuire stated that a roof is not considered a
139 high-level contaminant.

140 Mr. MacGuire pointed out that this is not being used as a single-family home; this structure is
141 being used as a garage. There are rows of existing evergreens on the other property owned by the
142 applicant which travel onto this site as well. Chairman Scholz asked of the plantings satisfied the
143 requirement for planting at the state level. Mr. MacGuire stated that the planting calculation are
144 not necessary on this type of lot for this type of purpose. Mr. MacGuire also said that credit is
145 also given for current vegetation. Mr. MacGuire stated that the state would like local approval
146 before going for the Shoreland Protection Permit.

147
148 Chairman Scholz opened discussion up to the public at 8:10pm.

149
150 Mr. Shea asked if there was a letter from the Conservation Commission; it had been read at the
151 previous meeting. There was a restoration plan put together by the landscape architect. The pines
152 are on site currently and there is also the service berry that was recommended by the architect.
153 The Board discussed the deed restriction that there is no intent to put a house on the lot and
154 Chairman Scholz asked about the intent to install a garage and not a house. Chairman Scholz
155 asked about the maintenance of the porous pavers. Mr. MacGuire stated that the porous pavers
156 are not likely to need to salt or sand the surface. Mr. MacGuire stated that if there are any Board
157 members who have questions about the variance criteria, he is happy to answer any questions.
158 Mr. MacGuire is also happy to go over the variance criteria once again for the Board.

159
160 **A motion was made by Mr. Shea to go into Deliberative Session. Seconded by Mr. Hughes.**
161 **Roll call vote: Chairman Scholz, Ms. Gogumalla, Mr. Shea, Mr. Hughes- yes. Vote 4-0.**
162 **Motion passes.**

163
164 Chairman Scholz stated that the plan set in substantially better than what had been presented to
165 the Board. There are notes on page 3 that talk about the preservation of the area. There is also a
166 maintenance schedule of the porous pavers. Also, the applicant is willing to enter the deed
167 restriction on the lot as well that there will not be a home put on the lot. Mr. Shea sees this as a
168 reasonable use of the property and the applicant has taken many steps to mitigate what is
169 happening on the property. Ms. Gogumalla asked if the structure on the property was a house
170 (and not a proposed garage), what else will be added to help mitigate the property. Chairman
171 Scholz stated that a house does not have to have anything for mitigation purposes; it is possible
172 that the water would drain directly to the ground. This structure has been measured for a 50-year
173 storm event.

174
175 Mr. Hughes asked about the barrier of plants including the blueberries and what protections
176 would be in place to preserve those over time. Chairman Scholz stated that they are on the plan
177 and code enforcement would allow for them to continue to be maintained.

178
179 Chairman Scholz stated that he believes the first 2 criteria and that this is a unique proposal that
180 has come before the Board. The property owner could do something else but they are opting to
181 install a garage. The mitigation for the rain and the plantings on the plan help to meet the criteria.
182 There is also evidence to support the 4th criteria as well. Also, the size of the lot is very small and

183 the homeowners are looking to install a garage and not a home. Mr. Shea is in agreement with
184 Chairman Scholz.

185
186 **A motion was made by Mr. Shea for Case 17-2020 to grant relief as requested from the**
187 **following Section(s) 200, 603.1.3, 702 & Appendix A-1. Specifically from Sec. 200: To allow**
188 **an accessory building as the only structure on the lot, where the detached building which is**
189 **subordinate to the main use or building and located on the same lot with the main building**
190 **is required. And from Sec. 603.1.3 to allow for an accessory building as the permitted use**
191 **on the lot where such use is not permitted. And from Section(s) 702 and Appendix A-1: To**
192 **allow construction of a new 816 sf accessory building (garage) on a pre-existing non-**
193 **conforming lot, with two frontages Walkey Road and Cobbetts Pond. To allow a lot size of**
194 **4,301 sf, where a minimum land area of 50,000 sf is required. To allow 96.4' frontage on**
195 **Walkey Road (a private road/right of way) where 175' of frontage is required on a public**
196 **road. To allow a front yard setback of 9' (Walkey Road) and to allow a modified front yard**
197 **setback of 18' (Cobbetts Pond), where 50' is required. To allow an east side yard setback of**
198 **15' and a west side yard setback of 22' where 30' is required per the 4-page plan dated July**
199 **21st 2020 and signed and dated by the Chair on July 28th, 2020 with the following**
200 **conditions:**

- 201
- 202 **1. The deed will contain a restriction stating that no dwelling will be constructed on**
203 **this lot and no dwelling will be installed on this lot**
 - 204 **2. Proper maintenance of the porous pavers**
 - 205 **3. Incorporating all representations made by the applicant and their agents as part of**
206 **this approval**
 - 207 **4. The garage will not be used as a dwelling unit.**

208
209 **Seconded by Mr. Hughes.**

210
211 The Board discussed the restriction around the dwelling unit.

212
213 **Roll call vote: Chairman Scholz, Ms. Gogumalla, Mr. Shea, Mr. Hughes- yes.**
214 **Vote 4-0. Motion passes.**
215 **The Chair advised of the 30-day appeal period.**

216 217 **Public Meeting**

218
219 The Board had a discussion about the microphone in the room at Community Development and
220 how difficult it is to hear those who are in Community Development clearly. The Board stated
221 that additional microphones might also help the communication.

222
223 **A motion was made by Ms. Gogumalla to adjourn at 9:02pm. Seconded by Mr. Shea. Roll call**
224 **vote: Chairman Scholz, Ms. Gogumalla, Mr. Shea, Mr. Hughes, Ms. Dunn- yes.**
225 **Vote 5-0. Motion passes.**

226
227 Respectfully submitted by Anitra Lincicum