

Topsfield Zoning Board of Appeals

August 28, 2012

Chairman Moriarty called the meeting to order at 8:00 PM at the Town Library. Board members present were Robert Moriarty, Jody Clineff, David Merrill and David Moniz. Roberta Knight, Community Development Coordinator was also present as well as the applicants, their representatives and interested residents. See attendance sheets for specific public hearings.

Visitors: Selectmen Richard Gandt, Martha Morrison and Laura Powers; Larry Beals, Scott Butler, Glen Gollrad, Walter Rehak, Steven Wilson, Ellen Wilson, Charlie Itz, Chris Bandereck, Mary Bandereck, Christian Bandereck, Damian Bandereck, Julian Bandereck, Nancy Luther.

78 Alderbrook Drive Continued Public Hearing: At 8:10PM, Chairman Moriarty called to order the continued public hearing to consider the application J & J Realty LLC by John Masterson for premises located at 78 Alderbrook Drive requesting a variance pursuant to Article IV, Section 4.07J (1) of the Topsfield Zoning By-law to use for access, egress and utilities a grandfathered non-conforming common driveway easement shared by 4 other lots for said purposes.

Mr. Larry Beals of Beals Associates representing the Applicant informed the Board that he had met with Chief Giovannacci as requested and also with Captain Jenifer Collins Brown. Based on CMR 527, the common driveway would be required to be treated as a fire lane and said drive would need to be plowed to provide an 18' clearance width. The Chief also requested that the house driveway layout and width be revised to accommodate a 35' ladder truck. Accordingly, as a result of the meeting the plan was revised as follows:

1. Notes were added to the plan to ensure that the driveway is plowed to a width of eighteen feet and that the paved surface and stabilized shoulders are clear of snow.
2. The proposed driveway layout and width have been modified to provide adequate area in the vicinity of the new house driveway to accommodate the turning radii for a 35' ladder truck.

Mr. Beals then reviewed the revised plan in detail:

1. Sight distances were added to the plan for the intersection of the common driveway and Alderbrook Drive.
2. Pavement widths have been dimensioned for the existing paved surfaces from Alderbrook Drive (32 feet), narrowing to 15.5 feet and extending to the driveway at a consistent width of 14-14.25 feet.

3. A proposed 2' stabilized gravel shoulder was added along both sides of the common driveway from Alderbrook Drive and extending beyond the proposed house driveway.
4. A detail with specification has been added to the plan illustrating the existing pavement width and the proposed 2' stabilized shoulders on both sides of the existing common driveway.
5. The proposed house driveway flair has been widened at the intersection with the existing common driveway to accommodate delivery and fire truck turning radii.
6. The existing tree has been removed to allow an expanded turning radius and a better sight distance at the intersecting of the existing common driveway and the proposed house driveway.
7. The pavement width of the common driveway has been expanded for a width of 4 feet, beginning at the intersecting of the common driveway and the proposed driveway located on the eastern side of the common driveway and extending in a northerly direction for a distance of 50 feet to allow for a pull-off and to accommodate the turning radii of larger vehicles.
8. In the area located to the southwest of the common driveway and the proposed driveway, the stabilized shoulder has been expanded to a maximum width of 9 feet for a distance of 40 feet on the western edge of the common driveway to accommodate the turning radii of larger vehicles backing out of the proposed driveway. This area can also be used as a pull-off area.
9. The proposed driveway run-off infiltration area has been moved in a north westerly direction away from the edge of the proposed driveway.

During the course of the review, intermittent discussions occurred with the Board and abutters. Chairman Moriarty noted that minor streets in Topsfield required widths from 20 to 26 feet. Planning Chairman Martha Morrison concurred and noted that currently under the Subdivision Control Rules & Regulations the width for a minor street is 26 feet. Chairman Moriarty stated that for practicable purposes the snow would only be plowed on the paved area and would not have a clearance of 18 feet; therefore since a minor street would require more than 18 feet of pavement and the fire regulations require 18 feet of clearance then the common driveway should have a pavement width of 18 feet with one foot of gravel shoulders on both sides. All members agreed.

Mr. Beals noted that there were no practical limitations and that tree could be removed to provide for 18 feet of pavement with shoulders.

Chairman Morrison noted that the revised plan was a significant improvement and recognized several of the issues that the abutters expressed at the July meeting.

At this time abutter Scott Butler read a statement for the record against the granting of the variance to increase the use of the common driveway. The issues cited included:

1. Access to the common driveway and turnaround capacity that did not meet the standard of the other four lots that have access to private driveways with flares of approximately 35 feet and interior turning loops.
2. The current access point of the applicant's drive to the common drive has no visibility for vehicles traveling upward on the common drive.
3. The average use of the common drive will increase 25% and the number of possible events of two vehicles needing to pass by each other will increase by 67%.
4. Noted Carriage Way, which is a public cul-de-sac off Alderbrook, which has only four houses, yet has a paved width of 27 feet. The current paved width of approximately 13.5 feet would need to be increased to a paved 18 feet up to the upper edge of its access place with quality work.
5. Currently melting snow flows onto the paved area in the lower portion of the drive and re-freezes creating a sheet of ice. Applicant's access will be in the area of this ice.

Mr. Butler noted that common drive in 2003 was damaged by the Applicant's heavy construction equipment. The Applicant did not make any repairs and refused to contribute any funds toward the repairs. He conclude that this situation will most likely occur again with the construction of the house.

Abutter Steven Wilson reiterated the same concerns and noted that the character of the driveway would be changed with the additional pavement and noted also costs for repairs and maintenance. He requested that the Applicant pay 1/5th of total common driveway repair and maintenance costs and impose condition in decision.

A discussion followed in which Chairman Moriarty noted that with the increased pavement width to 18 feet with one foot of graveled shoulders on each side, increased flare out and expanded pavement area at access point to accommodate the turning radius of larger trucks into the private drive would be sufficient and therefore did not require the turning loops as cited by Mr. Butler. The other four lots accessed the common driveway at narrower points of 12 to 14 feet of paved area.

Also, the Board and residents discussed the request for a mandatory provision that the Applicant sign an agreement relative to funding costs for repairs and maintenance of the common driveway. Chairman Moriarty responded that the Zoning Board did not have the authority to do so. The Board could only make conditions relative to the decision. Common driveways were under the purview of the Planning Board, and that the Zoning

Board was acting only on a request for a variance relative to a non-conforming common driveway.

The Board requested that Mr. Beals make the following revisions to the plan:

1. The existing paved driveway pavement width to be expanded to 18 feet with one foot gravel shoulders on each side from Alderbrook Drive to the proposed private driveway.
2. Review and note the location of trees and plants to be removed that are too close to the pavement to improve visibility on the common driveway, especially in the area of the private driveway for exiting toward Alderbrook Drive.
3. The private driveway to be reinforced with pavers or gravel to accommodate the turning radius of a fire truck.
4. Address expanded pavement area on common driveway near access to private drive to allow for a pull-off and to accommodate the turning radius of larger trucks.
5. Address mitigation of flooding/icing on areas on common driveway.
6. Address drainage mitigation for the common driveway associated with stormwater management and erosion control. Note permit required from Planning Board.

The public hearing was continued to September 25, 2012.

20 Central Street Continued Public Hearing: At 9:40PM, Chairman Moriarty called to order the continued public hearing to consider the application of Walter Rehak by Blue Goose Architecture for premises located at 20 Central Street, a non-conforming lot, requesting a variance (reduced to finding at July 24, 2012 meeting) pursuant to Article III, Section 3.05 to demolish the existing non-conforming one-story garage and replace with a non-conforming two story structure and connecting breezeway within the side setback.

Architect Glen Gollrad made the presentation to the Board. He reviewed the revised plans. By narrowing the width of the breezeway connection by one (1) foot and moving the garage back by approximately one foot, the side setback for the new garage and addition would remain at the current 7.2 feet.

The Board made the appropriate findings relative to the required zoning relief. Chairman Moriarty moved that the Board adopt the foregoing findings and grant a finding pursuant to Article III, Section 3.05 of the Zoning By-Law to approve the demolition of the existing non-conforming one-story garage within the side setback and the replacement with a two story structure and connecting breezeway to the existing home with the same

side setback on a non-conforming lot. The approval is subject to the following condition: The addition shall be built in conformance with the plan entitled, "Rehak Residence, 20 Central Street, Topsfield, MA 01983" dated August 7, 2012, a copy of which is on file with the Zoning Board of Appeals; seconded by Member David Moniz; so voted 4-0.

44 Main Street Modification: At 9:45PM, Applicant Mary Bandereck appeared before the Zoning Board to request a minor modification to the site plan relative to parking spaces, directional arrows and signage. On January 25, 2012, the Board had approved a site plan pursuant to Article IX of the Zoning Bylaw for premises located at 46R Main Street for the production and retail sale of baked goods and prepared foods at said location.

Ms. Bandereck requested the following modifications to the site plan:

- Omission of the required striping of parking spaces drawn on the site plan behind the front building on the property since these spaces do not serve the bakeshop.
- Directional arrows only to be required at entrance of shared driveway showing two-way traffic for entering and exiting site.
- Omission of "do not enter" and "one way" signs shown on plan since other businesses use area for parking and as such cannot control the traffic flow.
- Customer parking spaces on right side of building be designated by hanging parking signs instead of lining the dirt.

The Clerk David Merrill moved that the Board amend the site plan approval decision, and unless specifically noted below, all other requirements remain in place:

- Three directional pavement signs in front of premises
- One set of directional pavement signs near entrance of driveway on Main Street
- Other pavement signs waived.
- Directional sign "Keep Right" at right front corner of building
- Seven (7) lined rear parking spaces for Main Street building
- Three (3) unlined customer parking spaces on side of premises, only signage on building required

All in accordance with the marked copy of the Site Plan dated August 28, 2012, a copy of which is on file with the Zoning Board of Appeals; seconded by Chairman Moriarty; so voted 4-0.

5 Main Street Project: Ms. Knight informed the Board that Institution For Savings had contacted Selectman Gandt relative to the removal of the large tree located near the building in the area of Main Street and Park Street. The roots have been damaged due to the construction of the new foundation for the building. Selectman Gandt verified the situation. The Board noted that this request should be handled by the Tree Warden and / or Glenn Clohecy, the Building Inspector. Ms. Knight noted that she had already requested that Dave Bond, in his capacity as Tree Warden, take a look at the tree and makes a determination on its viability.

Minutes: Member Jody Clineff made the motion to approve the minutes of June 26, 2012 and July 31, 2012; seconded by Member David Moniz; so voted 4-0.

The meeting was adjourned at 10:27 PM

Respectively submitted,

Roberta M. Knight
Community Development Coordinator