

Zoning Board of Adjustment

Unapproved Meeting Minutes

16 October 2024

Members present: Peter Remy, Alan Bell, John Harris, Ernie Perham, Nancy Ranson

Alternative member: JJ Prior

Supporting Staff: Kaelyn Willette; Clerk

Public Present: Alison Fissette, Jeff Matthew, Mark Florenz, Frank Hunter, Kim Peavey, Dave Poklemba, Janet Shook, Charles Shook and others.

Minutes

At 6:47pm Alan Bell moved to approve the minutes from the September 19th hearing, John Harris seconded and the board unanimously agreed.

At 7:00pm Chairman Remy opened the public hearing and invited Daniel and Alison Fissette to discuss their application for a variance for driveway access via a deeded right-of-way and allow said driveway to be closer than 10 feet from the boundary line. Mr. & Mrs. Fissette want to continue utilizing existing access to the merged lot, rather than constructing a new driveway from Comerford or South Village Road (Map R7- Lot 3). There was discussion about maps, location, and frontages. Mrs. Fissette would like to merge two lots to create a building lot for one house and a barn. There was discussion about discontinuation of Torrey Hill Road. Torrey Hill Road has been discontinued after Mr. & Mrs. Fissette driveway.

Dave Poklemba the Westmoreland Town Road agent discussed that if Mr. & Mrs. Fissette put a driveway from Comerford Rd the run off would likely wash out the road. Kim Peavy & Frank Hunter about Mr. & Mrs. Fissette property support what they are asking for. There was then discussion about the deed of the property. Chairman Remy was concerned about who owns what portion of the road.

Mr. Harris asked about the frontage and acreage of the property. If granted the variance Mr. & Mrs. Fissette will merge property R7-3 with R12-100 creating a 331-acre building lot, with sufficient frontage. Mr. & Mrs. Fissette agree with their neighbors Kim Peavy and Frank Hunter that the driveway access from Torrey Hill Road would be for one building lot, it will be written in the deed depending on the outcome of the hearing.

At 7:24pm Chairman Remy asked Mrs. Fissette to discuss the 5 criteria for a variance.

1. The Variance Will Not Be Contrary to the Public Interest

The variance request aligns with the public interest by preserving the existing access and avoiding the construction of a new driveway on a Comerford Road or South Village Road which have very steep slopes and otherwise difficult access to the Premises. Creating a new driveway on South Village Road would, necessarily increase traffic turning onto South Village Road, and therefore increase the risk of safety hazards and accidents. Further, the frontage on South Village Road is wet from hillside runoff and streams. Developing a new driveway on steep slopes could create runoff issues and threaten the stability of the town-maintained road and adjacent

properties. Alternatively, creating an access via Comeford Road could impact wetlands, contrary to the public interest. The public interest would best be served by allowing the continued use of the existing right-of-way off the end of Torrey Hill Road (Class V) and minimize environmental, safety, and infrastructure impact.

2. The Spirit of the Ordinance is Observed

Section 102 of the Ordinance instructs: It is the intent of this Zoning Ordinance to provide for orderly community growth and to further the purposes established under New Hampshire RSA 674:17. State law (RSA 674:17) provides that zoning ordinances be designed:

- (a) To lessen congestion in the streets;
- (b) To secure safety from fires, panic and other dangers;
- (c) To promote health and the general welfare;
- (d) To provide adequate light and air;
- (e) To prevent the overcrowding of land;
- (f) To avoid undue concentration of population;
- (g) To facilitate the adequate provision of transportation, solid waste facilities, water, sewerage, schools, parks, child day care;
- (h) To assure proper use of natural resources and other public requirements;
- (i) To encourage the preservation of agricultural lands and buildings and the agricultural operations described in RSA 21:34-a supporting the agricultural lands and buildings; and
- (j) To encourage the installation and use of solar, wind, or other renewable energy systems and protect access to energy sources by the regulation of orientation of streets, lots, and buildings; establishment of maximum building height, minimum set back requirements, and limitations on type, height, and placement of vegetation; and encouragement of the use of solar skyspace easements under RSA 477. Zoning ordinances may establish buffer zones or additional districts which overlap existing districts and may further regulate the planting and trimming of vegetation on public and private property to protect access to renewable energy systems.

The proposal set forth in this Variance Application is consistent with these stated purposes. It will reduce congestion on South Village Road and promote safety by avoiding an additional turnout on that road. It will allow for the use of solar, wind, and other renewable energy on the Merged Lot because the building site could be closer to the right-of-way and not the steep slopes of South Village Road. It would minimize environmental impact of bringing a new driveway in from South Village Road or impacting the wetlands off Comeford Road.

3. Substantial Justice is Done

Justice is best described as fairness. It would be unfair to force a driveway from South Village Road or Comeford Road when there is an existing deeded access which is already improved, safe, and agreed-to by all abutting landowners. It is unfair to force a new driveway from South Village Road or Comeford Road based upon the strict enforcement of a rule which was written without consideration of the unique nature of this particular lot of land and its topography.

4. The Values of Surrounding Properties are Not Diminished

The existing access has been in place for 200 +/- years, and there is no evidence to suggest that its continued use would diminish the value of surrounding properties. In fact, the avoidance of new construction and potential runoff issues from the steep slopes on the Class V road would likely

protect the value of nearby properties. Additionally, allowing the existing access to remain minimizes disruption to the neighborhood and maintains the area's rural character.

5. Literal Enforcement of the Provisions of the Ordinance Would Result in Unnecessary Hardship

The unique topography of the Merged Lot distinguishes it from other lots in the area, particularly the steep slopes along South Village Road and the wetlands off Torrey Hill Road present environmental and engineering problems. This property is unique because its access has historically always been off Torrey Hill Road, but that road was discontinued in 1880, rendering the Premises virtually landlocked except for frontage on the Class VI section of Comeford Road. In order to use the Premises for residential purposes for which it is zoned, it must be merged to create the Merged Lot and appropriate Class V frontage to comply with RSA 674:41. However, the frontage for the Merged Lot is not conducive to a driveway and it is only logical to continue using the right-of-way over the discontinued portion of Torrey Hill Road for all of the reasons previously stated. The variance is necessary to enable reasonable use of the property while protecting the town's infrastructure and environment. We completely understand this will be a conditional approval

There was continued discussion about the deed and who owns what portion of the Torrey Hill Road. Chairman Remy suggested that the meeting be continued so the question for who owns what portion of the road can be answered.

At 7:37pm Nancy Rason moved to continue the hearing for applicant Daniel and Alison Fissette to **Wednesday November 20th at 7:00pm at the Westmoreland Town Hall located 780 Route 63, Westmoreland, NH 03467**, Ernie Perham seconded the board unanimously agreed.

At 7:40pm Chairman Remy invited applicant Mark Florenz whom property is located at 141 Hurricane Road (map R14- Lot57) to discuss his application for a special exception. Mr. Florenz started discussing his property and what he would like to use it for. He would like to keep cows on the property, and hogs. There was discussion about the different types of structures that were on the property when Mr. Florenz bought it. There are 6 large chicken coops that are rented out and used as storage containers, single family dwelling, a duplex, and auto repair shop.

Mr. Florenz is looking for a special exception to use this property as agriculture and forestry because it is a nice place for his animals to be out on pasture. Abutter Jeff Matthews would like to see the property return to what it originally was.

The board went through the criteria for a special exception for agriculture and forestry use, the auto repair shop, and the chicken coops that are being used as storage containers.

The board went through the 4 requirements for the special exception for agriculture and forestry use.

1. The specific site is an appropriate location for such use

The board found that this site would be appropriate.

2. Such approval would not reduce the value of any property within the district, or otherwise be injurious, obnoxious, or offensive to the neighborhood

The board found that approval of this special exception does not reduce the value of the property and is not injurious, obnoxious, or offensive to the neighborhood

3. There will be no nuisance or hazard to vehicles or pedestrians.

The board found that there will be no nuisance or hazard to vehicles or pedestrians.

- 4. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.**

There are adequate and appropriate facilities for the proposed use.

The board then went through the 4 requirements for the auto repair shop.

- 1. The specific site is an appropriate location for such use**

The board found that this site would be appropriate.

- 2. Such approval would not reduce the value of any property within the district, or otherwise be injurious, obnoxious, or offensive to the neighborhood**

The board found that approval of this special exception does not reduce the value of the property and is not injurious, obnoxious, or offensive to the neighborhood

- 3. There will be no nuisance or hazard to vehicles or pedestrians.**

The board found that there will be no nuisance or hazard to vehicles or pedestrians.

- 4. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.**

There are adequate and appropriate facilities for the proposed use.

The board went through the 4 requirements for the storage units.

- 1. The specific site is an appropriate location for such use**

The board found that this site would be appropriate.

- 2. Such approval would not reduce the value of any property within the district, or otherwise be injurious, obnoxious, or offensive to the neighborhood**

The board found that approval of this special exception does not reduce the value of the property and is not injurious, obnoxious, or offensive to the neighborhood

- 3. There will be no nuisance or hazard to vehicles or pedestrians.**

The board found that there will be no nuisance or hazard to vehicles or pedestrians.

- 4. Adequate and appropriate facilities will be provided for the proper operation of the proposed use.**

There are adequate and appropriate facilities for the proposed use.

At 8:27pm Alan Bell moved to accept the special exception to use property of Mark Florenz of Archway Farm LLC property located at 141 Hurricane Road Westmoreland NH Tax map R14 Lot 57 as agriculture and forestry. John Harris seconded and the board unanimously agreed.

At 8:28pm Alan Bell moved to accept the special exception of the storage units located on property of Mark Florenz of Archway Farm LLC property located at 141 Hurricane Road Westmoreland NH Tax map R14 Lot 57. John Harris seconded and the board unanimously agreed.

At 8:29pm John Harris moved to accept the special exception of the auto repair shop located on property of Mark Florenz of Archway Farm LLC property located at 141 Hurricane Road Westmoreland NH Tax map R14 Lot 57. Alan Bell seconded and the board unanimously agreed.

At 8:30pm Ernie Perham moved to adjourn the meeting, Nancy Ranson seconded the board unanimously agreed and the meeting concluded.