MINUTES OF THE MEETING
LEE ZONING BOARD OF ADJUSTMENT
Wednesday, January 22, 2019
7:00 PM

MEMBERS PRESENT: Jim Banks, Chairman; John Hutton; Craig Williams; Peter Hoyt & Shawn Banker, Alternate

OTHERS PRESENT: Sean McGann; Jim Gove, Gove Environmental; Wayne Morrill, Jones and Beach Engineers; Monica Kieser, Hoefle, Phoenix, Gormley & Roberts, PLLC; Anne Tappan, Conservation Commission; Laura Spector-Morgan, Mitchell Group, council for Town; Bill Booth, Building Inspector & Caren Rossi, Planning/Zoning Administrator.

John Hutton clerked and read the notice into the record.

Monica Kieser is representing Sean McGann for a rehearing of a Special Exception request to Article XV, E-1. A revised plan has been submitted. The request is for a driveway to be located 42' from the edge of wet soils (closest point), where 75' is required. The request is to the 2019 Lee Zoning Ordinance. The property is located on 13 Chestnut Way and is known as Tax Map #1-07-02200.

Monica Kieser read the introductory letter into the record. (in file) She then turned the presentation over to Wayne Morrill, Jones & Beach Engineers.

Wayne Morrill explained to the board that the soils were all re-delineated and they found another small, insignificant pocket near the end of the driveway but they also found the original encroachment was not as close. They have designed a swale almost the entire length of the driveway to catch the water. The entire site sheds toward the wet soils so this swale will catch all the run off not just the driveway run off. The swale discharges at the end of the driveway. He continued to explain the plantings proposed as shown on the plan. They did reposition the driveway some to help with the encroachment. They are no longer proposing pervious pavement. He then turned the presentation over to Jim Gove to explain the wet soils.

Jim Gove had visual pictures of the site and explained the information
packet he provided. He explained they are protecting wet soils not wet lands and the encroachment is to the buffer. (in file)

Monica Kieser recapped the Findings of Fact as submitted. (in file)

Public comment

Anne Tappan read the Conservation Commissions letter into the record. (In file) She spoke with concerns of maintaining the swale. This is critical for the protection and will need to be ensured it’s done.

Jim Gove explained that because it’s a driveway there will not be any sand and salt issues, just the organic matter that will naturally fall into it.

Floor closed

John Hutton asked Jim Gove about the construction process, will much work need to be done to construct the swale?

Jim Gove replied no, as it’s already cleared. He showed photos showing it already stumped and graded.

Shawn Banker asked how wide the swale is.

Wayne Morrill pointed out the swale note on the submitted plan.

Peter Hoyt asked if there was a swale maintenance plan.

The Board determined the following Findings of Fact.

**PRELIMINARY FINDING**

After reviewing the petition and having heard the presentation by the applicant, it is found that the Board has majority sufficient information available upon which to render a decision. If there is sufficient information, the application will be deemed accepted and the public hearing will continue. If it is found that the Board does not have sufficient information, the public hearing will be postponed to a date certain on ______________.
For Special Exceptions permitted under Article XV in the Wet Soils Conservation Zone:

The use is specifically permitted under the terms of Article XV.E._____
Yes: majority

Has the Application been referred to the Conservation Commission and the Health Officer for review and comment as required by Article XV.E?
Yes: majority

The requested use is specifically permitted under Article XV:

1. If for street, road, access ways and utility rights-of-way, is the use essential to the productive use of land and is it located and constructed so as to minimize any detrimental impact of such uses upon the Wet Soils?
   Yes: majority Mitigated as much as they can, limited. No other option. Not happy with it but choose of least resistance.

2. If for Water Impoundment, has the purpose of the District been met?
   Yes: n/a

3. If for Fire Ponds, has the use been reviewed by the Lee Planning Board and Lee Fire Department and has it satisfied the purposes of the zone?
   Yes: n/a

4. If for an undertaking of a use not otherwise permitted in the Zone, has it been shown that the proposed use is not in conflict with any and all of the purposes and intentions listed in Article XV.A?
   Yes: n/a

For all Special Exception requests, findings and rulings.

After reviewing the above, the Board has determined the following findings of fact, all of which must be satisfied to grant a special exception as required by Article XXII.3 of the Zoning Ordinance.
1) The proposed use will not majority be detrimental to the character or enjoyment of the neighborhood or to future development by reason of undue variation from the kind and nature of other uses in the vicinity or by reasons of obvious and adverse violation of the character or appearance of the neighborhood or cause diminution in the value of surrounding property. A lot of other lots that have had the same issues, not out of the ordinary.

2) The use will not majority be injurious, noxious or offensive and thus be detrimental to the neighborhood. No different than surrounding properties.

3) The use will not majority be contrary to the public health, safety or welfare by reason of undue traffic congestion or hazards, undue risk of life and property, unsanitary or unhealthful emissions or waste disposal, or similar adverse causes or conditions. Same of the rest of the neighborhood.

John Hutton made a motion that the request from Sean McGann for a Special Exception to Article XV, E-1 of the 2019 Zoning Ordinance, property is located at 13 Chestnut Way and is known as Lee Tax Map #1-07-02200. The request is to allow a driveway to be located 42’ from the edge of wet soils (closes point), where 75’ is required. Be GRANTED subject to the following conditions:

1. Plantings consisting of a mixture of red spruce and balsam fir are to be 10’ on center as outlined in submitted plan, Exhibit M 1.
2. Jones & Beach will certify swale and plantings are done in accordance with Exhibit M-1 prior to the issuance of a Certificate of Occupancy for the home.
3. Every 5 years the swale and plantings are certified to original specifications by a licensed professional and submitted to the town.
4. This decision will be recorded at the Strafford County Registry of Deeds, at the applicants’ expense.
5. All work to be in compliance with Best Management Practices

Peter Hoyt second.

Jim Banks, Chairman explained the 30-day appeal period to the applicant.
MINUTES TRANSCRIBED BY:

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Caren Rossi, Planning & Zoning Administrator