

**Parsonsfield Zoning Board of Appeals
634 North Rd Parsonsfield, ME**

Administrative Appeal for Map U-12 / Lot#19

Tuesday, April 23rd, 2019
Minutes

In Attendance: Mike Sandahl (Chair), George Stacey, Don Wilson

Absent: Don Murphy

Also in attendance: Lindsay Gagne, Marion Wright, Deborah Sobczak, John Sobczak, Stephen Richards, Craig Bona.

Mr. Sandahl Calls the meeting to order at 6:00 p.m. He reviews the application for the administrative appeal briefly summarizing this appeal was filed by Marion Wright and the purpose of this meeting is to seek clarification on what the specific request is. Mr. Sandahl reviews the written request by Mrs. Wright asking to revoke the approval on the Sobczaks site plan review for the reason that it is not in compliance with section 8,C,3,d in the land use ordinance. Mr. Sandahl asks Marion to walk through the request and explain what was not met in the site plan review.

Mrs. Wright Explains she couldn't give the planning board a clear definition of what "Partially Built" meant. She states she brought her concerns to the planning board on 3/12/19 at their workshop and again on 3/19/19 at their meeting with emails from Maine Municipality Association (MMA) legal services. She further explains the two properties are contiguous by the right of way road.

Mr. Stacey Asks who owns the right of way road.

The Sobczaks Answer they own the road.

Mrs. Wright Explains by joining the two lots they would have to meet the greatest practical extent which would be a 100-ft set back from the water.

Mr. Sandahl Asks Mrs. Wright what was the decision or the fact findings that the planning board determined that Mrs. Wright did not agree with.

Mrs. Wright States she did not agree with the planning board when they voted 3-2 that section 8,C,3,d did not apply to this site plan review. She clarifies what section 8,C,3,d means is that because they own both lots and they own the road between the two lots, they would have to merge the two lots in order to rebuild their cabin.

Mr. Sandahl States his understanding so far is this is based off this one section of contiguous lots and asks what was presented as facts for the planning board to determine their decision.

Mrs. Wright States she did not have a clear definition of what "Partially Built" meant during the planning board meeting, it is now included in the appeals application. She explains the term means anything built on either of the lots. She also explains the board only voted that section 8,C,3d did not apply without any findings of fact.

Mr. Sandahl Asks Marion where does MMA state that this section applies to the site plan review. He reads a section of the email that states "Therefore, when determining whether or not

the lots should merge for development purposes under this section the board will generally need to determine; 1.) the lots are contiguous. 2.) the lots are in single or joint ownership. 3.) if one or both lots is vacant or one or both lots do not contain a principle structure. He states MMA only gave guidance and did not determine anything and asks if those three things were determined by the planning board.

Mrs. Wright States she wasn't able to prove to MMA that the Sobczaks own the right of way and reads a section of an email where MMA defines "Partially built"

Mr. Sandahl States we agree the lots are partially built and asks what's contiguous?

Mr. Richards States the two lots touch but at the point where they touch is the right of way road. He explains there are two rulings for shoreland zoning with "Non-conforming structures" and "non-conforming lots" in which this would apply to the non-conforming lots ruling. In this situation there is a right of way that goes between the two lots and what was debated at the planning board meeting was the interpretation of "Partially Built".

Mr. Sandahl States his understanding was if these two lots could be considered contiguous and from what he see's there is a road separating the two lots. He reads a segment that states "lands located on opposite sides of a public or private road are considered to be each a separate parcel of land".

Mr. Richards States this is a private road and maintained as such. He explains the terms "practical extent" can be subjective and not automatically mean a setback of 100-ft. He also explains the front property does not suit the needs for proper septic systems in which the Sobczaks purchased the back lot across the right of way in order to put a leaching field there. The board had put a condition on the approval of the plan that the Sobczaks would put the back-leaching field in an easement so that in the future, should the properties be sold separately, the septic and leaching field would remain with the front lot.

Mr. Sandahl Asks Marion to clarify if what she is looking for here is for the Appeals board to determine if section 8,C,3,d either applies to the site plan review or doesn't apply.

Mrs. Wright States this is correct.

Mr. Sandahl States the appeals board will have to have a hearing and walk through how to make that decision on only that part and he clarifies this will not have anything to do with the septic or the leaching field, just specifically if section 8,C,3,d applies or doesn't apply to this site plan review.

Mrs. Wright States she wasn't able to prove to MMA who owned the right of way road but that she does agree, this is what she is looking for.

The board discusses a date to set for the public hearing and decides to set a public hearing for May 14th, at 6:00 p.m.

Draft completed by: Lindsay Gagne