



TOWN OF WARNER

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Zoning Board of Adjustment NOTICE OF DECISION

Date of Decision: January 10, 2024

Variance Application - REHEARING

Case: 2023-05

Applicant: Pier D'Aprile

Address: 115 Bible Hill Road

Map/Lot: Map 12, Lot 5

District: Frontage in R-3. Back of lot is in OC-1.

Details of Request: In preparation for a minor subdivision the applicant is requesting a variance to the road frontage requirement. The minor subdivision would create one conforming lot with the existing house on 3.5 acres +/- with 250-feet of frontage and a second lot containing 44.5+/- acres with 80-feet of frontage. The R-3 district frontage requirement is 250 feet.

You are hereby notified that on January 10, 2024 the Zoning Board of Adjustment voted to **APPROVE** a Variance to the terms of Article VII.C.1.a, to create a lot with 80-feet of frontage in an R-3 district by a vote of 3 to 2.

The following conditions will apply:

1. A natural evergreen screening will be maintained to reasonably mitigate headlights shining on the neighbor's house while exiting the new driveway.
2. Change the angle of dog leg driveway to reasonably mitigate headlight pollution to abutters properties.

The Board's decision was based on the following findings/criteria:

1. Granting the variance will not be contrary to the public interest because:

A majority of the board found the request would not be contrary to the public interest or to the spirit of the ordinance because the new residential building will be located out of view from Bible Hill Road and create no additional feeling of density. An excavator was on site during the site walk to exhibit height and placement of the house. The public view from Bible Hill Road will not be disturbed. The one additional house will be setback 1,000 linear feet from the road and on 44.5+/- acres creating no additional perceived change in density.

2. By granting the variance, the spirit of the ordinance is observed because:

A majority of the board found the neighborhood already has a mix of historic and new homes. A new home on the proposed lot is in keeping with the character of the neighborhood. The public health, safety or welfare would not be impacted. The proposal is for one house on a 44.5+/- acre lot of open land preserving low density in the OC-1 District.

3. By granting the variance substantial justice is done because:

A majority of the board found there is no substantial relationship between the general public purposes of the ordinance and this specific application because the frontage for a driveway will not change the character of the neighborhood yet will allow the owner to create a new

single-family residential lot and use the property as desired. The frontage for a driveway was not going to negatively affect the neighborhood.

4. Granting the variance will not diminish the values of surrounding properties because:

The board heard testimony and reviewed video of multiple accounts of headlight shining on properties throughout the Bible Hill Road neighborhood. Although, the board determined they would attach conditions to granting the variance to aid in mitigating the effect of headlights when traveling down the driveway and shining on abutter's residences. Creating this lot would not cause a diminution to the value of surrounding properties.

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship:

A. *Meaning that owing to special conditions of the property that distinguish it from other properties in the area:*

- i. *No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision on the property;*

A majority of the board found there was no substantial effect on restricting the public while providing a reasonable use of the property. The newly created lot will have frontage of 80-feet in the R-3 district for a driveway. The house will be setback 1,000 linear feet from the road in the OC-1 district preserving the remaining untouched 40+/- acres of property. The undeveloped 40+/- acres of the property serves the general purpose of the OC-1 ordinance.


and

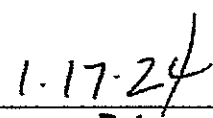
- ii. *The proposed use is a reasonable one.*

[Explain what is unique about the property that makes the specific zoning restriction unfair and unrelated to the purpose of the provision, and that it is a reasonable use.]

The geometry of the property is such that it has a flagpole shape roadside in the R-3 district and a flag shape with a majority of the land in the back of the property in the OC-1 district. When subdividing the property one conforming lot will be created with the existing historic cape. The remaining lot needs a variance in order to access and develop a portion of the remaining 44.5+/- acres. One house is being proposed on a 44.5+/- acre lot with 80-feet of frontage for a driveway is a reasonable use of the property.

Summary: Following a public hearing on January 10, 2024 the board granted a Variance by a vote of 3-to-2.


Barbara Marty, Chair
Zoning Board of Adjustment


Date

Warner Zoning Board of Adjustment Note: The New Hampshire RSA 677.2: provides that the Board of Selectmen, any party to the action, or any person directly affected has a right to appeal this decision within 30 days after the date of the decision. This notice has been placed on file and made available for public inspection in the records of the ZBA.