

APPROVED AS AMENDED
Zoning Board of Adjustment
Meeting Minutes
May 10, 2016

Members: Steve Filipi, Gretchen Wittenborg, Bob Handy, Jack Ernst and Cathy Davis

Others Present: Carmen Yon, ZBA Alternate, Susan Silverman, Selectmen's Representative, Tom and June Parker, Frank Bateman and Dorothy Zug, and Norman and Joan Dion.

CTO: 7:00 PM.

7:00 PM Public hearing. David and Margot LaPointe application from an Administrative Decision of the Board of Selectmen denying a building permit under RSA 674:41, II. On property located at 25 Rantilla Lane, Map 38, Lot 9, Rural District.

Mr. and Mrs. LaPointe addressed the Board describing their plans. Chairman Filipi read the February 11, 2013 letter sent to Mr. LaPointe from the Selectmen denying a building permit on the grounds that "sole access to property is via a private right of way." The letter described two issues – access and expansion of a non-conforming use.

Regarding access, Filipi noted that three properties use Rantilla Lane as access. Wittenborg said the right of way was laid out for people who did not have an access to Rockwood Pond.

Mr. LaPointe said he is not now living in the Rantilla Lane house, but they did live there for several years. Filipi asked Mr. LaPointe if, in his opinion, Rantilla Lane is a right of way to access properties. He agreed. Wittenborg said the beginning of Rantilla Lane is quite different in character than the section closer to the water. She read the easement language from the deed specifying that grantees are allowed to pass and repass. She added that most houses on the lane were built before town zoning. Wittenborg said the Phyllis Bateman cottage was built in 1986 and zoning was enacted in 1987.

Norman and Joan Dion, who live in Troy and have a cottage on Rantilla Lane, said their cabin was built before the Lane. They said Henry Rantilla traded labor with John Tommila in the 60's to build the lane. Others were allowed to tie into the lane to get to their camps. They said the road was maintained a little, but there is no road maintenance contract and it is not plowed in the winter. Davis clarified that there is no town maintenance of the lane.

Mr. LaPointe said the road has been maintained by three abutting owners. He said he had maintained it in the winter for five seasons. He lived there from 2010 to 2013, and rented from Mr. Harris during the winter. Mr. LaPointe said his property is not a camp, it is his home.

Tom Parker noted that there are a lot of private roads in town that are maintained by property owners, adding that there are also a lot of buildings on these private roads. He said it would be a shame not to issue a building permit for this project.

Wittenborg noted that Dunton Road and Sunset Road, as private roads, are very different than Rantilla Lane, in the materials used to construct them as roads, and these two roads are wide enough for cars to pass.

Mrs. Dion said they are retired and own property on both sides of the Lane. They do not want the Lane to be wider, nor can they afford to contribute to help maintain the Lane in the future. Mrs. La Pointe remarked that the use of the road will not be different whether used by owners of the existing house or a new house.

APPROVED AS AMENDED
Zoning Board of Adjustment
Meeting Minutes
May 10, 2016

Mrs. LaPointe said they pay dues to the Rockwood Pond Association and other groups around the pond. Filipi said now it is very hard to get a mortgage without a road maintenance agreement.

The Board reviewed the Shoreland Protection plan proposed by Paul Grasewicz in 2012, along with a proposed new septic plan done at the same time. They noted that the 150 foot shoreland buffer line goes through the proposed new house.

Mr. LaPointe said all existing structures will be removed when they build the new structure. He had hoped to keep one existing building to store equipment but will remove it if necessary. He added that the proposed new structure will be a two story farm house. Ernst asked if the right of way easement that crosses the LaPointe property near the shoreline will be maintained as is, allowing neighbors to use it. Mr. and Mrs. LaPointe said it would be maintained as is.

Filipi asked if the Board had other questions. Hearing none, an abutter, Dorothy Zug asked if she could address the Board, speaking as neighbors of the LaPointes. She asked if she could ask the Board questions and Filipi said of course.

Ms. Zug said she was curious about inaccuracies in the plan, noting that the existing buildings on the waterfront are now connected; she wondered how they disposed of kitchen waste water; she wondered if cottage waste water goes into the Lake. Mr. LaPointe asked how this was relevant. Wittenborg noted that she had looked at the house at one time and there was an outhouse connected to the septic tank. Mrs. LaPointe said there is a flush toilet in the outhouse that is connected to the septic system.

Ms. Zug noted that the property was lovely, but the proposed new house is nearly double the size of the existing cottage. She said town zoning regarding non-conforming structures says a non-conforming structure cannot be relocated to a different site. She noted that the toilet shed is 50 feet from the front door of the existing cottage; adding that the kitchen and shower gray water is probably discharged into the Lake. Ms. Zug noted that sand had been placed on the waterfront without a DES permit, the cottage had been renovated without a building permit, the dock was installed without a state permit, the stone wall they built redirects drainage, and a 712 square foot patio was installed without a building permit, noting it created an impermeable surface.

Ms. Zug read from the wetlands overlay district ordinance regarding the purpose of the district, adding that the LaPointes had not met with the Conservation Commission prior to installing the stone wall or the patio and she doubted the Commission would have approved either project.

Ms. Zug said she and her husband Frank Bateman urged the Board to deny this application. Mrs. LaPointe observed that Ms. Zug had said they wouldn't object to the proposal as long as all the existing buildings were removed prior to building the new house, which they will be.

Wittenborg asked Yon about Conservation Commission review of the proposed plan. He said if the LaPointes comply with their shoreland permit, they will also be in compliance with Fitzwilliam's regulations. The Board noted that a dock without a permit is problematic. Filipi said a seasonal dock on property with 400 feet of water frontage can be 6 feet wide and 30 feet long and it requires a permit by notification. Mr. LaPointe said the dock is not a permanent dock and he takes it in and out of the pond seasonally.

APPROVED AS AMENDED
Zoning Board of Adjustment
Meeting Minutes
May 10, 2016

Filipi noted that shoreland protection requires that there be no structures within 50 feet of the shoreline. Trees and plantings are allowed.

Yon asked if there was a septic plan for the new house. Filipi said there was no state approved plan yet, and he assumes the LaPointes are waiting until they know if they can build on the property.

Handy asked if there was a boat ramp on the property. Mr. LaPointe said he puts his boat in the water from his beach.

Filipi asked if the Board wanted to do a site walk. They agreed and set the date for Wednesday, May 11, 2016 at 5:00 PM. Filipi asked if Mr. LaPointe would give permission for abutters to attend the site walk. He declined to do so. The Board will meet at the La Pointe's property. Mr. LaPointe may not be available but Mrs. LaPointe will be on site.

Filipi moved, Ernst seconded and the Board voted to continue the hearing to May 31st at 7:00 PM.

7:30 PM Public hearing. Kim Arel application for a variance to build a 16' x 32' addition to a residence located at 11 Angier Road, Map 28, Lot 14. The proposed addition will violate the 50' setback from the road as is required in the residential district.

Ms. Arel was not present for the hearing, and after reviewing the application the Board had many questions regarding distances from the two streets on which there is frontage. The Board wanted more information with a plot plan showing the location of the house and addition on the lot. The Board agreed to do a site walk of the property at 5:45 PM on May 11, 2016. Staff will contact the applicant to notify them of the site walk and discuss the missing information the Board requested.

Filipi moved, Wittenborg seconded and the Board voted to continue this hearing to Tuesday, May 31, 2016 at 7:45 PM. Staff will notify the applicant of the continuance.

The Board reviewed minutes of the April 7, 2016 and April 12, 2016 meeting. Filipi requested a correction to the April 12 minutes regarding an existing driveway. Wittenborg moved, Handy seconded and the Board approved the April 12, 2016 minutes as amended. Wittenborg moved, Handy seconded and the Board approved the April 7, 2016 minutes as written.

Wittenborg notified the Board that the Town had received an appeal from Raitto Attorney Michael Bentley for a rehearing of the case granting a variance on April 7, 2016 to Blue Sky Towers to construct a monopole at a site on the Pinnacle to provide cell service in Fitzwilliam.

She noted that a private balloon test was done by Earl Duval and Steve Filipi on May 9th early in the morning, to avoid wind. It was done to determine if it could be seen by the Raittos from inside their home because they were away when the initial balloon test was done. Filipi reported that Mr. Raitto had seen a "little red dot" through the trees from inside his home, but had said he "wasn't worrying about it" and "I'm fine with this." Mr. Raitto said he will make the call to the attorney regarding the rehearing.

APPROVED AS AMENDED
Zoning Board of Adjustment
Meeting Minutes
May 10, 2016

Wittenborg noted that the appeal suggested the Board had not deliberated on the variance criteria nor had they put these findings in the notice of decision. The April 7, 2016 minutes indicate that the Board did deliberate on the criteria and had developed findings to that effect. She suggested the Board amend the notice of decision, by adding the findings section to the notice of decision. Yon moved, Ernst seconded and the Board voted unanimously to amend the notice of decision by adding the variance criteria findings to the notice of decision.

Wittenborg asked the Board about action on the appeal for a rehearing. She noted that Board members had not yet read the appeal, since it was delivered to her and Terry Silverman in person on the weekend, and to the Town Hall on Friday, May 6th by fax after the close of business. Since the Board has not had time to review the appeal, Wittenborg suggested the Board revisit the issue on May 31st. Yon moved, Ernst seconded and the Board voted to table the decision until the May 31st meeting.

Ernst moved, Wittenborg seconded and the Board adjourned the meeting at 9:00 PM.