

Minutes Meeting of November 23, 2004 – Sellars

Members Present: Stuart Schulman, Robert Cadle, Chase Duffy, Mark Mulligan, Jay Prager

The Chairman reconvened the hearing.

Atty. Pete Bowen, agent for applicant, noted that there are two memos from the BOH and submitted a copy of the approved Title V permit.

Discussion ensued regarding what the various BOH memos meant.

Mr. Cadle felt that section b.1 was met but section b.2 was not dealt with.

The applicant said that BOH meant to assure the ZBA that the criteria was met.

Discussion ensued regarding how to handle the BOH criteria.

Ms. Sellars submitted a Title V approval and noted that there were no BOH variances required.

Of note: the applicant is starting over with the same footprint, which is for a one bedroom dwelling with a 13 x 56 foundation and of the same size but in a slightly different location.

The Chairman said that there are two points to deal with: a seasonal conversion and the access/frontage issue.

A memo from Chief Joe was submitted by the applicant.

Of note: the Sanglioglo driveway has been used by the dwelling and should be allowed to be used in the future. The Fire chief said that either driveway could be used for safety vehicle access.

Atty. Bowen said that there is a 1909 deed that says the access is subject to future owners. He said that there has been some slight changes but argues that there is still viable access. He said that they could argue adverse use and this also applies to more lots than this one. He stressed that the court won't deprive an owner access to a right of way and noted a new case that allows the movement of a right of way as long as there is access still provided. He said that the other right of way was granted for certain lots, but not this one.

Discussion ensued regarding how to handle a lot with 0 feet of frontage.

Mr. Cadle said that the frontage requirement is to provide decent access.

Mr. Aubuchon said that Sylvia has no frontage either.

The applicants felt that the Noyes and Sanglioglo lots have the same no frontage issues that they have.

Mr. Mulligan feels that this project won't tax the area more than what is there, noting that a one-bedroom seasonal conversion to a one-bedroom year round use is not too major.

Mr. Aubuchon said that they will pay more taxes and the dwelling will look much better. He said that they could raise the house and pour new a foundation but stressed that they want to raze the existing and rebuild with an identical footprint. He stressed that the new dwelling will be much nicer and of the same size with no additional bedrooms but with a new foundation. He said that they have all Title V permits and are merely trying to better the property. He said that plowing is the least of their worries and said that they know where the snow will be stored.

The Chairman noted that the town took away the right of way.

Mr. Aubuchon noted that they could theoretically use the property as a summer camp with a big family and have as much summer usage as a year round couple.

The Board moved to close the public hearing. The motion was seconded and passed unanimously.

Mr. Prager said that he has no problem with either and felt that there was a net positive overall.

Mrs. Duffy said that the findings should show that there is documentation regarding the right of way and Title V.

The Chairman felt the decision should say little or nothing about the right of way issue.

Mr. Mulligan said that the right of way is outside of the scope of the ZBA.

Mr. Cadle said that a prior decision discussed the moving of the road.

The Boardd moved to grant a special permit to allow the seasonal conversion and to grant a variance from acreage and frontage with the following conditions: the permit is registered, the dwelling will remain at one bedroom and with the same size footprint and with all Title V requirements met. The scope of decision determines that there was no representation as to the availability of any right of way and does not address the issue of access.

The motion seconded and passed by four votes in favor and one abstaintion.

The meeting adjourned 9:00 pm.