

TOWN OF WILTON

ZONING BOARD OF ADJUSTMENT

JUNE 19, 1995

VOTING BOARD: Chairperson Neil Faiman; members Tom Mitchell, Carol Roberts and Jim Tuttle; alternate member Joanna Eckstrom.

CLERK: Diane Nilsson

AGENDA: Shirley D. Tallman - Variance.

Mr. Faiman called the meeting to order at 7:34 p.m. and stated that Ms. Roberts had toured the site with the applicant; Ms. Eckstrom had driven by and looked at the site and the other Board members are familiar with the site.

Case # 6/19/95-1 TALLMAN

Shirley D. Tallman, Lot A-075, 558 Burton Highway, in the Residential/Agricultural District, the Agricultural Watershed District and the Aquifer Protection Overlay District, requested a Variance to the terms of Section 14.3.3 of the Wilton Zoning Ordinance to permit the construction of a house and barn less than 200' from a perennial stream and less than 150' from deeded flowage rights to the State of New Hampshire Flood Control System in the Watershed District.

Ms. Tallman explained that she had her property surveyed and wants to construct a house, garage and barn on a 3-acre area of her land that is not in the State flowage easement. She presented a septic development plan which showed the house located 100' from the stream. She explained that the barn will have a cement bunker-like manure storage area which will be accessed on the side furthest from the stream.

Mr. Faiman read Section 14.3.3 which states... No residence, building, structure, septic system or its containment area, drainage outfall or feed lot shall be located less than 200' from open water and perennial streams nor less than 150' from intermittent streams, the 100 year floodplain, the deeded flowage rights to the State of NH Flood Control System or any wetland.

He further stated that the applicant's plan shows that the proposed buildings and septic systems are not in violation of the 100 year floodplain or the deeded flowage rights to the State, but the house and garage are in violation of the 200' setback requirement from open water and perennial streams.

Mr. Faiman read a letter from the US Dept. of Agriculture, Natural Resources Conservation Service dated 6/12/95 which stated that the barn and septic system locations have addressed the water quality issues. From a water quality standpoint, the Service felt that this plan provides the best location for all buildings and septic system given the limitations of the site. (See file)

Mr. Faiman stated that it was his impression that the classical example of a hardship is when an applicant has a 16-acre parcel of land and only has $\frac{1}{4}$ acre of usable land because of the setback requirements. The question then becomes whether the requirements that make the land unusable are necessary to protect the underlying objectives. And it appears that the Conservation Service feels that it is possible to alter those requirements without giving up the objective of the ordinance, which is to protect the water quality there. With regard to the ordinance requirements, it should be noted that there is currently an existing highly nonconforming structure which will be replaced by a much more conforming structure, although not completely conforming. Therefore, looking at everything the ordinance is trying to accomplish, the Town will be in a better position following the proposed location than it is now.

No abutters were present. The Town did not notify the State of this hearing but Ms. Tallman stated that she mentioned this meeting to the asst. Atty General.

MOTION: Ms. Eckstrom moved to approve the request for a variance as per Septic Plan dated 6/12/95, seconded by Ms. Roberts with four members in favor and Mr. Mitchell voting NO.

Mr. Faiman stated that Ms. Tallman will receive written Notice of Approval in the mail. He further stated that the Selectmen, any party to the action or proceedings, or any person affected thereby may apply for a rehearing of this decision. A request for a rehearing must be filed in writing with the Zoning Board of Adjustment on or before Monday, July 10, 1995, and must fully specify all grounds on which the rehearing is requested. (N.H. RSA 677:22)

MOTION: Ms. Roberts moved to accept the five criteria as submitted by the applicant, seconded by Ms. Eckstrom with four in favor. Mr. Mitchell abstained.

VARIANCE CRITERIA

1. The proposed use would not diminish the surrounding property value because **the proposed new construction will just replace the existing structures.**
2. Granting this variance would be in the public interest because **it will allow the existing use of the land.**
3. Denial of the variance would cause unnecessary hardship because of the following special circumstances which make my property unique from other properties in the same zone: **Denial of the variance will make the property unbuildable and unusable.**
4. Granting the variance would do substantial justice because **it will permit reasonable use of the land.**
5. The use is not contrary to the spirit of the ordinance because **the proposed new construction will be less nonconforming than the existing buildings.**

NEW BUSINESS

MINUTES - June 7, 1995

MOTION: Mr. Tuttle moved to approve the 6/7/95 minutes as written. The motion was seconded with four in favor. Mr. Mitchell abstained.

A motion was made and seconded to adjourn the meeting. The meeting was adjourned at 8:03 p.m.

ATTEST,



Diane Nilsson, Clerk

Posted: 6/26/95