

Town of Exeter
Zoning Board of Adjustment
July 16, 2019, 7 PM
Town Offices Nowak Room
Draft Minutes

I. **Preliminaries**

Members Present: Chair Joanne Petito, Vice-Chair Robert Prior, Clerk Rick Thielbar, Christopher Merrill - Alternate, Esther Olson-Murphy - Alternate

Members Absent: Laura Davies, Kevin Baum, Martha Pennell - Alternate, Hank Ouimet - Alternate

Others Present: None

Others Absent: Doug Eastman, Barb McEvoy

Call to Order: Chair Petito called the meeting to order at 7 PM.

II. **New Business**

- A. The application of Celia C. Rocco Revocable Trust for a variance from Article 4, Section 4.3 Schedule II: Density and Dimensional Regulations - Residential seeking relief from the minimum lot width/frontage requirement to permit a minor subdivision of the 23+ acre parcel off of Thornton Street and Rocky Hill (f/k/a Colonial Heights). The subject parcel is located in the R-2, Single Family Residential zoning district. Tax Map Parcel #70-12. Case #19-09.

Mr. Merrill disclosed that he is a neighbor of the applicant, but he doesn't see a reason to recuse himself. Mr. Prior clarified that Mr. Merrill is in the neighborhood, but not an abutter. Mr. Prior added that he himself is a long-time acquaintance of the Rocco family. Ms. Petito is also an acquaintance of the applicant and of John Ring. None of the Board members recused themselves.

Jonathan Ring of Jones and Beach Engineers spoke on behalf of Andrew Rocco and the Rocco family. The proposed project is in the Colonial Heights subdivision off of High Street. It's approximately a 23 acre property. They have not yet done a survey; the ZBA Subdivision Plan they are presenting is a conceptual plan based on existing information. This area was developed 60 years ago, and the developers left several access points from town roads to reach the property so that the subdivision could be extended, but this did not happen. What they're referring to as "Frontage 1" is 36 feet, "Frontage 2" is 32 feet, and "Frontage 3" is 62 feet. The minimum lot frontage according to the Zoning Ordinance is 100 feet. They are proposing two single family lots, approximately 12 acres and 11 acres. The wetlands marked on the proposal are from an aerial photo interpretation.

James Scully from the Morris Law Offices in Hampton discussed the project's responses to the five criteria for a variance. 1) The variance will not be contrary to the public interest; Mr. Scully said the parcel already has three connection points, but they total less than 100 feet. No

45 structures will be built in the areas where the requested relief is being sought. 2) The spirit of the
46 ordinance is observed; the parcel is 23 acres and larger than any in the area. 3) Substantial
47 justice is done; the three areas are for frontage access to lots 1 and 2, which total over 23
48 acres. 4) Values of surrounding properties are not diminished; one right of way already exists,
49 and the second two will simply be access points. The project could potentially increase the
50 value of neighboring properties due to the potential for landscaping and property improvement.
51 5) Literal enforcement would result in an unnecessary hardship; a denial would prevent them
52 the frontage for both new parcels, and they are only looking to divide this large parcel into two
53 single family lots.

54 Mr. Prior asked if they would be using access #2, and Mr. Scully said that the
55 subdivision approval is only for two lots, but whether that one or frontage #1 would be used is
56 not set. Mr. Ring added that the family is hoping to build a house at the end coming off
57 Wheelwright, but they may run into wetland issues.

58 Andrew Rocco said that they would like to put a private driveway at the end of
59 Wheelwright, with the house back 80 - 100 feet. The other lot would remain empty until his
60 parents decide to do something else with it, or his five brothers and sisters do so upon their
61 parents' passing. Mr. Merrill asked Mr. Rocco if there would be one house on the right and one
62 on the left. Mr. Rocco said he is planning to leave the left as woods, but in 15 or 20 years, that
63 may change.

64 Mr. Prior asked Mr. Scully if they would consider a condition of approval that would limit
65 them to using one of the two access points on lot 1, to eliminate the possibility of both being
66 used. Mr. Scully said he would have to discuss it with his client, but thinks that would be
67 acceptable. They would also want to look at which access point would have less of an
68 environmental impact.

69 Mr. Thielbar cautioned that if the structure on lot 2 isn't built within three years, they
70 would lose the right to build a house there. Ms. Petito clarified that the variance lasts for three
71 years, and must be used in that time. Mr. Scully said that the proposed lot 1 would be
72 completed in the 3 year time frame, but lot 2 would have to come back to the ZBA.

73 Mr. Merrill asked if they would be amenable to a buffer on Thornton Street such as trees.
74 Mr. Rocco said that minimal trees will be cut down, and the appearance should be about the
75 same. The goal is to not see the house from Thornton. Mr. Prior said that the permission stays
76 with the land, so they could grant the subdivision and Mr. Rocco could sell the 12 acre parcel to
77 someone who would cut every tree on it. Mr. Prior suggested that the Board consider a
78 condition of appropriate landscaping from abutting residences. Mr. Scully said they're fine with a
79 vegetated buffer stipulation.

80 Mr. Merrill asked if there would be lights on the driveway on Towle or Wheelwright. Mr.
81 Rocco said he intends to put the driveway on Wheelwright. There is already a streetlight at that
82 corner, and he wasn't planning on additional lighting for the driveway, just lights around the
83 house.

84 Ms. Petito opened the discussion to the public.

85 Nathaniel Hawkins of lot 17 at 5 Thornton Street, an abutter of one proposed driveway,
86 said he's concerned about the right of way. Condition 4 of the variance is about property values,
87 and there is a row of seven trees along the property line that if disturbed would affect his
88 property in a significant way. Ms. Petito asked if the trees are on Mr. Hawkins' property. Sheila

89 Kelly, who also lives at lot 17, said that she read the deed and it seemed like their property
90 started at the edge of Thornton and Wheelwright, but she can't find a stake in the ground. Mr.
91 Hawkins said other than the trees they have no objection to a variance.

92 Jeff Vogel of lot 16 at 7 Thornton, the other abutter of this proposed driveway, said that
93 when he purchased the property, he was told that the parcel was city land, but then they heard
94 from Mr. Rocco regarding his intentions for the land. He appreciates that Mr. Rocco only wants
95 to put in a single house, but the driveway would run right on his grass line. As far as property
96 values, it doesn't raise them. It seems like the current plan would have minimal impact, but he
97 has three kids and there are other kids in the neighborhood. He felt that the project needs a
98 visual buffer. He has no profound objection to the project.

99 Martha Wolfson of lot 20 at 1 Thornton Street said her property is near where Towle
100 goes through. She asked whether they'd measured the Wheelwright extension for the standard
101 width of a driveway. Ms. Petito said she was not aware of any standard measure for a driveway.
102 Mr. Ring said it's typically 18-20 feet. Mr. Thielbar added that it's an issue of what's appropriate
103 for the lot.

104 Mary Grim of lot 19 at 5 Minuteman Lane, the third parcel east of Wheelwright, said she
105 appreciates what Mr. Rocco is trying to accomplish. However, she is concerned about them
106 cutting trees, and wondered if the Board could add a "no-cut zone" to the approval, so as not to
107 disturb the aesthetic of the property.

108 Kate Tremblay of lot 20 at 1 Thornton Street said she would support a 25 foot no-cut
109 zone. She also asked that her internet and electricity not be disturbed by construction. She
110 asked whether this construction has to happen within three years. Mr. Prior clarified that the
111 approval is good for three years, but the applicant is always able to come back and get an
112 extension.

113 Sheila Kelly of lot 17 said that on the Town map, the access is 33 feet as opposed to the
114 project's number of 36 feet. She asked that they add a condition of no driveway lighting.

115 Patrick O'Day of 24 Windermere Lane said he's not sure how the project affects his
116 property. He's impressed with the presentation; he was imagining much worse, but he's hearing
117 one or maybe two houses. Currently he only see woods in his backyard, and the house being
118 considered might fall into that area. He's not on the direct access or driveway, but would be
119 concerned about sightlines.

120 Alistair Ryan of 148 High Street, who is not an abutter but is in the neighborhood, said
121 Towle is a quiet road. Mr. Rocco is respectful, and it's nice that it's only one house, but how
122 does a variance protect them in the future? Does it open up possibilities to go beyond one
123 house? Ms. Petito said that if the application were approved limited to two dwellings, the
124 applicant would need to return to do anything more.

125 Chris Turner of lot 60 at 3 Rocky Hill said his concern was the hospital lights, which are
126 only blocked by trees. If something did go in, he hopes they would get trees to block the light.

127 Liz Roberts of lot 18 at 3A Thornton said she also hoped there would be a buffer of trees
128 and subdued lighting.

129 Roger Gauthier of lot 58 at 2 Rocky Hill asked how it would affect the proposal if he put a
130 fence up in the middle of the street. Barbara Gauthier, also of 2 Rocky Hill, explained that their
131 land goes into the road, and if you subtract their boundary from 62 feet it's a lot less. Ms. Petito
132 responded that the land would need to be surveyed before anything can be constructed. Ms.

133 Olson Murphy added that if the minimum is 30 feet, and it ends up being 20, they'll be coming
134 back.

135 Mr. Rocco said that it's grass at the end of Wheelwright. He wants to leave the grass
136 around the driveway with crushed stone on each side. Dr. Rocco, Mr. Rocco's father, said that
137 the drainage system for the town starts at Thornton, and there's a catch basin and a pipe that
138 leads down Wheelwright. Mr. Merrill asked if no one on the left or right of the driveway would
139 have water issues. Mr. Scully requested that the minimum driveway of 20 feet not be restricted
140 so they could put in drainage. The intent is to have as little environmental impact as possible.

141 Ms. Petito closed the public session.

142 Mr. Thielbar said that the ordinance says 100 feet, and assuming the numbers are
143 correct there's 160 feet. Mr. Prior said there is a lot line adjustment, making it two parcels, and
144 he's never heard of two separate pieces of frontage adding up to make the 100 feet. It would be
145 unprecedented and may be challenged. Mr. Thielbar said this is a big piece of land, but this is
146 specifically what the change was introduced to prevent, and he has trouble ignoring the intent of
147 a recent change to the document. Mr. Prior said the point of a variance request is to consider
148 exceptions to the rules, and whether there are distinguishing conditions to this parcel. If it were
149 a subdivision with a cul de sac and 15 houses it would be a different discussion.

150

151 MOTION: Mr. Prior moved to approve the application for a variance as presented for a minor
152 subdivision, consisting of two lots, each with a single family home on it, on a parcel of 23 acres,
153 with the following conditions: 1) The property be subdivided into approximately sized parcels as
154 presented; 2) there is a single access only to each property; 3) A 25 foot no-cut vegetative
155 buffer be maintained on all property lines, including the subdivision line, with the exception of
156 the access point to each property; 4) That the access point for each lot have a minimum width of
157 30 feet and a maximum 16 foot driveway with up to two feet on either side reserved as a
158 provision for drainage within the access way between existing properties. Mr. Thielbar
159 seconded. All were in favor.

160

161 B. The application of Paula M. Parrish for a special exception per Article 4, Section
162 4.2 Schedule I: Permitted Uses, Schedule I Note #2 and Article 5, Section 5.2 to
163 permit the proposed construction of an accessory dwelling unit on the property
164 located at 200 High Street. The subject parcel is located in the R-2, Single Family
165 Residential zoning district. Tax Map Parcel #70-100. Case #19-10.

166 Paula Parrish of 200 High Street discussed her request to build a three car garage on
167 her property with a small living unit above. The garage building is permitted, and it meets the
168 setback requirements. She's asking the Board for an exception to add a dwelling unit, a 750 foot
169 living space for family now and for potential later rental. The garage would match the house,
170 with columns like the house and two stories. It will have water, sewer, and electricity. Mr. Merrill
171 asked if it would have an entrance from the house, and Ms. Parrish said no, it will be 25 feet
172 from the house with its own entrance and exit.

173 Ms. Olson Murphy asked how the drainage affects the abutter. Ms. Parrish said it should
174 have little effect; there's not that much fill, but there may be some. Mr. Merrill asked if it has a
175 designated parking space, and Ms. Parrish said yes, in the garage. The property will have six
176 total spaces including the driveway. Mr. Thielbar said since this is an accessory dwelling unit, if

177 Ms. Parrish rents it out, she has to live in one or the other. It also can't be converted to a condo
178 without a variance. This is a restriction included on the deed.

179 Mr. Merrill asked if she had talked to the abutters at 202 and 99. Ms. Parrish said yes,
180 they are supportive.

181 Mr. Thielbar spoke about the conditions for a special exception: A) The use is a
182 permitted special exception as set forth in Article 4.2, Schedule I hereof; he said yes, the
183 proposed use is compatible. B) That public health, safety, welfare, and convenience are
184 protected; he said yes. C) That the proposed use is compatible; he said yes. D) That adequate
185 landscaping and screening are provided; he asked about landscaping. Ms. Parrish said there is
186 an existing buffer of trees. E) That adequate off-street parking is provided; he said yes. F) That
187 the use conforms with all applicable regulations for the district; yes. It's not a large-scale
188 development. G) Town Planner Review; not applicable. H) That the use shall not adversely
189 affect abutting or nearby property values; it's not interfering with the neighbors, and has no
190 impact on property values. He concluded by saying I and J are not applicable.

191 Ms. Petito closed the public session.

192 Mr. Prior felt that this request is reasonable, and he has no problem with the application.
193 Ms. Petito agreed.

194 MOTION: Mr. Thielbar moved to approve the request for a special exception to allow the
195 construction of an accessory dwelling unit on the property located at 200 High Street. Mr. Prior
196 seconded. All were in favor.

197

198 **III. Other Business**

199 A. Approval of Minutes: June 18, 2019

200 Ms. Olson Murphy said that the mention of "Mr. Brown's business" in line 80-81 should
201 read "Mr. Lawrence's business."

202 MOTION: Mr. Prior moved to approve the minutes of the June 18 2019 meeting as amended.
203 Mr. Merrill seconded. All were in favor.

204

205 **IV. Adjournment**

206 **MOTION:** Mr. Prior moved to adjourn. Mr. Thielbar seconded. All were in favor and the meeting
207 was adjourned at 8:51 PM.

208

209 Respectfully Submitted,

210 Joanna Bartell

211 Recording Secretary