

ZONING BOARD OF ADJUSTMENT
AUGUST 3, 2010

APPROVED AS AMENDED:

9/7/10___jrl_____

AGENDA: REHEARING VARIANCE: CATHY L. PETRANOS/CARL W. CARLSON, 225 Hemphill Road, #215-004
CONTINUED VARIANCES: JOHN MESSINA, Holiday Hills Drive, #110-049
VARIANCE: PETER & ELLEN RAWLINGS, 120 Gallahad Lane, #104-036

ATTENDING: Alan DeStefano (Chairman), Michael Willingham (Vice Chairman), Lorraine Bohmiller, Ashley Dolloff.
Alternate: Sara Shattuck

ABSENT: Larry Denton (excused)

OTHER: Michelle Bonsteel (Land Use Officer), Janice DellaCroce (Planning Board), multiple public

The meeting opened at 6:00 pm. Ms. Shattuck sat in for Mr. Denton. Mr. DeStefano read the rules of procedure for hearings.

CONT. VARIANCES: JOHN MESSINA

Mr. Messina asked for a continuation as he has not received DES approval as yet. The Board voted to CONTINUE THIS HEARING TO SEPTEMBER 7, 2010.

REHEARING: CATHY L. PETRANOS, CARL W. CARLSON/ATTY. WILLIAM PHILPOT

The secretary read the application, list of abutters notified, where the hearing was advertised, and one additional written abutter approval, which Mr. DeStefano read aloud. Atty. Philpot presented 2 more abutter approval letters and a copy of the original building permit which Mr. DeStefano read.

Attorney Philpot stated that there is no need for a Variance as the apartment is not a rental but is to be used for the farm caretaker and is an agricultural use. He alluded to the Zoning Ordinance description in which it exempts agricultural use buildings from height restrictions. Mr. Philpot continued by stating that the most significant issue in this case is that it is surrounded by preserved land. The barn is to be a replication of a typical New England barn.

REHEARING: PETRANOS/CARLSON/PHILPOT continued:

Mr. DeStefano then read Article IV. 4.4 BUILDING HEIGHT of the Zoning Ordinance, the description that Atty. Philpot had cited.

M. Willingham made a MOTION, second by L. Bohmiller, to ACCEPT THE APPLICATION AS COMPLETE. The motion CARRIED.

Again, Attorney Philpot mentioned that the caretaker apartment comes under agricultural use and therefore is exempt. He has never heard of restrictions on barn heights. The building permit agreed to the use making the barn exempt. The caretaker apartment is adjunct to agricultural use, he added.

Mr. DeStefano asked if the Board had any questions before they continued. Hearing none, he asked Attorney Philpot to continue with the 5 criteria.

Contrary to Public Interest: Mr. Philpot stated that the Ordinance recognized barn use. The apartment is an ancillary use to the farm setting. The building is in a dip and surrounded by private land. It is at least 100' from the road, the road being gravel with sugar maples lining it. The apartment is a low impact use and is only for the caretaker and not to be used as a rental purpose. This does not present a problem and is what the town wants to preserve.

Spirit of the Ordinance: There is an overlap of content as the two uses are both agricultural. The apartment will be to code compliance. The highest apartment window is 15' and the Bristol Fire Dept. ladder truck reaches 70'. We are only dealing with height.

Substantial Justice: The barn is exempt from height restriction. The proposed apartment is low impact and restricted so as not to set a precedent. The property is surrounded on 3 sides by non-profit restricted land. The setting of the barn is down and the building is proportional.

Values to Surrounding Properties: The surrounding properties will not be diminished in value. This property is under restricted covenants, as well. The barn is a permitted use and is a replica of an actual barn. It will create and be part of a pastoral setting not affecting the radius of surrounding properties.

REHEARING: PATRANOS/CARLSON/PHILPOT continued:

Hardship: The property is restricted by a conservation easement (shown in 6a. of the Conservation Easement included with the application. The landowner got permission to build the barn and, as they want few buildings, the apartment was designed inside the barn structure. It is a reasonable grouping. The Ordinance allows agricultural use and the esthetics followed. Barns are allowed in all districts. It is proportional and designed as a typical New England farm building.

The proposed use is for a barn structure. The caretaker apartment is not visible. Height restrictions are exempt for barns. The good thing is that the design makes for a Currier and Ives setting. People enjoy a well-maintained farm. This has a unique situation in that the conservation easement limits the number of buildings. Permission was received to place the apartment in the barn. The plan supports the open space concept and is a viable use which Bristol allows. It takes a lot of hands to maintain an agricultural setting.

Ms. Bohmiller asked about the barn use and why, if there is just 15' to the 2nd floor window, there is need for the added height. Atty. Philpot answered so as to be an exact replica of a New England barn. Ms. Bohmiller asked the use of the 3rd level and was told that it may be a hay mow. Mr. Willingham asked what zoning district the property is in and Mr. DeStefano answered that it is in the Rural district. He added that what has brought this case in is the caretaker residence. Mr. DeStefano then asked, if it is to keep the barn esthetically pleasing, why a gambrel roof when all other buildings are pitched. Mr. Carlson stated that it is not a gambrel. It will be 42' and allow for snow run-off. Mr. DeStefano stated that, previously the Board was told that the height was needed as it was to be a gambrel. Mr. Philpot was not sure of the roof design. They do need a steep enough roof and he feels that an "A" roof would make little difference. It may be that a gambrel is sturdier for snow load. Mr. DeStefano agreed that he is not sure that it would make a big difference.

Mr. DeStefano asked for public input for the project. Bill Barrett stated that he has lived for 74 years on Hemphill and it was always considered agriculture. A lot of the land has been divided into house lots. Hemphill is a scenic road and this plan will enhance that concept. Boake Morrison stated that a barn needs louvers for air so as to breathe which makes it necessary to carry the height. The plan is for a beautiful barn, he added. The applicants cut their own wood to build it. Mr. Barrett added that most barns have 3 floors.

Mr. DeStefano asked for public input against the project. There was none.

REHEARING: PATRANOS/CARLSON/PHILPOT continued:

Mr. Carlson stated that he came in before and was denied because he did not meet hardship. He asked if this is reasonable; he feels that going up 5' is reasonable. He was surprised at the resistance of the Zoning Board at that time. Mr. DeStefano stated that the Board is all volunteers and we have several new members here now. Mr. Philpot added that the applicants also have a qualified attorney now.

Mr. DeStefano closed the public portion of the hearing. He asked the Board if they have enough information and/or time to process and come to a decision now. Ms. Dolloff felt that she did not but the other three were ready. Mr. DeStefano said that they are to discuss the criteria and then take one vote at the end.

Mr. Philpot asked if they will take up the need for a variance first and Mr. DeStefano felt that, as last time this was denied, he wanted the Board to fully think it through.

Public Interest: Ms. Dolloff felt that what was written did not explain public interest as it only related to Article IV.4.4.

Spirit of the Ordinance: Ms. Bohmiller stated that she has no problem with this if it requires approval from the Fire Department. Mr. Willingham said that the Board could make that recommendation. He asked if Atty. Philpot had seen the Fire Chief's recommendations and, as he had not, Mr. DeStefano gave him a copy to read.

Substantial Justice: Ms. Bohmiller said that she is not crazy about the height but can understand why they want it. Ms. Shattuck stated that, if the caretaker's apartment is considered agricultural, it is questionable that it needs a variance but she feels that it needs the variance for safety and practical purposes.

Values to Surrounding Properties: No comments.

Hardship: Mr. DeStefano directed the Board to consider today's ordinance and if it presently causes a hardship. The Conservation Easement was presented but we do not have a copy of the agreement as to restricting the number of buildings and allowing the apartment. Ms. Bohmiller stated that, without a barn, there is no livestock which go with a working farm. Ms. Shattuck added that a farm needs people to care for it. Mr. Willingham stated that the reason for the variance is the apartment and if the applicant is willing to follow the Fire Dept. Chief's recommendations, he is okay with this.

REHEARING: PATRANOS/CARLSON/PHILPOT continued:

A vote was called and the VARIANCE WAS APPROVED, 4 IN FAVOR. Mr. DeStefano reminded the applicant that there is a 30-day appeal period.

Mr. Willingham asked if we need to require compliance with the Fire Dept. Mr. DeStefano was not sure that we can. Mr. Philpot explained that the Fire Chief could call the State Fire for occupancy where Bristol does not have occupancy permits. Mr. Willingham wished to be certain that they meet code.

M. Willingham made a MOTION, second by L. Bohmiller, to APPROVE THE VARIANCE FOR PATRANOS & CARLSON SUBJECT TO FOLLOWING THE FIRE DEPT. CHIEF'S RECOMMENDATION ON HIS MEMO TO THE ZBA DATED JUNE 16, 2010. The motion CARRIED. The Notice of Decision was signed.

Attorney Philpot asked if the vote on whether or not a Variance is needed will be taken or if that is moot now. Mr. DeStefano thought it to be moot.

VARIANCE: PETER & ELLEN RAWLINGS

The secretary read the application, abutters notified, where the ad was placed and stated that there were no phone calls but we received 5 written responses of approval.

Ms. Rawlings introduced Joan Coppinger, the PE engineer and septic designer for this project. They have letters of support from all of the abutters and she presented 2 new ones.

M. Willingham made a MOTION, second by L. Bohmiller, to ACCEPT THE APPLICATION AS COMPLETE. The motion CARRIED.

Ms. Rawlings explained that they wish to tear down the existing building and build new. They feel that they can meet the 5 criteria. The lot is 10,000 sq. ft. with a 12% coverage by structures. The new plan will increase this to 16%, still under what is allowed. The original subdivision was approved in 1966. They have 1 of the original 3 cottages which is on sonar tubes. It is 20' x 46' with a deck and we wish to go to 34' x 26'; a log home with a porch and a deck. The new building conforms to the lot size meeting setbacks. The present building is low to the ground and of considerable work to renovate. The new is to be a 2-story with 2 bedrooms and an office.

Public Interest: It is a reasonable use of the property and therefore does not conflict with the purpose of the ordinance, and is not contrary to the public interest. It will be an asset to the neighborhood and increase the tax base which is a public benefit.

VARIANCE: RAWLINGS continued:

Spirit of the Ordinance: The log home is in keeping with the neighborhood. It meets all setbacks, height and lot coverage requirements. It furthers the intent of the ordinance to avoid overcrowding by reducing the number of bedrooms from 3 to 2. The applicants plan to construct drip line trenches to capture runoff from the roof and infiltrate it back into the ground. They also plan to add a rain garden. The property is over 800' from the Lake and there will be a new 1250 gallon septic tank installed. The property will be landscaped in such a way as to prevent runoff flowing offsite.

Substantial Justice: Without the variance, the applicants would not be allowed to use their property in a reasonable manner. The existing house has outlasted its usefulness and cannot be maintained in a cost-effective manner. It will be an aesthetic improvement to the neighborhood, has the support of their abutters and by the Camelot Acres Residents' Association.

Not Diminish Values: It will be more in keeping with the neighborhood and is supported by all of their abutters. In recent years, many of the surrounding homes have been upgraded or replaced. It shall increase values instead of diminishing them.

Hardship: New zoning restrictions interfere with the reasonable use of the property that they have owned for 21 years. The proposed house meets all zoning guidelines and would be allowed on a vacant lot, with a variance. We have received state approval for the required septic. The existing house cannot be repaired and continually maintained at a reasonable cost. Literal enforcement is a hardship and is unfair.

Ms. Rawlings added that she was appalled by the large buildings erected on the old Turner property and feels that they are making a reasonable request for support.

Mr. Willingham commended the Rawlings' for their presentation. Ms. Bohmiller asked about the difference to the size of the new building as, on page 1 it says 34' x 36' and Ms. Rawlings stated 34' x 26'. Mr. DeStefano explained that the building itself is 26' but the roof over the porch extends it to 36'. Ms. Bohmiller added that it is well within the 25% allowed. Ms. Coppinger stated that it is calculated at 16% with the shed. Mr. DeStefano asked if the new septic system is for 2 bedrooms and was told that it is.

Mr. DeStefano asked for public comment in favor. Nancy Dowey, Roy Commisar, and Frank Rooney (Castle Lane) are all in favor. Bob Johnson, Lakeview Ave. thought it to be good and Charlie Perrillo said that it will be a great asset.

Mr. DeStefano asked for public comment against. There were no comments. He then asked for further questions from the Board and there were none.

VARIANCE: RAWLINGS continued:

Mr. DeStefano closed the public portion of the hearing. Mr. Willingham asked how far the closest point of the property is from the Lake and was told 800'. He asked about runoff to the Lake and Ms. Coppinger said that there will be none. A big storm might accumulate some. Mr. Willingham asked if the rain garden and drip line would help and was told absolutely. As the Board looked at the locus, many were distracted by the sight of 2 deer across the street.

M. Willingham asked if each member was ready to vote and all were. The vote **APPROVED THE APPLICATION FOR A VARIANCE FOR PETER AND ELLEN RAWLINGS AS PRESENTED** unanimously. The Notice of Decision was signed and Mr. DeStefano reminded them of the 30-day appeal time.

MINUTES OF JULY 6, 2010:

M. Willingham made a motion, second by L. Bohmiller, to approve the minutes as read. The motion carried.

With no other business before the Board, M. Willingham made a motion, second by A. Dolloff, to adjourn at 7:30 p.m.

Respectfully submitted,
Jan Laferriere, secretary