

Board of adjustment meeting October 24, 2017

These minutes are not verbatim

Brian Dolan – It's 7 o'clock and I would like to call this meeting of the Board of Adjustment of the Town of Milton to order and can we start with the roll call to my right...

Steve Crawford -present

Jim Crellin - present

Brian Dolan -present

Seth Thompson, Town Solicitor - present

Rachel Fleischman, Sergovich, Carmean, Weidman, McCartney & Owens - Observer

Roger Thomson - present

Janet Turner - present

Brian Dolan – Are there any additions or corrections to the agenda?

James Crellin – Motion to approve the agenda as written.

Brian Dolan – Do we have second?

Steve Crawford – second

Brian Dolan – all in favor

Steve Crawford – aye

James Crellin – aye

Brian Dolan - aye

Roger Thomson - aye

Janet Turner - aye

Brian Dolan – opposed, motion carried

Brian Dolan – New Business, The applicants Michael Wheatley and Stephen Roff are requesting approval for a variance to the requirements established in § 220 – 24 density control table as follows : reduction of the minimum frontage for a R-1 (Single-Family Residential Use District) lot from 75 feet to 50.08 feet. The property is located at 504 Chestnut St. further identified by Sussex County Tax Map and Parcel ID # 235 – 20.11 – 42.00.

Brian Dolan – Mr. Wheatley, Mr. Roff

Michael Wheatley – yes sir

Brian Dolan – Would you like to make a presentation to the board?

John Collier – Mr. Chairman if I may I would like to state for the record this action has been advertised in accordance with code, certified mailings have been completed, I have proof of mailing in my possession. Also, I have received two letters in regards to this action. Would you prefer to summarize them now or later?

Brian Dolan – Why don't you give that to us now.

John Collier – the first letter comes from Matthew Mondok who is a partner in Haup Haus, LLC owners of 428 Chestnut St. and also 107 Sand St. They favor the application. The other letter I received is from Emory West of 510 Chestnut St. and he is also in favor of the application. That is all the communications I've received in regards to this application.

Michael Wheatley – Good evening, my name is Michael Wheatley I'm one of the owners of the property at 504 Chestnut St. in Milton. We had purchased the property at the end of May with the intention of refurbishing and enlarging the old house that was on that site. We attempted as best we could to salvage the building but after a couple of months of carefully taking it apart we got down to the bottom and the sill plate was rotted to the point where it was impossible to repair and impossible to lift the house as it was balloon framed. All of the structural members were sitting on the sill plate from there they extended up to the attic or the roof 20 to 30 feet away, 125-year-old brittle beams, it was impossible to save the building unfortunately. We determined our best course of action was to subdivide the property and give a portion of the lot on my son Matthew Wheatley because it would make the project more financially feasible and also the lot being more than an acre in size, it is larger than typical in the neighborhood. Also as we age it is larger than we could take care of. Ergo the reason for the request. You have a copy of the plat I'm assuming and my letter, yes...

Brian Dolan – Are there any questions from the board for Mr. Wheatley?

Roger Thomson – I have a couple questions. The lots adjacent to you, I believe there's 11 of them.

Michael Wheatley – yes

Roger Thomson – Parcel B, how are you going to get access to parcel B? Is there going to be a driveway that comes off Chestnut Street that goes straight back?

Michael Wheatley – yes and utilities are available from Chestnut Street for the improvement of that lot.

Roger Thomson – the reduction from 75 to 50 feet go straight back then the lot widens? Is that what you're proposing?

Michael Wheatley – yes the frontage is 50 the frontage for the existing parcel is just under 130 feet. So we made the one lot that will become our house site in compliance

with the minimum frontage and slightly deeper and larger than required. So the residual which is the parcel the proposed 50 feet of frontage requires only a variance for the frontage as it meets minimum depth and square footage.

Roger Thomson – So the driveway will be within that 50 foot wide strip leading to the back.

Michael Wheatley – yes actually right where that 50 foot with this proposed is where the actual curb cut for the overall parcel driveway is located.

Roger Thomson - okay

Michael Wheatley – I don't believe my son has any immediate intention of building on that site and for the present it is intended that we would share that driveway although it's not indicated by deed or easement at this time

Seth Thompson – maybe it would be more helpful if we refer to parcel B as the flag lot

Michael Wheatley – yes they are called the flag lot the Panhandle lot there are a number terms

Brian Dolan - Mr. Wheatley do you know the size of the adjacent lots and whether they're the same square footage as the lots you're proposing?

Michael Wheatley – No, none are as large as either of the sites proposed. The largest of them would be Emory West's property on the south side and it is half the depth.

Brian Dolan – you know what Mr. West frontage is by any chance?

Michael Wheatley – I believe it's about 75 feet

Brian Dolan – and on the other side

Michael Wheatley –Ms. Sirmons

Brian Dolan – yes

Michael Wheatley – her lot is the corner lot and I believe it has 75 feet of frontage more or less has approximately 129 feet deep. I believe you see on the plat a marker and that marker would be the rear of her lot.

James Crellin – right

Roger Thomson – it shows about 125

Michael Wheatley – yes that's about right

Brian Dolan – Regarding the properties across Chestnut Street. Do you have any idea what the frontage on those are?

Michael Wheatley – Some of those are rather large because they are two residual lots of what has become the community of Chestnut Crossing. I am not sure but by visualization I would guess one of those which is across the street and adjacent to the property of Dogfish Head Brewery may have 80 – 100 feet of frontage and more than 100 feet of depth.

James Crellin – how about the one with the bungalow on it?

Michael Wheatley – that one is occupied by a tenant but I would guess it's approximately the same size. It adjoins the entrance into Chestnut Crossing

Steve Crawford – Sir, if you had not had to take down that house would you still be coming before the board for a variance?

Michael Wheatley – that wasn't my original intent, but I was aware that there was the potential to subdivide the lot conditional upon a variance. It was certainly an option we considered for the future but things have changed and my son is certainly interested in doing this.

Seth Thompson – Mr. Wheatley, was a prior structure roughly in the middle of the lot?

Michael Wheatley – no now it was more in the corner of the lot nearest to Ms. Simons property and very close to the street.

Seth Thompson – so it would've been located on parcel a of your proposed subdivision

Michael Wheatley – yes

Brian Dolan – and where you proposing to build on parcel A

Michael Wheatley – we would be setting the new house with the difference being that it would be set back somewhat instead of being right on the street. Actual placement would be subject to the survey as we have more or less determined the land of the house but we don't have been specifically set yet

Seth Thompson – Mr. Wheatley probably already knows this from discussing it with Mr. Collier but for the benefit of the Board there would still be the process if the variance is approved of going through the partition, the process of dividing one lot into two. Some towns call it minor subdivision although our minor subdivision is three lots or more. When it comes time to build on these lots they may not necessarily have to go to Planning and Zoning but they'd still have to go through the process to make sure they adhere to all the required setbacks.

Michael Wheatley – yes we're aware.

Brian Dolan – Are there any other questions?

Seth Thompson – I'm just going to run through a few items from the Code. Mr. Wheatley, one of the elements is whether you'd experience a practical difficulty or an unnecessary hardship due to the physical condition of the land. Could you kind of flesh that out for us?

Michael Wheatley – The physical condition of the land well the site ended up being in need pretty severe cleanup do the demolition of the existing house and I've been working on that pretty much every day. My wheelbarrow and I have become a fixture on Chestnut Street. It is a hardship in the sense in that our allocation of value to the property when we bought it included an indication of value for the existing building. Clearly not only is that building not a contributor in value it also became an enormous liability to the site due to the cost of the demolition even with me doing a good deal of the work it still ended up being somewhere in the vicinity of \$12-\$15,000.

Seth Thompson – you discuss some of the benefits to you we have to balance that with the health and welfare and safety of the community in a neighborhood this might be a strange question to ask of you but can you think of any detriment to the health safety and welfare of the neighborhood if the variance be granted

Michael Wheatley – No, I cannot think of any, perhaps there is a slight benefit as my son is a physician

Seth Thompson – Do you think the granting of a variance would create an undesirable change in character of the neighborhood?

Michael Wheatley – No I would think quite the opposite.

Seth Thompson - I take it by that you mean that these lot sizes should the variance be granted and the partition completed would be more in keeping with the character of the neighborhood.

Mike Wheatley – Yes sir I would say that and that the proposed building on site "A" is a substantially more valuable and appealing building than our original intent to restore the existing structure although I believe the new proposal would have more universal appeal and enhance the neighborhood be more reflective of the properties across the street the whole block as defined by Sand Street is an area that has been changing and is just a part of the continuing change

Seth Thompson – I take it in looking at it and frankly I can't conceive one is whether you can achieve the same result by some other method. I take it you considered other means of partitioning but this is the most reasonable one.

Michael Wheatley – Clearly there are other ways but it was our intent to make parcel "A" conforming in every aspect and thereby only needing minimal variance to reach our goal

Seth Thompson – It looks like if he did that you'd have what might amount to detached row homes they be very narrow but very long to meet our minimum square footage

Michael Wheatley – Yes I would agree with that

Seth Thompson – Would you consider your variance request to be substantial?

Michael Wheatley – To be substantial in what sense?

Seth Thompson – So it looks like you're asking for something slightly less than 25 foot variance I take it

Michael Wheatley – Yes

Seth Thompson – Obviously you're not looking for a variance of lot sizes a whole just this one element of frontage

Michael Wheatley Both lots would be well in excess of the minimum required square footage and depth

Set Thompson – For your difficulty or hardship I take it that it wasn't self-created in your mind, you didn't cause the problem

Michael Wheatley – Did I cause the problem, in what sense because I bought the property? By tearing down the house I really don't think any choice. I hired a structural engineer two homebuilders consensus of all three was that the best thing I could do was tear down. That demolition of the building is what caused any difficulties

Seth Thompson – just in terms of other items we do at put you on notice that if your variance is granted the work needs to be commenced and completed within one year

Michael Wheatley – yes

Set Thompson – And Mr. Collier already discussed the notices going out so I believe that checks all of my boxes

John Collier – I can only make one more comment in the entire block covering the action Mr. Wheatley's proposing parcel "B" would still be the largest parcel on the entire block there would only be two parcels that are larger than parcel "A" one is on the corner of Church Street and Chestnut and the other one fronts on Church Street. There well within size requirements with the only difficulty being the lack of frontage .I would

remind you we recently had a similar variance where the difficulty was depth but much the similar circumstances.

Brian Dolan – Mr. Collier are you familiar with the frontage on the adjacent lots.

John Collier – Ms. Sirmons' lot is a little bit smaller than requirements but it's considered pre-existing nonconforming in fact the only lots that I would say any media neighborhood that are conforming are a lot immediately north of Village Center Boulevard and the two lots fronting on Chestnut immediately north of it which were created during a subdivision process for Chestnut Crossing and then the lots on the south side of Village Center Boulevard were all created by variance 10 years or more ago in they are less than required size in most dimensions

Brian Dolan - so if I understand what you're saying correctly, there are several nonconforming properties in the immediate vicinity

John Collier – I would be willing to say that little better than 50% of the lots within the notification area are nonconforming

Brian Dolan – so if we vote to approve this, an undesirable change would not necessarily be a consideration it's actually consistent with what exists in the immediate neighborhood

John Collier – Mr. Wheatley's proposal is certainly consistent with the overall character of the neighborhood

Brian Dolan – are there any other questions for this application is there anyone else would like to speak on behalf of this application is there anyone that would like to speak against the application

Brian Dolan – do I have a motion by the board to consider Mr. Wheatley's application

Janet Turner- I moved to approve the application

James Crellin - second

Brian Dolan – Ms. Turner would like to have discussion on your motion

Steve Crawford – I would suggest all the questions asked by our solicitor were answered in a satisfactory manner and appear to be in compliance with reasons for allowing on approval I believe it's appropriate

Brian Dolan – I would certainly say that the first two considerations would favor the applicant I would say the requested variance is substantial 33% reduction in the minimum frontage could be considered substantial maybe

James Crellin – In all appearances the 50 foot wide strip leading to the back appears to be for a drive way and access to the rear

Seth Thompson – which is an important note while 33% is significant it does not go the full length of the lot

Brian Dolan – I don't think that this would have an adverse impact on the neighborhood. Weathered self-created or not that remains to be said. When you look at everything I would favor the variance.

Roger Thomson – I don't see any adverse impact on any of the adjacent properties especially with the information we got from Mr. Collier and by the plat map that shows all the properties around. I think the proposed building lots are compatible with surrounding neighborhood. I vote to approve.

Brian Dolan – Is there any more discussion?

Brian Dolan – all those in favor of Mr. Wheatley's variance request say Aye

Brian Dolan – Aye
Roger Thomson – Aye
James Crellin - Aye
Janet Turner - Aye
Steve Crawford - Aye

Brian Dolan – opposed

Seth Thompson - Mr. Wheatley the process from here is we need to approve a written decision and that's when your year starts that's when the 60 day appeal. Starts if someone were to challenge the decision. In terms any work you do between now and the expiration of that 60 day period it's on you. The Board of Adjustment will have me prepare the written decision. At their next notice meeting the decision will be discussed and critiqued and acted upon

Michael Wheatley – Members of the Board I thank you for your considerations.

Brian Dolan – I'll consider a motion to adjourn

James Crellin – motion to adjourn

Janet Turner - second

Brian Dolan – all those in favor signify by Aye

All present - Aye

Brian Dolan – We are adjourned