



Town of Middleton

182 Kings Highway, Middleton, New Hampshire 03887

ZONING BOARD OF ADJUSTMENT MINUTES

April 9, 2024

Middleton Old Town Hall
200 Kings Highway
Middleton, NH 03887

DRAFT: These minutes are strictly a draft copy and are awaiting amendment or approval at a subsequent, duly noticed public meeting. Amendments to these minutes will be noted in the minutes of said meeting. This draft is available for public review and the approved copy will be posted on the Town of Middleton website.

Meeting Called to Order by Chair Therriault at 6:30 PM

Pledge of Allegiance

Invocation

Roll Call

Members present: Charles Therriault (Chair), Jim Keegan (Vice Chair), Dan Saliga, Lorri Gunnison, Linda Adamo, Joe Varga (Alternate), Tim Cremmen (BOS Liaison)

Members absent: None

Attachments

Page from 2006 Ballot Result re: Minimum Lot Size
Meeting Sign In Sheet
ZBA Case #2024-02 Packgae

New Cases

Review of Case #2024-02

Application by Leonard Melanson for a variance from Article 6(A)(1) which states the minimum lot size is 5 acres. **L. Melanson** requests to subdivide his 5-acre lot into two, 2.5 acre lots.

Location: 109/113 Pheasant Drive, Map 11, Lot 1-20, Rural Residential Zone Pheasant Drive

C. Therriault said the application does not say which article Mr. Melanson is seeking relief from. He also asked what district the property is in.

J. Keegan said the Administrative Clerk has been instructed to inform each applicant that the application form is their responsibility to complete thoroughly with as much information as possible that they feel is pertinent to their request. **J. Keegan** said this application is incomplete.

C. Therriault asked **L. Melanson** if he would like to amend his application.

L. Melanson said he wasn't sure which one he was supposed to go for because he has never had a variance before.

L. Gunnison said the property is in the rural residential zone.

J. Keegan said it's up to the applicant to determine what ordinances apply.

L. Melanson asked the board to tell him what to put down. He said he thought the board would help him figure it out. He said he has everything in place, he has the road frontage, he has 2.5 acres per lot, two separate addresses. He said he doesn't know the laws or which way he is supposed to go.

L. Adamo asked the applicant why he was before them today.

L. Melanson said because he wants to subdivide his property.

L. Adamo asked him to show them the variance that is preventing him from doing that.

L. Melanson said he's here to get a variance to change the lot from five acres to 2.5.

L. Adamo said then that's what you have to say in your application and that's not what you did.

There was discussion about the application process.

L. Melanson said he was expecting the Zoning Board to tell him what to say.

D. Saliga said it's not the board's job to tell him what to say.

There was discussion about the history of the changes in the minimum lot requirements over the years.

J. Keegan said there was a warrant article voted on and passed in 2006 to change the minimum lot size to 5 acres.

L. Melanson said he bought this property three years ago. He said he has all setbacks correct and two addresses. It's \$3,500 per lot to subdivide it, which he doesn't have now, but wants to do that in the future and he wants to get a variance first.

D. Saliga said the Zoning Board's job is to review the application and determine whether the applicant has met the criteria for an adjustment. They are not allowed to help applicants fill out the application. It clearly states that in the rules. It is up to the applicant to fill out the form correctly and present it to the board.

J. Keegan said **L. Melanson** needs to tell them what ordinance he is seeking relief from before they can start.

C. Therriault asked **L. Melanson** if he would like to amend his application.

L. Adamo said he has to meet all five of the points in order to have the variance.

C. Therriault read from Section 3 of the application.

Facts supporting this request:

1. The proposed use would not diminish surrounding property values because:

C. Therriault said your answer is it's adding to the property value. You can explain that answer to us.

L. Melanson said there are no houses there so it's bringing up the value of my area.

C. Therriault asked if everyone else has 5 acre lots and you have 2.5 acre lots would it diminish their value.

L. Melanson said their lots are only 200 feet wide and they go straight back. It's bringing up the value of their property because the more houses you have, the more valuable the house is.

J. Keegan said you are saying that if you get a variance to subdivide a 5-acre lot, that is making your surrounding neighbors' property more valuable because yours was able to be subdivided. Because...

L. Melanson said it brings up the value of all the other houses around.

L. Adamo asked if your neighbors have one house on five acres and you have two houses on five acres that increases the value of their property.

L. Melanson said that's the way he sees it. The more people come into town, the more taxes we pay.

L. Adamo said you have to be thinking of the people in your neighborhood. She asked does their value increase by having a greater density on your property.

C. Therriault opened the floor for residents to comment on each question.

C. Brisson said she's not an abutter, but she is on Pheasant and owns a 6-acre lot. She does not understand how the applicant's piece being subdivided adds value to her house.

L. Melanson said everything he did was legal. The reason he wants to subdivide it is so he can leave half to each of his children when he passes. He has a family compound and was allowed to put two houses on the lot.

L. Gunnison said he's allowed to put three houses on a family compound.

J. Bailey said he's not an abutter. He had to buy five acres when he built his house 20 years ago. If this is allowed, what's to prevent someone else from saying they want to build their house on a 2.5 acre lot also. He said he thinks approving this variance would

be “opening a can of worms”. The purpose of the 5-acre minimum is to reduce the impact of people building on smaller footprints.

C. Roy asked **L. Melanson** if he had two permits for the septic systems for the property as he could only find one.

L. Melanson said the state will not approve the second system until the property is subdivided.

There was discussion about the two septic systems. One house has a state approved septic system plan. However, it was installed by the owner which is not allowed unless he lives on the property and he does not. The state has not inspected it. The second system should have been put in by a septic system installer and is not approved by the state.

C. Therriault read the second question from the application.

2. Granting the variance would not be contrary to the public interest because:

C. Therriault said the answer was it does not affect the public interest and he asked **L. Melanson** to explain that.

C. Therriault said the public interest is the zoning is set up for 5 acres and everyone else has to conform to that.

L. Melanson said not everyone likes the idea of having another house, but he’s helping out his family. His abutters don’t have a problem with it.

J. Keegan said he understands, but it was voted on by a popular margin to go with 5 acres.

L. Adamo read from the purpose and authority of the zoning ordinance. “The purpose of the zoning ordinance in general is to lessen congestion on streets, among other things, prevent overcrowding of the land, avoid undue concentration of the population.” So the public interest is to discourage a lot of people on smaller pieces of land and maintaining the neighborhoods whatever they are now. That community up there is all 5-acre lots and the public interest is that they remain 5 acre lots. I’m not sure it’s in the public interest that one guy is allowed to subdivide and have two houses on 2.5 acres when everyone else is abiding by the 5 acres.

L. Melanson asked what if I put in a warrant to go from 5 acres back to 2.5 acres.

J. Keegan said yes, you could do that. Anybody could do that.

J. Keegan the reason he explained it’s paramount that the application be filled out as fully and completely as the applicant can is because in the end, the board has to go through the 5 criteria and decide if he meets them. If the answer is no on any of them, they have to deny the variance. That’s their job as the Zoning Board.

L. Melanson said he would like to stop the proceedings, take the application home, fill it out properly and then have another meeting.

L. Gunnison said **L. Melanson** can seek advice from a licensed surveyor.

J. Keegan said **L. Melanson** has started the process. They need to go over the application and if it's denied, he can appeal it.

L. Melanson said he thought if there was a problem someone would have called him and said he needed to fill the form out better. He knows it's not their job, but we're all part of the same town.

C. Therriault said legally they can't.

There was discussion about the application process.

L. Melanson said he did not get enough help from the board.

C. Therriault and **J. Keegan** explained they could not help him any more than they did and why.

L. Adamo said 3.2 refers to the property. It means whatever you want to do can't be done any other way; that the conditions of the property make the variance necessary.

There was more discussion about the meaning of the questions on the application and examples were given. The board explained the applicant's family situation and personal reasons for requesting the variance doesn't matter in this process and cannot affect the board's decision. They explained they cannot be at all subjective in their decisions and must treat every applicant the same.

C. Therriault said they can't change the zoning ordinances. That needs to be done through a warrant article.

J. Keegan read the first half of Article 23 on Family Compounds.

L. Gunnison said (referring to Article 23) if you had ten acres, then you would be able to subdivide it.

C. Therriault said you can rescind the application and try to put in a warrant article to change the zoning.

L. Melanson said he'll withdraw the application and try again later.

C. Therriault asked what you're telling us is that you'll withdraw this and bring a completed one back at a later date.

L. Melanson asked will he have to send out letters to abutters again.

C. Therriault said yes. It will have to be done again and they will have another hearing.

L. Melanson said I'll withdraw this and try to get a warrant article to change the minimum lot size to 2 acres and if that gets approved I don't have to go to the zoning board.

C. Therriault said that's correct, you would go directly to the Planning Board for a subdivision.

J. Bailey noted any future warrant article couldn't be approved until next year.

C. Therriault closed the public hearing at 7:20 PM

D. Saliga made a motion to adjourn the meeting at 7:22 PM

L. Adamo seconded the motion

Motion passed

Respectfully submitted,

Robin Willis
Administrative Clerk

DRAFT