

**Town of Milford
Zoning Board of Adjustment
SEPTEMBER 16, 2021
Public Hearings
CASE #2021-16 Gretchen Davidson, VARIANCE**

Present: Jason Plourde, Chair
Rob Costantino, Vice Chair
Michael Thornton, Member
Karin Lagro, Member
Tracy Steele, Member via Zoom
Paul Dargie, BOS Representative
Lincoln Daley, Director of Community Development

Not Present: Joan Dargie, Alternate
Jane Hesketh, Recording Clerk

Meeting Agenda

1. Call to Order
2. Public Hearing(s):
 - a. **Case #2021-16** Gretchen Davidson for the property located at 64 Federal Hill Road, Tax Map 48, Lot 43 is seeking a Variance from Milford Zoning Ordinance, Article V, Section 5.02.4 to allow the creation/subdivision of a lot with less than the minimum required frontage (150') on a principle route of access on a Class V road or better in the Residential 'A' Zoning District.
3. Meeting Minutes: 9/2/21
4. Other Business: TBD
5. Next Meetings

1. CALL TO ORDER

Chairman Plourde opened the meeting by welcoming everyone and introducing himself. He welcomed those attending in person and electronically since this meeting is being conducted in a unique manner.

He stated you may also attend this meeting in person at the Milford Town Hall, Board of Selectmen's Meeting Room with all Covid protocols in place. Chairman Plourde then went on to inform everyone about the procedures of the Board. He explained the process of the case hearings for the applicants and the public. He said a full agenda may not allow all cases to be heard and that at 10:00 p.m. the meeting will end. He explained how the meeting would proceed for the cases that may not be heard in that they would be continued to the next meeting or another agreed upon meeting. He also explained the notification process for continued cases.

Chair Plourde stated all votes taken during the meeting must be done by Roll Call vote. He started the meeting with a roll call attendance by asking each member to state their name, where they are located (for those attending remotely) and if there was anyone in the room with them. This is required under the Right-to-Know Law. Roll Call Attendance: Jason Plourde present; K. Lagro present; M. Thornton present; R. Costantino present. Chair Plourde stated T. Steele should be calling in via zoom for attendance.

He then stated there is currently a 4 member board, but if Tracy Steele calls in there will be a 5 member board. He went on to explain that with 4 voting members a 3 to 1 vote will be required to pass the application; if there is a 2 to 2 vote the application will not be passed. Therefore, he asked the applicant if they wanted to proceed or postpone to another date if there was a 4 member board. He explained how the postponement would work. The applicant agreed to move ahead.

1 He stated there is one new case. He then went over the procedures for the presentation, deliberation and voting. T. Steele
2 was then recognized as being in attendance. There will now be a 5 member board. T. Steele stated she was alone at home.

3
4 He moved on to the case to be heard.

5
6 **2. PUBLIC HEARINGS(S)**

7
8 **a. Case #2021-16** Gretchen Davidson for the property located at 64 Federal Hill Road, Tax Map 48, Lot 43 is seeking a
9 VARIANCE from Milford Zoning Ordinance, Article V, Section 5.02.4 to allow the creation/subdivision of a lot with
10 less than the minimum required frontage (150') on a principle route of access on a Class V road or better in the
11 Residential 'A' Zoning District.

12
13 Chris Guida of Fieldstone Land Consultants stepped forward to the microphone in Milford Town Hall. He stated his name
14 and that he was representing the applicant Gretchen Davidson. He handed out larger versions of the drawings that were in
15 the presentation package. He made a change to the notice from Lincoln Daley which shows a well, but the lot is on public
16 water.

17
18 The location is next to the Mile Away Restaurant on Federal Hill Road. This is a large lot and it meets all standards for a
19 subdivision except the frontage. He went over the details of the schematic drawing. He stated it was initially started for the
20 applicant's mother who has subsequently passed away, but the applicant wishes to proceed with the project.

21 Gretchen Davidson stepped forward to the microphone and stated she is the trustee for the property. She wants to subdivide
22 the land so her sister can now move in and keep the lot for family. Her other, older sister, currently resides in the existing
23 home and does need care which her other sister will provide.

24
25 M. Thornton asked about the driveways. C. Guida stated they have been researching this. It was subdivided prior to 1971.

26
27 J. Plourde explained why 1971 is an important time period. There are certain restrictions from 1971 and on, but anything
28 prior to this is grandfathered. He stated the area on the drawing outlined in blue is the prior subdivision. He went on to say
29 the state can regulate how many driveways are permitted and explained some of those guidelines, but it is not up to the
30 ZBA to determine. He then cited the book "New Hampshire Planning and Land Use Regulations" 2020-2021 edition. He
31 wanted to clarify what the ZBA can and cannot do by citing the regulations from this manual. He read from 674:3 VI. This
32 means the ZBA can listen to the entire presentation without having a DOT permit, but the ZBA can make a condition on
33 any decision made that there needs to be a DOT permit; stated he is not saying the applicant has to go to the DOT because
34 they will have to do that anyway.

35 C. Guida stated he wanted to make sure those requirements will be satisfied and the application to the DOT will be
36 submitted.

37
38 J. Plourde asked that he be shown the plan for the DOT.

39
40 M. Thornton: if there is a shared driveway can this be satisfactory for the ZBA.

41 More discussion continued about the driveway. J. Plourde contributed his knowledge of the regulations.

42
43 C. Guida said he is not sure how he should proceed with his presentation.

44
45 J. Plourde said the board has a copy of the application with the 5 criteria responses. He stated C. Guida could summarize
46 what is on the application, but before they move on with the presentation J. Plourde wanted to know what action had been
47 take so far in regards to the DOT.

48
49 C. Guida stated he has not contacted the DOT yet.

50 J. Plourde went over with C. Guida who he should contact at the DOT. He said the ZBA does not have to be part of the
51 discussions that go on but he would like to see the documentation that results from these discussions.

52
53 J. Plourde moved ahead with the presentation from C. Guida by saying he could read from the application or give an
54 overview.

55
56 C. Guida stated he would give an overview of the 5 Criteria for a Variance.
57

- 1 **1. This will not be contrary to the public interest.** This is a residential area and the use is residential. The proposal
2 is for a residential home. The lot is oversized and meets the requirements for the lot size except the frontage. This
3 new lot will not take away from the esthetics of the area.
4

5 R. Costantino commented about the area, and that it is an interesting lot. He pointed out how the surrounding lots
6 all have different frontage requirements because they are under different zoning ordinances. Therefore, there can
7 be no comparisons.
8

9 J. Plourde asked about site lines in regards to the other guidelines for this criteria: will not alter the character of the
10 neighborhood or threaten the health and safety or general welfare to the public. He brought up the driveway site
11 lines. He talked about the proximity of the 2 driveways for the home and the one that is closest to the Mile Away
12 Restaurant. This is the driveway that will be used for the new home. He stated the DOT will determine if it is
13 legal. He brought up the safety between this driveway and the Mile Away Restaurant driveway. He pointed out the
14 driveways are too close and there may be a safety issue. Since it is a state roadway it is up to the DOT to decide
15 but he ZBA does consider the safety issue. He wanted to let the applicant know about how the board is thinking.
16 Gretchen Davidson stepped forward to say they have lived in the house since 1989 and this driveway has been
17 there since then and has been used with no problems.
18

19 J. Plourde: he gave an example to explain his concerns. He did emphasize the DOT will determine if the existing
20 driveway is a legal driveway, but the ZBA must consider the safety because the driveways are very close together.
21 He stated perhaps the applicant wants to come back to the board with more information about the driveway.
22 Gretchen's sister Ellen stepped up to the microphone. She stated she has lived there and there has always been a
23 driveway there, and there has always been a commercial site next to them. She also pointed out there has never
24 been an accident there.
25

26 C. Guida stated he has used the driveways to see the site lines and the safety issue. Right now we are taking the
27 approach that this is what is there and everything does appear to be safe.
28

- 29 **2. The spirit of the Ordinance is observed by creating affordable housing in keeping with the area;** because it
30 allows for use of the property and is in line with the character of the neighborhood. It is also allowed with a
31 Variance.
32
- 33 **3. Substantial Justice is done** by allowing the family to stay together and the home will be in line with other
34 properties in the neighborhood.
35

36 J. Plourde stated both criteria 1 and 3 do involve safety for the area. He again brought up the driveway concerns
37 and if there is a way to move the driveway to another location on the property.
38

39 C. Guida stated there could be other alternatives if it is determined the driveway is not legal. He brought up the
40 frontage and stated the points are well taken. He said he has considered the safety.
41 There was discussion about the frontage and the driveway or driveways that may result in this location; the
42 character and look of the neighborhood as well as density.
43

44 R. Costantino stated safety is important but so is the character of the neighborhood.
45

- 46 **4. The Values of Surrounding Properties will not be diminished.** C. Guida read his answer from the application.
47 He talked about how a newer home can increase property values. He stated it is well suited for another single
48 family home. There were further discussions about property values and how a new home will actually increase
49 values. It was agreed this is a difficult thing to determine and there are a number of things to consider. Main point
50 is that it will not diminish the surrounding property values and not about increasing property values. The various
51 zones around this property were shown on a map and this lot is only a pocket in this area that is in the Residential
52 'A' Zoning district.
53

- 54 **5. Literal Enforcement of the provisions of the Ordinance would result in an unnecessary hardship.** The
55 exhibit indicates the unique characteristics of the property. The location of the existing home limits the frontage
56 and there is municipal water but not sewer. If the existing driveway near Mile Away is allowed, it will allow use
57 for the new house as a shared driveway with the existing house. There were comments and discussion about the
58 use of this driveway and about parking for the existing home.

1
2 K. Lagro asked if hardship had been determined.

3 M. Thornton stated if there is something unique about this property it weighs in on the decision process.
4 There were discussions on what the hardship would be. It was stated there may be more information needed to
5 make a decision.
6

7 J. Plourde strongly recommended C. Guida consult with Lincoln Daley about the hardship for this case and to
8 support this criteria. Basically, what is special about this project that would help satisfy the hardship criteria.
9 The concept of hardship was debated. R. Costantino feels it does not need to be unique.
10

11 J. Plourde asked does all the information that has been presented make it easier or harder to determine hardship.
12

13 R. Costantino said the ordinance states you need a certain frontage for safety and character. If this is allowed, does
14 this affect what the ordinance is trying to accomplish. He feels he does not need additional information other than
15 possibly the DOT determination. J. Plourde talked about the DOT determination and the issue of safety.

16 R. Costantino: If DOT says it is safe, then other small safety issues could fall in line.
17

18 M. Thornton asked if a condition should be added about the need for the DOT determination.

19 Further debate continued and what should happen if the DOT comes back stating the driveway is not legal and it
20 needs to be moved. Therefore, changing the frontage distance; the ZBA will need to evaluate the case again.

21 Discussions continued about the different scenarios that could happen with the DOT determination.
22

23 J. Plourde asked C. Guida if he was done and the proceeded to open the meeting to the public.
24

25 Terrell Parent from 72 Federal Hill Road stepped forward to speak. He expressed his disappointment with the notice he received.
26 He feels the burden has not been met for the 5 criteria and he does not want the variance approved. Chair Plourde asked
27 which criteria he was in disagreement with.
28

29 T. Parent stated hardship has not been met and explained that the property is not unique for the neighborhood. He talked
30 about the tree line not being cut down and he stated that it is good because those trees are on his property. Significant tree
31 clearing will be done, though, that buffer his property from the Mile Away. He is concerned about trees being removed
32 from his property. If the variance is approved, this could possibly set a precedent. He feels it will affect the habitat for the
33 neighborhood. He expressed his concern for pedestrian safety with the current existing driveway near the Mile Away that
34 will be used for the new home. The view is blocked for pedestrians. He pointed out the fire department discourages the
35 development of back lots because of the difficulty of reaching homes that are set back. He also stated the frontage is a third
36 of what the ordinance states it should be. He disagrees that the value of his home will not be diminished. The new home
37 will be in clear view of his home allowing no privacy.
38

39 J. Plourde: addressed the comment made about possibly setting a precedent by approving this variance; the board looks at
40 each case separately and does not set a precedent. In regards to property values, the board does not have the ability to
41 determine the values and the burden is on the applicant.
42

43 The resident feels they have failed on all 5 of the criteria.
44

45 J. Plourde asked if there was anything else that the board should request to make a more informed decision.

46 T. Parent stated he could not think of anything. He did talk about the placement of the home in relation to Hampshire Hills.
47

48 J. Plourde said that as long as they are meeting their setbacks it is up to them where they want to put the house if this
49 subdivision is developed. He also talked about screening between the properties and the sound buffer of the trees. He noted
50 that if the trees are cut down on someone else's property the resident has no control over that.

51 T. Parent stated that legally, he probably could not.
52

53 Discussion continued about buffers. T. Parent asked: What if this changes the aesthetics of the neighborhood? J. Plourde
54 said this is a good point.
55

56 R. Costantino pointed out the size of T. Parent's property and asked to confirm if the lines are accurate. He tried to
57 determine exactly where the new house will be in relation to the resident's home. He pointed out that the existing home is

1 closer to the Parent's home than the new home will be. T. Parent disagrees because of the backyards. He again stated from
2 his backyard the new house will be very visible. He stated there is no screening.

3
4 R. Costantino stated it will not be closer and the resident agreed. His concern is the visibility from his backyard. R.
5 Costantino wanted to understand how Hampshire Hills will be involved with the new subdivision; he confirmed the
6 resident's concern is the loss of a buffer.

7
8 K. Lagro mentioned it is a state road and anything on the road cannot be removed because it is a historical/scenic site.
9 There was then discussion regarding the accessibility of emergency vehicles to the new home using the driveway that will
10 be shared.

11
12 J. Plourde pointed out the pictures presented by C. Guida were not part of the package; J. Plourde will be entering these
13 exhibits into the system as part of the package. C. Guida confirmed nothing has changed from the original; just new
14 exhibits were added.

15
16 M. Thornton inquired about exhibit B. National Wildlife Refuge. C. Guida stated there is no wildlife refuge in the area.

17
18 Chair Plourde stated he is not closing the public portion of the meeting or moving into deliberations. He feels there is more
19 information needed to help satisfy the questions he has on safety. He put it out to the board.

20
21 R. Costantino: he is not ready; concerned about safety vehicles and would like to know how the fire department views this.

22
23 K. Lagro: stated it is difficult to make a decision based on the safety questions that are outstanding

24
25 J. Plourde: DOT site plan should be submitted to the ZBA and an emergency turning vehicle plan. He stated the ZBA is not
26 attempting to design the driveway.

27 R. Costantino: asked if this is a Planning Board decision or ZBA decision?

28
29 J. Plourde: would having information from the fire department help R. Costantino in making his decision. The truck turning
30 plan is part of the Planning Board and not ZBA. J. Plourde stated all the ZBA wants in regards to the safety vehicles is that
31 the applicant contacts the Fire Department.

32
33 J. Plourde to C. Guida: reach out to the Fire Department about emergency vehicle access if this lot is subdivided. Please
34 provide the information to Lincoln Daley.

35
36 J. Plourde: to the board he wants to provide C. Guida with a list of those items the ZBA needs to move forward with
37 deliberations. R. Costantino: feels it would be helpful to see where the house will be located.

38
39 J. Plourde: stated the ZBA can ask what trees will be taken down; this can impact the abutter and the neighborhood. He
40 feels the location is more for the Planning Board. The applicant can provide a probable location.

41 M. Thornton: stated the applicant should attempt to recruit neighborhood support which will help everyone.

42 The applicant stepped forward and stated they are very flexible as to where the house will be placed and what trees will be
43 cut down; willing to work with whomever to make this a workable project (within what is reasonable).

44
45 Chair Plourde: so far two things will be needed to help the board make a decision involving a site plan and
46 correspondence with the Fire Department. He asked if there were any more questions.

47
48 R. Costantino said he did not have any.

49
50 M. Thornton asked about the need for a plan that addresses cooperation between the applicant and the surrounding
51 properties which will address the concerns from the abutter.

52 J. Plourde stated that is reasonable.

53
54 K. Lagro: feels the question of hardship has not been answered

55
56 J. Plourde: this was previously addressed and he emphasized the fact that Lincoln Daley should be contacted about this
57 issue.

1 Hardship, it was agreed, is a very difficult question to determine. The burden of this is on the applicant.
2 J. Plourde to T. Steele asked if she had anything to add.

3
4 T. Steele said she feels the board has covered all the bases and the examination was thorough. Feels the DOT piece will
5 assist in the decision process, and the hardship question needs a more definitive answer.

6
7 K. Lagro: one item not discussed was the septic. It was noted this is for the Planning Board and not part of the Variance.
8 J. Plourde noted that adequate facilities is a special exception criteria.

9
10 R. Costantino: expressed his view on hardship

11
12 K. Lagro: it is specific to the situation

13
14 J. Plourde stated again that he is not closing the meeting to the public and is requesting additional information from the
15 applicant to present the information requested at the next meeting on October 7, 2021 at 7:00 p.m. or a date that will work
16 for everyone. There was a discussion about the date; October 21, 2021 was agreed on.

17
18 Chair Plourde asked for a motion to continue Case #2021-16 Gretchen Davidson for the property located at 64 Federal Hill
19 Road, Tax Map 48, Lot 43 for a Variance from Milford Zoning Ordinance, Article V, Section 5.02.4 to allow the
20 creation/subdivision of a lot with less than the minimum required frontage (150') on a principle route of access on a Class
21 V road or better in the Residential 'A' Zoning District.

22
23 M. Thornton made a motion to Continue Case #2021-16 to October and T. Steele seconded. Chair Plourde asked for a vote:
24 M. Thornton yes; T. Steele yes; R. Costantino yes; K. Lagro yes; chair votes yes.

25
26 **3. MEETING MINUTES**

27
28 None to review at this time.

29
30 **4. OTHER BUSINESS**

31
32 M. Thornton asked the board if there is anyone who can attend the upcoming training to please provide information to the
33 ZBA. He asked if there could be a library of training online to view. There was discussion about this.

34
35 **Motion to Adjourn**

36
37 Chair Plourde asked if there was anything else. M. Thornton made a motion to adjourn and R. Costantino seconded. All
38 Board Members were in agreement. Meeting adjourned.

39
40 **Motion to Approve:** _____

41
42 **Seconded:** _____

43
44 **Signed** _____

45
46 **Date:** _____

47
48
49
50
51 **THE MINUTES OF CASE 2021-20 WERE APPROVED** _____