



TOWN OF
BROOKLINE, NEW HAMPSHIRE
BOARD OF ADJUSTMENT

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BOARD OF ADJUSTMENT
MINUTES
Wednesday October 13, 2010

Present:

Peter Cook, Chair
George Foley, Vice-Chair
Marcia Farwell, Clerk
Webb Scales, Member
Kim Bent, Member

Absent: **Joyce O'Connor**, Alternate & **Charlotte Pogue**, and Alternate.

Minutes

Marcia moved to approve the Zoning Board minutes from May 12, 2010 and September 8, 2010 as written. Kim Seconded. Vote yes 3-0.

Case # 358,

In attendance for this hearing: Randy Haight (Meridian Land Services) Al Patenaude (Applicant), Ray Lyons (Applicant Attorney), Roger Gofcomee (Realtor for Patenaude Construction), Valérie Maurer, Brookline Town Planner, Wes Whittier (Brookline Ambulance/Emergency Management Director)

Peter read the hearing notice:

A request from Applicant Al Patenaude, trustee of the Laurelcrest Baldwin Drive Realty Trust for a **Variance** concerning section 1806 of the Zoning Ordinance and Section 7.5.01 & 7.5.04 of the Subdivision Regulations to allow ten lots to take access from one common driveway and no permanent granite marker. This is for lot J-41, J-41-10, and J-41-11 on the corner of Route 13 and Laurelcrest Drive in the Residential Agricultural district. **Peter** asked Kristen if the fees have been paid and the abutter's notified. **Kristen** said yes. **Randy** handed out Plans for the Board to review. **Randy** said this will be for a Workforce Housing subdivision. The intent of having a through common driveway is because it makes the site safer. **Randy** said they have had three meeting with the Planning Board. Meeting on September 2, 2010, a site walk on September 13, 2010, and the last meeting was September 16, 2010. At the last meeting the Emergency management/Ambulance Director, Fire Department, Road Agent and Town Engineer were all in attendance. As the ordinance stands now it only allows 4 driveways off a common driveway. The Workforce Housing Ordinance section 628.2 calls out the road shall be maintained by a developer. This has to be a private road. This is what's driving this application. This plan meets the Ordinance but all Departments and the Planning Board agree that these two common driveways should be connected. The Planning Board, Emergency Management, and Fire Department all wrote letters that support this becoming a through common driveway. It was also suggested by the Planning Board that they ask for a variance from Section 1806 of the Zoning Ordinance and Section 7.5.01 and 7.5.04 of the Subdivision Regulations which requires a permanent granite post at the beginning of a common driveway that shows house

numbers. Because this will not be a dead end driveway the Planning Board, Emergency Management, and the Fire Department said street signs at either end of the road would make more sense.

Peter said can the Zoning Board grant a variance from the Subdivision regulations. **Randy** said it is called out in Brookline Zoning Ordinances. **Webb** asked what the interface between Baldwin Drive and this common driveway will be, will it hook onto the hammerhead. **Randy** said yes it works better for plowing specifically. **George** said they will be able to get fire trucks and emergency vehicles down this through common driveway without any problems. **Randy** said yes per state guidelines there has to be 20 ft of plowable space. The plan was for three common driveways that is what is allowed in the Workforce Housing Ordinances. It calls for private ways in section 626. **Marcia** asked how big the lots are. **Randy** said they are 1 to 1.5 acre lots. The Workforce Housing Ordinance also requires this subdivision to be split 50/50 half market homes (homes with no restrictions just have to meet setbacks) and half Workforce Housing (can't be any bigger than 1,500 sf max with a maximum of a 600sf garage). **George** asked if the town plows to the end of Baldwin only. **Randy** said yes, the rest will be privately maintained. **George** said there will be nothing that stops neighbors from using this as a through road. **Randy** said the street signs will be marked private road. How is the site distance onto Averill Road from the new through common driveway. **Randy** said line of sight requirements need to be met whether it is a road or a common driveway that requirement had to be met. **Peter** asked how many market and workforce housing will be in this subdivision. **Randy** said 7 lots will be workforce housing and 7 will be market homes. The Workforce housing lots are restricted by size the homes can only be up to 1,500 sf and the garage can be any bigger than 600sf. There are also income limits when purchasing a workforce housing home. **Randy** said this is innovative zoning. The minimum lot size is as little as 1 acre and only 80 feet of frontage is required. The market lots have no building restrictions and the lot resize can be as little as 1 acre with 80 feet of frontage. There is also no financial restriction on the market homes. Also with workforce housing you could build all the homes and doesn't apply to the growth ordinance. **Peter** said these market lots are not conventional. **Randy** said no this is Workforce Housing. This is innovative zoning.

Peter said if they take the granite marker away what will replace it. **Wes** said there will be street signs at either end of the throughway and the houses will be numbered starting at Averill Road. This is what was suggested at the last Planning Board meeting. **George** asked Wes if he was comfortable with that. **Wes** said yes they keep a road book with street numbers and names which is what dispatch in Hollis uses and E911 also. **Webb** asked what the Towns authority to number houses on private roads. **Wes** said there is a street number ordinance that Emergency Management has to go by. **Marcia** asked if they will have mail boxes at the end of the driveways. **Randy** said that is for the Post Office to decide.

Peter read the Variance Application. (See attached)

Question 1 of application:

The Board had no issues with question 1.

Question 2 of application:

The Board had no issues with question 2. Webb did state he had no issues but he was no comfortable giving up the granite marker. Randy said it was suggested at the last Planning Board meeting to add this to the variance application.

Valérie said it would be confusing to have the granite marker only at one entrance and no other.

Question 3 of application:

The Board had no issues with question 3.

Question 4 of application:

The Board had no issues with question 4.

Webb said making 2 common driveways into a through road will improve the lot. **Randy** said the through private way provides better access for emergency vehicles.

Question 5 of application:

The Board had no issues with question 5 both A i and A ii and B.

Webb said he has counted 11 lots access off this through private way. **Randy** said yes one lot could take access from the through common driveway or from Laurelcrest. The application should be amended. **Peter** said they can make the motion for 11 lots access off this through private way.

Marcia moved to grant the variance from Section 1806 of the Brookline Zoning Ordinance and Section 7.5.01 and 7.5.04 of the Brookline Subdivision Regulations to allow Al Patenaude, trustee of the Laurelcrest Baldwin Drive Realty Trust to permit 11 lots access from one common driveway, no permanent granite marker required. George Seconded. Vote yes 5-0.

Previous case

Webb said he received a call from Judith Horsley from the case they had last meeting case number 357 and she was not happy with the wording on the decision notice they received. The Board had made a motion to deny the application but they could conduct business as usual at that location. Mrs. Horsley stated town officials were stopping by the shop to make sure no one is residing at that location. She also thinks the wording is not what was agreed upon. The Board reviewed the case file and thought the wording was what they agreed upon during the meeting. **Kristen** said the decision notice is distributed to the Board of Selectmen, The Building Inspector/ Code Enforcement Officer, Planning Board, and the Conservation Commission.

Peter moved to adjourn at 8:50 pm. George Seconded. Vote yes 5-0.

Minutes submitted by **Kristen Austin**.

Peter Cook, Chair _____

George Foley, Vice Chair _____

Marcia Farwell, Clerk _____

Webb Scales, Member _____

Kim Bent, Member _____



APPLICATION FOR A VARIANCE

<p>Do not write in this space.</p> <p>Case No. <u>358</u></p> <p>Date Filed _____</p> <p>_____</p> <p>(signed - ZBA)</p>
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To: Board of Adjustment,
 Town of Brookline

Name of Applicant Albert W. Patenaude, jr., TRUSTEE OF LAURELCREST BALDWIN DRIVE REALTY TRUST

Address 12 Village Road Pepperell, MA 01463

Owner Same & John D. Bagley 3 Greeley Road, Townsend, MA 01469
 (if same as applicant, write "same")

Location of Property 7 Baldwin Dr., Pierce Pond Estates Lots J-41, J-41-10 & J-41-11
 (street, number, sub-division and lot number)

NOTE: This application is not acceptable unless all required statements have been made.

Additional information may be supplied on a separate pages if the space provided is inadequate.

APPLICATION FOR A VARIANCE

A Variance is requested from article 1806.00 & Subdivision sections 7.5.01 & 7.5.04, of the zoning ordinance to permit Ten lots to take access from one Common Driveway and no permanent granite marker

Facts in support of granting the variance:

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

The Variance would eliminate three Common Driveways by consolidating them into one Common Driveway that enters from Baldwin Drive and travels through the Site to Averill Road, providing for a single Way to service the Development with naming and sequential Street numbering for the individual driveways

2. If the variance were granted, the **spirit** of the ordinance would be observed because:

The Variance would allow for a more efficient, safer, accessible, and maintainable access way, greatly simplifying Emergency Response to the New Development and Surrounding Area while complying with section 628.00-2 of the Workforce Housing Zoning Ordinance.



3. Granting the variance would do substantial **justice** because:

The Development was submitted and accepted for review by the Planning Board with three Common Driveways that comply with Zoning. Granting the Variances would allow the Development to adopt the views and requests from the Planning Board, Fire Department, Emergency Management and the Town's Consulting Engineer, all of whom stated their support for these Variances during the September 116, 2010 Planning Board Meeting.

4. If the variance were granted, the **values** of the surrounding properties would not be diminished because:

The Development would have fewer points of access on existing Town Roads and Emergency Management would gain enhanced access to the Development and Surrounding Properties. In addition, building setbacks between the development and the Surrounding Properties would be increased from fifteen feet to fifty feet.

5. Unnecessary Hardship

A. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary **hardship** because:

i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:

The ordinance is intended to limit the number of houses on dead end driveways. With the variances, the driveway can run between Baldwin Drive and Averill Road – providing better emergency access and eliminating concerns about blockage – there will always be a way to get to every house. Site's special conditions include the recent changes to a Residential/Agricultural Zone, lying within an Aquifer, having pre-existing Town Easements, and being nearly surrounded by three Town Roads and one State Road with contiguous Wetlands/Flood Hazard Area, all of which lead development of the Site by utilizing access to multiple Lots from Common Driveways. The general public purpose of the Ordinance is to provide access to multiple Lots from a Common Driveway that is up to twelve hundred feet in length with a dead-end turnaround. An unnecessary hardship exists from attempting to comply with the limitation on the maximum number of four Lots taking access from a Common Driveway and providing better emergency access.

and:

ii. The proposed use is a reasonable one because:

Granting of the Variance would allow for a single Common Driveway and eliminate three dead-end Ways with their separate turn-a-round endings, while creating a Private Way with access from two Town Roads, enhancing the Site's and Surrounding Area access for Emergency Response.



B. Explain how, if the criteria in subparagraph (A) are not established, and unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is

therefore necessary to enable a reasonable use of it.

An unnecessary hardship is deemed to exist and only exists by strict conformance with the ordinance. The property cannot be reasonably used in strict conformance with the limitation on the Maximum allowable number of four Lots that can take access from a Common Driveway. Owing to the Site's special conditions that are unlike any other property in the area, including how it is affected by the recent change to a Residential/Agricultural Zone, lying within an Aquifer, having pre-existing Town Easements, and is nearly surrounded by three Town Roads and one State Road with contiguous Wetlands/Flood Hazard Area, the best, safest, and most reasonable way to develop the Site is by accessing multiple Lots from one Common Driveway rather than three. Without the variances the Development must create and use two adjacent Common Driveways and two Common Driveways that begin on different Town Roads yet terminate within two hundred and twenty feet from each other. Therefore, due to the special and unique conditions of this property, and to adopt the changes requested by the Planning Board, Fire Department, Emergency Management and the Town's Consulting Engineer, the requested Variances are necessary to enable a reasonable use of the Site.

Applicant  (Signature) Date 9/27/2010