

TOWN OF ALLENSTOWN

Zoning Board of Adjustments  
16 School Street  
Allenstown, New Hampshire 03275  
February 22, 2017

**Call to Order**

The Allenstown Zoning Board of Adjustments was called to order by Chair Eric Feustel at 6:40 pm.

**Roll Call**

Present on the Zoning Board of Adjustments: Eric Feustel, Chair; Jeff Gryval, Member; Keith Klawes, Alternate.

**Others Present**

Allenstown Staff: Dana Pendergast

George Fredette SFC Engineering Partnership

Residents of Allenstown:	Jacqui Gilman	6 Gilbert Road
	Sharon Gelinas,	287 Pinewood Road
	Katherine Lavigne	6 Monroe Avenue
	Mary Paro	51 Monroe Avenue

Chair Feustel announced that the Board would hear case #2017-0001. Niyati Reality is seeking to open a filling station, convenience store and restaurant at 289 Pinewood Road in an open space and farm zone.

George Fredette of SFC Engineering Partnership stated that he was present on behalf of Niyati Realty.

Chair Feustel stated that Niyati Realty has the right to be heard by the full Board, and that if they proceeded this evening, three affirmative votes would be required for approval. He stated that the Board can attempt to reschedule another time with five members present or they can go ahead tonight. He told Mr. Fredette that it was his decision.

Mr. Fredette stated his apologies to everyone who came out tonight, but understanding that he would need three affirmative votes, which would be a unanimous decision this evening, he preferred being heard by a full board, or even four members.

Chair Feustel stated that ideally we would have a full board and that one of the members present tonight is an alternate. He said the meeting would be rescheduled and asked Mr. Pendergast about the protocol.

Mr. Pendergast stated that the meeting would be continued, not postponed, until March 8, 2017 at 6:30 pm. Since the meeting will be continued, re-noticing is not necessary. He said that the people present this evening would not get a second notice.

Mr. Gryval reminded attendees that meeting notices are published on the town website. He also informed them that they could sign up on the town website and provide their email addresses to have notices sent to them.

Mr. Pendergast stated that 4NH Homes will be coming in soon with their Pinewood Road Subdivision. They are in the planning process now. The Planning Board denied their waiver for the flag lots, so they have to redesign their plan. He spoke with Mike Gallo of 4NH Homes, who said they would be coming back for relief on the 200-foot buffer requirement. They have cut the number of lots to six. They came in with six initially, then came back with ten and are now designing for six lots. He stated that they were approved for a cluster subdivision in a residential zone, with underlying zone regulations for lot sizing. He reminded the Board that they do not approve the number of lots.

Chair Feustel stated that 4NH Homes told the Planning Board that they have room for more lots.

Mr. Pendergast stated that they could probably build 20 lots, but they don't want to build a road. He went on to say that they were trying to use flag lots, which are lots with narrow driveways, like a flagpole, with the lot going to the right or the left. The Town doesn't want these because they are hard to maintain.

Mr. Klawes asked if these are shared driveways.

Mr. Pendergast responded no, each has its own driveway. He further explained that the front yard of one looks into the backyard of another.

Mr. Klawes stated that when all is brand new, everything is good, but over time issues develop, especially as ownership of properties changes.

Chair Feustel added that variances go with the property.

Mr. Pendergast stated that he gets lots of calls from people wanting to put up fences. He tells them they must be less than six feet tall and he recommends they include a maintenance easement.

Chair Feustel asked if 4NH Homes has filed to come before the Board.

Mr. Pendergast responded that they had not yet, but that they wanted a variance on the 200-foot buffer requirement from any roadway.

Mr. Klawes asked if this is the property up on 28 that had wetlands.



Mr. Pendergast responded yes. And we gave them relief from the requirement of community wells and septic, but they need a 200-foot buffer; a dwelling can't be built within 200 feet of the road.

Chair Feustel said so Planning didn't give them their flag lots, what do they need from us now?

Mr. Pendergast responded that they are coming because they need a 200-foot buffer from the road in. I think Mike Gallo said that if they come in with a new plan they will be outside of the buffer.

Mr. Gryval stated if Zoning has a buffer, there is a reason for it. You have to be careful when looking to do away with a buffer that people who live on that street are accustomed to.

Mr. Pendergast referred to a handout he gave to Board members on variances, and he stated that it covers the five points of law that the Zoning Board has to enforce, giving some case law as well. He said that it covers equitable waivers for situations where an honest error regarding lot lines has been made and needs to be remedied, sometimes with a land swap or a variance or a lot line adjustment.

Chair Feustel stated that he has a hard time with unnecessary hardship.

Mr. Pendergast said that these requests have to be dealt with on a case-by-case basis. If someone wants to build a larger house than the lot allows, where is the hardship?

Chair Feustel stated that a good example of a hardship is when someone becomes handicapped and needs to build a ramp.

Mr. Pendergast stated you just have to try to do the right thing and be consistent.

Mr. Klawes stated that the spirit of the ordinance should be observed; the challenge is in interpreting that intent.

Mr. Pendergast stated that zoning began to stop overcrowding, to keep air and light available.

Chair Feustel stated that the idea of three and five-acre lots was to preserve open space. All that did was contribute to urban sprawl. The idea of cluster homes is in the spirit of the original ordinance because they were trying to prevent urban sprawl.

Mr. Klawes asked for an explanation of the difference between cluster homes and subdivisions.

Mr. Pendergast responded that the total acreage would comply with the zoning requirement, but the houses would be close together.


Mr. Gryval stated if you have five acres and put one home on each acre, you have a subdivision. With a cluster, you would put each house on one-third of an acre, and the rest of the land is left open. They cannot put that open land into current use, so taxes are still collected.

Chair Feustel mentioned a workshop on this issue which was conducted with Planning. Ours is a committee of judgement. We don't set precedent. We can't be arbitrary; we try to be consistent.

On motion of Mr. Klawes, duly seconded by Chair Feustel, it was voted to approve the minutes of the January 18, 2017 meeting.

On motion of Mr. Klawes, duly seconded by Chair Feustel, it was voted to approve the minutes of the November 16, 2016 meeting. Mr. Gryval abstained because he was not at the meeting.

On motion of Mr. Klawes, duly seconded by Mr. Gryval, it was voted to adjourn at 7:15 pm.

 2/12/17

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ERIC FEUSTEL, Chairman, Allentown Zoning Board of Adjustment

