

Zoning Board of Adjustment
Minutes
February 15, 2024

Date: 2/15/24

Place: Sandown Town Hall

Members Present: Chris Lonchamps (Chairman) John White
(Vice Chair) Joel Logiudice, Dave Ardolino, Rob Lynch

Members Absent: Steve Meisner (Alt) Eric Olsen Selectman
Liaison

Opening: 6:30 p.m. Mr. Lonchamps opened the meeting with
introductions of members.

Public Hearing for a second Variance Application submitted by
SEC Assoc.INC on behalf of Phillip Busby of Cross Road, also
identified as Map 19 lot 19-1, requesting a variance under Art II
Part D, Sec. 3.B to allow open space development with non-
contiguous frontage totaling 201.22 of combined segments of
99.11', 100.8' & 1.31'

Charlie Zilch of SEC Associates Inc. presenting:

- Here on behalf of Phillip Busby for his requests for variances
previously granted relating to his property identified at tax
map 19 lot 19-1.
- The intent of this application as before, is to obtain variances
to allow for the development of the property as an Open
Space Development in accordance with the Town of
Sandown's zoning ordinance, Article II Part D.

- 35 • As shown on the accompanying plan, the property currently
36 contains 20.21 acres. This represents the remaining area of a
37 much larger tract of land that has been subdivided several
38 times in the past 30 years. The first subdivision in 1972
39 (RCRD plan #D-3286) created eleven street lots with
40 frontages off of North and Cross Rd. Between several of the
41 street lots within this initial subdivision, two 50 wide right of
42 ways (shown on the referenced plan as “future roads”) were
43 created on Cross Rd.
- 44 • In 2001 the previous property owners, Leon, and Susan
45 Deveau, adjusted the boundary of the property along North
46 Rd. to provide 200’ of contiguous frontage. That change
47 enabled them to apply for a building permit to construct their
48 dwelling on the property utilizing access from North Rd.
- 49 • In 2005, the Deveau’s subdivided off a five-acre parcel
50 surrounding their home utilizing the entire North Rd.
51 frontage. (RCRD plan #D-33412) The remaining property,
52 our subject lot, was supported by its existing frontage
53 (totaling 201.22’) through the two right of way’s as well as a
54 small section of frontage at the extreme south end of the site
55 on Cross Road. It should be noted that a variance was
56 granted for 200’ of non-contiguous frontage to allow for that
57 subdivision, that is now the subject of this variance request.
- 58 • In 2006 a subdivision application was submitted by the new
59 owners, Cross Road Realty Trust for a conventional
60 residential subdivision consisting of two single family lots
61 and two duplex lots to be accessed via a 50’ wide public right
62 of way entering through the northerly right of way. That
63 application was conditionally approved by the Planning
64 Board in early 2007 but the development was never
65 constructed.
- 66 • This brings us to the current proposal, Phillip Busby whom
67 purchased the property from Cross Road Realty Trust (whom
68 previously were granted the requested variances), would like

to apply the Open Space ordinance to this site and propose a zero lot line, condominium style single family residential development. Access would be through a 50' wide public right of way through the northerly right of way similar to the previous proposal. The dwellings will be served by a community well and shared and/or individual septic systems.

- The yield plans that determine total number of units/bedrooms would allow for 6 4-bedroom single family homes totaling 24 bedrooms. The ordinance does not allow for, nor does it prohibit reducing the number of bedrooms in a single-family home to two or three to allow for additional dwelling units matching the yield plan total bedroom count. The owners would like consideration of this concept so that they may increase the unit total to 8 3-bedroom dwellings totaling the same 24 total yield amount. The reason for this request is so that as a 3-bedroom home, a smaller overall footprint can be obtained, and the cost of the unit can be reduced thereby offering a more affordable home more in keeping with the existing neighborhood and to offer alternatives to those who otherwise would not be able to afford a 4-bedroom dwelling.
- **In all, two variances are requested and are noted as follows;**

Request for Variance
Open Space Development
Article II, Part D, Section 3, B

Minimum Tract Requirements (abbreviated)...and enjoy a minimum of 200-feet of frontage on a Class V or better public highway. The minimum area and frontage requirements of this Section may be satisfied through the merger or consolidation of two or more adjacent tracts. The minimum frontage requirement of this Section may be satisfied by either contiguous frontage on a public highway

or two non contiguous segments of frontage, each not less than 100-feet in length.

Variance Request To Permit:

Proposal to allow Open Space development with non-contiguous frontage totaling 201.22' of combined segments of frontage of 99.11', 100.80' & 1.31'

1. The variance will not be contrary to the public interest because:

By granting the variance, it will allow for the development of the property as an Open Space development. This type of development will allow for greater buffering of existing developed abutting properties as well as preserving a large area of open space. The access, whether as an Open Space development or as a conventional development would be through the existing northerly right of way. Should the variance be granted, the least impacting and reasonable type of development is an Open Space development. Granting the variance would not be contrary to the public interest.

2. The spirit of the ordinance is observed because:

The intent of the ordinance is to provide adequate frontage to properly serve the development. The access that already exists, the northerly 50' right of way, can adequately serve the site. The frontage requirement is met in three segments vs. the two required. Safe access can be provided thereby preserving the spirit and intent of the ordinance.

3. Substantial justice is done because:

There will be substantial justice in granting the variance by allowing the property to be developed as an Open Space community. As noted, this type of development preserves tracts of open space and provides greater buffering from existing abutting properties. Additionally, less roadway is

needed and dwellings can be served by shared wells and septic systems further lessening site impact.

4. The values of surrounding property values will not be diminished because:

The proposed use is permitted in the zone and as demonstrated, meets all other requirements of the Open Space Ordinance. The total amount of required frontage exists in the three non contiguous segments. As before, the development can be accessed through the northerly right of way and is unaffected by the frontage requirement. If the variance is granted a fully designed site plan with a comprehensive layout, roadway, grading and drainage design will be submitted to the Planning Board for review and approval. All requirements of the Town's Site plan regulations will be applied to ensure there will be no adverse affect on the abutting properties and their owners. The development will be designed and maintained to the highest standard and will be in keeping with the surrounding community. In all, there will be no diminution of surrounding property values.

5. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because:

This site, has the required frontage in three non contiguous segments vs. the two required. The importance of meeting the frontage requirement is to ensure that somewhere within that frontage there is a point that exists to safely enter the site with minimal impact. This property contains that point of access. Denial would be an unnecessary hardship due to the uniqueness of the lot and the lack of a reasonable alternative.

Request for Variance

Open Space Development

Article II, Part D, Section 4, A.1. & Section 5

Section 4. A.1. Permitted uses; Single family dwellings with a maximum of four bedrooms per dwelling unit.

Section 5 Maximum Permitted Residential Density; (abbreviated)
....The maximum number of single family dwelling units
permitted in any open space development shall be equal to the
number of lots eligible for single family residential construction
identified on the approved yield plan....

**1. The variance will not be contrary to the public interest
because:**

By granting the variance, it will allow for the development of the
property as an Open Space development utilizing a smaller
dwelling footprint and size. This reduced home could be
constructed at lower costs than a larger 4 bedroom dwelling. This
size and type of dwelling is more in keeping with the existing
neighborhood and will allow for a more affordable home for
someone whom otherwise may not be able to afford a larger
dwelling. There would be no additional site loading due to the
consistent bedroom count. Granting the variance would not be
contrary to the public interest.

2. The spirit of the ordinance is observed because:

The intent of the ordinance is to provide a variety of housing
options including duplex and multi-family homes. The ordinance
does not consider the proposal offered by this owner. It is entirely
reasonable and simply distributes the by rights total bedroom count
among 8 dwellings vs. 6 to obtain the goals outlined. In all, it is an
option that is not strictly prohibited by the ordinance and seeks to
preserve the spirit and intent of the ordinance by its unique goal.

3. Substantial justice is done because:

There will be substantial justice in granting the variance by
allowing the property to be developed with an option for housing
not previously considered. A more affordable option that is less
exclusionary than the current market which has prohibited
potential buyers who could not afford a larger home.

208 **4. The values of surrounding property values will not be**
209 **diminished because:**

210 The proposed use is permitted in the zone and as demonstrated,
211 meets all other requirements of the Open Space Ordinance. The
212 yield plan will allow for 6 4-bedroom dwellings totaling 24
213 bedrooms. This proposal seeks to maintain the same total bedroom
214 count distributed within 8 3-bedroom dwellings. As shown, the
215 dwellings can be located in the same general layout as a 6 unit
216 design with little, if any additional site disturbance. If the variance
217 is granted a fully designed site plan with a comprehensive layout,
218 roadway, grading and drainage design will be submitted to the
219 Planning Board for review and approval. All requirements of the
220 Town's Site plan regulations will be applied to ensure there will be
221 no adverse effect on the abutting properties and their owners. The
222 development will be designed and maintained to the highest
223 standard and will be in keeping with the surrounding community.
224 In all, there will be no diminution of surrounding property values.

225
226 **5. Literal enforcement of the provisions of the ordinance**
227 **would result in an unnecessary hardship because:**

228 This site will support 24 bedrooms whether in single family homes
229 or duplex or multi-family dwellings. The hardship is inherent in
230 the Zoning Ordinance which does not consider this cost effective
231 means of providing additional housing options. Denial would be an
232 unnecessary hardship due to the lack of a reasonable alternative.

233
234 Mr. Logiudice asked if the Fire Chief was ok with the one entrance
235 shown.

236
237 Mr. Zilch answered yes, he has reviewed the plans. He had
238 requested a 30K cistern which we have been worked into the plans.

239
240 Mr. David Solomon of 13 Cricket Ln inquired from the audience,
241 why approve if not enough frontage? Mr. Logiudice explained that
242 is the reason for the variance request. Mr. Logiudice asked Mr.

243 Solomon if he was opposed to the project to which he responded
244 that he was concerned about the wetlands.

245
246 Mr. Zilch explained that wetland impact is unavoidable, but that
247 this design has the least impact on them. Storm runoff will be
248 captured.

249
250 Mr. Longchamps reminded Board that the project will still go
251 before Conservation in the form of a CUP.

252
253 At this time Mr. Longchamps read an email into the record:

254
255 Mr. Daniel Komenda, 38 Cross Road, Sandown NH wrote
256 "I am opposed to allowing a variance to SEC for Phillip Busby to
257 allow an eight unit development instead of 6 units on Cross Road
258 (Map 19 lot 19-1). I am also opposed to him doing any
259 construction on wetlands associated with this development. Please
260 mail me a copy of the plans for the project so I am aware of what
261 this builder is proposing. This development is directly behind my
262 home and will impact traffic in the area, raise taxes for everyone
263 resulting from services (including the school system). Well water
264 in the area will be impacted among other things".

265
266 Mr. Zilch responded that wetland impact is limited to only the
267 roadway. Water supply is one community well. With over 22
268 acres and only 8 homes, this should not negatively impact any
269 wells.

270
271 After polling the members for any further comments or questions
272 and hearing none, Mr. Longchamps called for a motion.

273
274 Mr. White made a motion to approve **Variance Application**
275 submitted by SEC Assoc.INC on behalf of Phillip Busby of Cross
276 Road, also identified as Map 19 lot 19-1, requesting a variance
277 under Art II Part D, Sec. 3.B to allow open space development

with non-contiguous frontage totaling 201.22 of combined segments of 99.11', 100.8' & 1.31'. Mr. Ardolino seconded the motion. All in favor 5-0-0

Mr. White made a motion to a **Variance Application** submitted by SEC Assoc.INC on behalf of Phillip Busby of Cross Road, also identified as Map 19 lot 19-1, requesting a variance under Art II Part D, Sec. 4.a.1&5 to allow 8 *three*-bedroom dwellings where Yield Plan provides 6 *four*-bedroom dwellings. (24 bedrooms total) Seconded by Mr. Logiudice. All in favor 5-0-0 Both motions approved.

Application Review for a Variance Application submitted by James Lavelle on behalf of Richard Allen for North Road also Identify as Map 20 Lot 20A seeking relief under Article II Section 3B for two lots being 5 acres each on a class 5 road to have 100' of frontage each, where 200' is needed.

Mr. Lavelle presenting.

After a review of the application and criteria, Mr. Longchamps asked if any question of the Board. Hearing none, Mr. Longchamps called for a motion.

Mr. White made a motion to accept jurisdiction for a Variance Application submitted by James Lavelle on behalf of Richard Allen for North Road also Identify as Map 20 Lot 20A seeking relief under Article II Section 3B for two lots being 5 acres each on a class 5 road to have 100' of frontage each, where 200' is needed. Mr. Ardolino seconded the motion. All in favor 5-0-0

Mr. White made a motion to accept the minutes of 1/25 as written. Mr. Logiudice seconded. All in favor 5-0-0

New Business

313 Mr. White advised of an open seat on the RPC transportation
314 committee and advised any interested to contact the Planning
315 Board.

316

317 **7:32pm Motion** to Adjourn by Mr. White seconded by Mr.
318 Logiudice. All in favor 5-0-0 Motion carries, meeting adjourned.

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320

321 Respectfully Submitted,

322

323 Thomas C. Perkins