

ZONING BOARD OF ADJUSTMENT
MINUTES – March 23, 2023

Board Members Present: Fischel, Esinhart, Stover

Staff: Houseman, Simpson

Present by Zoom: Casey Trio, Stephanie Snelling, Ken Snelling

Vice-Chairman Fischel opened the meeting at 7:03 pm.

The first item on agenda was the Variance request of Raven Bay #33043-Z2023-04. The Applicants had been notified in advance by staff that there would only be three Board members available to hear the case, and decided to exercise their option to continue the case until a full board was available. Accordingly, the case was continued to April 27 at 7 p.m.

Fischel opened the public hearing in the following cases:

CASE #27028-Z2023-06 – Sean Sweeney, Agent for Brian J. and Cheryl A. Francis Trust is requesting a Variance under Sections 1102 and 209(F) for construction of a single-family home, including the placement of fill and the excavation of a flood mitigation area in a flood plain at 153 Greensboro Road, Tax Map 27, Lot 028 in the SR-2 zoning district.

CASE #27028-Z2023-07 - Sean Sweeney, Agent for Brian J. and Cheryl A. Francis Trust is requesting a Wetlands special exception under Article XI, Section 1102, “Flood plain protection”, and Section 1103, “Wetland, waterbody, and intermittent stream protection” for excavation and fill, and construction of driveway in a wetlands buffer at 153 Greensboro Road, Tax Map 27, Lot 028 in the SR-2 zoning district.

Sean Sweeney (a licensed wetland scientist) and Brian Francis appeared in support of the applications. Fischel explained procedure and got agreement from the Applicant to continue with 3-person board. Esinhart and Stover both disclosed that they were patients of Mr. Francis’ son, who is a doctor. Neither member had a social relationship with the son, neither had met Mr. Francis previously, and both felt they could judge the case fairly.

Mr. Sweeney explained what the Francis’ want to do, described the constraints of the property, and detailed the plan to place fill in the flood plain for a house site, and excavate a portion of the lot to an average depth of 8’ to create a flood mitigation area. His analysis showed that flood levels would not be increased ‘locally or community-wide’, as the mitigation area would replace the function of the floodplain in accepting floodwaters. He pointed out that none of the proposed work would take place in a wetland, and detailed how the project met the criteria for both a variance and special exception.

Casey Trio - 151 Greensboro, spoke vs application. He feared that proposal would cause flooding on his property. Referred to detailed concerns contained in his letter.

/Ken Snelling - 155 Greensboro, spoke vs application, stated that there was p to a foot of water on lot after heavy rain, that water has come up through his basement, and he feared that proposal will raise groundwater level.

Contrary to abutters' contention that there was often 'a foot of water' on the property, Mr. Sweeney, in rebuttal, noted that he found no indication of hydric soils or wetlands vegetation on the property as would be expected in an area that was regularly inundated. He stated that his analysis showed that the proposal would not raise the groundwater level, and that even in 100-year flood conditions, water was unlikely to flow from the Francis property to the Trio lot, which is at a higher elevation.

Fischel closed the public hearing at 9:28 pm

Fischel moved that the Board enter non-public session to discuss ongoing litigation per RSA 91-A:3, II(e). Esinhart seconded. All voted in favor of entering non-public session.

Following the discussion of litigation, Fischel moved that the Board leave non-public session and return to public session. Esinhart seconded. All voted in favor.

Fischel moved that the minutes of the non-public session be sealed pending resolution of the litigation. Esinhart seconded. All voted in favor.

The Board adjourned at 9:41.

Respectfully Submitted,

Bruce Simpson