



Stratham Zoning Board of Adjustment
Meeting Minutes
June 4, 2024
Stratham Municipal Center
Time: 7:00 pm

Members Present: Drew Pierce, Chair
Brent Eastwood, Vice Chair
Jameson Paine, Member
Lucy Cushman, Member
Frank MacMillan, Member

Members Absent: None

Staff Present: Mark Connors, Director of Planning and Community Development
William Dinsmore, Building Inspector and Code Enforcement Officer

1. Call to Order/Roll Call

Mr. Pierce called the meeting to order at 7:02 pm and took roll call.

2. Approval of Minutes:

a. May 7, 2024

Mr. Pierce stated that a change to the May 7th minutes should say that there are four members on the board and give the applicant the option to postpone the meeting to the next regular meeting on the 4th of June.

MOTION by Mr. Macmillan to approve the March 5, 2024, meeting minutes as adjusted. Ms. Cushman seconded the motion. All voted in favor and the motion passed.

3. New Business:

a. Case #679: 200 Domain LLC (Applicant & Owner), 200 Domain Drive, Stratham Tax Map 1, Lot 3, Zoned Industrial. This case was postponed due to the lack of a five-member board at the May 7th meeting. The Applicant seeks a variance from section 11.5.3 of the Stratham Zoning Ordinance to allow for a small building addition and paver patio within the 50' wetland buffer and partially within the 25' non-disturbance buffer on the property.

Derek Durbin stated that he is the attorney for the applicant, and he also had with him Patrick Crimmins from Tighe and Bond Engineering. Mr. Durbin stated that there was a wetlands delineation completed on the property and he also had Brian Brooks present, who is the property manager. Mr. Durbin mentioned that Timberland is no longer utilizing all of its building and is a result of operational change, post COVID. They would like to convert the building into a multi-use space to make adaptive reuse of the underutilized space in the building and to offset a lot of its costs associated with maintaining the entire building, since it's not being used. Plans are really critical to the company desires to remain in Stratham, and this is part of its long-term plan to do so. To convert the building into a multi-tenant

space. The proposal is for lobbies and common areas to the southwest and southeast ends of the building along with new access ways. Mr. Durbin points out in the plans, there is a small wetland that's wedged between the southwest corner of the building and the parking lot. Much of that area is already developed. It's certainly disturbed, if anything. And much of that area, adjacent to the southwest corner of the building is encumbered by the 50-foot wetland buffer as well as the 25 foot no disturbance buffer within that buffer. He states, anything done in that area requires relief, whether it be from this board point of variance or planning board in the form of a conditional use permit. The Wetland itself has been classified as a low functioning, isolated wetland that has limited wildlife habitat or value. There's some common belief that its manmade and may have been a drainage ditch originally associated with the parking lot building but that hasn't been confirmed. In any event, any disturbances in that 50-foot buffer do require relief from section 11.5.3. Mr. Durbin states, the relief relates specifically to a small lobby addition and associate paver patio area and adjacent to the southwest corner associated with the southwest corner of the building doesn't apply to any of the other improvements they intend to make the property. There will be no direct impact to the wetland itself. To mitigate any impacts associated with stormwater runoff from impervious surface coverage, the applicant is proposing to rain gardens to treat the stormwater runoff as well as supplementing the area with native plantings. Presently, there aren't any type of stormwater mitigation measures in place in that area of the property. He mentions that they will be improving upon the existing conditions of the property. Mr. Durbin presents a letter from the Conservation Commission from March and points out that they are ultimately in favor of the of the project moving forward.

Mr. Paine asked Mr. Durbin if the area in question is related to any snow removal or snow storage and Mr. Durbin replies he does not believe it is.

Mr. Durbin moves to talk about the criteria of the variance and states granting the variances will not be contrary to the spirit intended the ordinance were the public interest. The purposes of the wetlands conservation overlay district are outlined in Section 11.1 of the ordinance and adds that the subject wetlands are not of significant value. Nonetheless, they are proposing to improve the conditions. As they exist within that buffer with the rain gardens and native plantings, the plan is a very scaled back plan of what was initially proposed for the building. But after feedback from the Conservation Commission, initially, the applicant timberland ultimately decided to scale its plans back to what is being proposed tonight. Substantial justice will be done in granting the variance and this is that equitable balancing test of the rights of private landowner to make reasonable use of the property versus the public interest in seeing that the zoning ordinance is upheld. He states that he would argue that the granting the variance substantial justice test weighs in favor of granting the variance. Timberland is no longer able to utilize all the space in its building. These plans are really critical to its long-term plans and stratum and its ability to offset the cost of having to maintain a very large building that it's not able to fully make use of at this time and they don't believe there's any public interest in this case. In the end, the applicant is ultimately going to be improving upon the existing environmental conditions of the property, which is ultimately, the goal behind the ordinance, surrounding property values will not be diminished by granting the variance. This case, it's a very large property and now these particular improvements will not even be visible from any of the surrounding properties. What they're ultimately doing is converting the building to what similarly exist in other areas of the main drive, which are multi-tenant buildings. If anything, the improvements should add value to the property and raise additional tax revenue if anything for the town. He adds that the provisions of the ordinance would result in a net unnecessary hardship probably does have special conditions that distinguish it from surrounding properties, the presence of a small isolated wetland between the parking lot and the building means that very significant areas of property is encumbered by the wetland buffer and a very significant area of the developed area and nothing can be done with that Southwest corner of the

94 building or adjacent to it without obtaining the relief that we're seeking for you tonight. Mr. Durbin
95 states that they are observing the spirit and intent of the ordinance by improving upon the existing
96 environmental conditions. Owing to the special conditions of the property, he would submit that there
97 is no fair and substantial relationship to the general purpose of the ordinance provision, its application
98 here, and that the proposed uses reasonable. Proposed uses a multi-tenant facility and it's probable to
99 use a permitted use in the industrial zoning district.

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101 Mr. Pierce asked if the atrium lobby is going to be build where the pavilion exists presently and Mr.
102 Durbin replied no, it's not going to extend out that far. Mr. Pierce asked how far out the leading edge
103 of the new construction will be and Mr. Durbin replied just shy of 12 ft. Mr. Pierce asked if digging
104 out that land will not impact the wetlands and Mr. Durbin replied yes and there will be about 13 ft
105 from the corner of that building to the wetlands so there should be plenty of room to dig and set the
106 foundation. Along with that there will also be heavily planted landscape plan that will enhance the
107 wetlands after construction. Mr. Durbin stated there should be a temporary disturbance to the buffer
108 during the process.

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110 Mr. Pierce asked how deep they are going to dig, and Mr. Durbin replied 4ft because it will be a typical
111 slab foundation. Mr. Pierce asked if there will be any visual barrier for the operators due to the tight
112 working area and Mr. Crimmins replied that it will be up to the contractor but more than likely going
113 to be placed where the proposed new drive will be.

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115 Mr. Paine asked if that proposed new drive will be the dedicated entrance for the new space and will
116 there be signage constructed as well and Mr. Crimmins responded that the new drive will be the new
117 dedicated entrance and the signage will be at the end of the drive where the walkway starts. He also
118 stated more signage will be mounted to the building and no more will be added to the land.

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120 Mr. Eastwood asked if the Conservation Commission mentioned that the project would have impact
121 nearly 2000 SQFT of wetland if there will be a revised plan to get that down to zero and Mr. Crimmins
122 responded there are no direct wetland impacts and Mr. Eastwood questioned the walkway that appears
123 on the plans that seem to go over the wetlands and Mr. Crimmins responded that walkway is actually
124 wedged in-between two wetlands that are isolated from each other.

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126 Mr. Pierce asked if there are any more questions for the board and Mr. Durbin replied no.

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128 Mr. Pierce moves to open the meeting to the public.

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130 Mr. Pierce asked if there were any other questions or comments from the board and Ms. Cushman
131 replied if the Conservation Commission is okay with it then she is okay with it.

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133 Mr. Pierce asked if anyone agrees or disagrees with the barrier requirement and Mr. Paine stated that
134 he is okay with it and also the applicant is okay with it.

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136 Mr. Pierce announced the Board would move into deliberations and determine if the application meets
137 the variance criteria.

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139 *Criteria 1: The variance will not be contrary to the public interest:*

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141 Mr. Pierce stated that he doesn't see anyway that this will be against any type of public interest and
142 Mr. Paine added that he agrees and stated that the addition of two storm water drains will improve

water quality for runoff.

Criteria 2: The spirit of the ordinance is observed:

Ms. Cushman stated that the Conservation Commission comments is an example of their willingness to meet the spirit of the ordinance and the board agreed.

Criteria 3: Substantial justice is done:

Mr. Pierce stated that this allows the applicant to use their property for what they need to use it for and Ms. Cushman agreed and adds reuse is better than empty space.

Criteria 4: The values of surrounding properties are not diminished:

Mr. Pierce stated that this wouldn't be visible for surrounding properties and if anything it beautifies the property and the board agreed.

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

Mr. Pierce mentioned that what makes the property unique is the two wetlands and that there really isn't anything else that can be done in that corner of the property. Mr. Macmillan believes it would be undevelopable if they didn't allow the variance.

Mr. Pierce made a motion that the Zoning Board of Adjustment approve the variance application submitted by 200 Domain LLC from section 11.5.3 of the Stratham Zoning Ordinance to allow for a small building addition and paver patio within the 50' wetland buffer and partially within the 25' non-disturbance buffer on the property. This motion for approval is subject to the following condition:

- 1. A visible construction barrier some type of construction fencing temporary be used during the construction process.**

Mr. Macmillan seconded that motion. All voted in favor and the motion passed 5 to 0.

4. Adjournment

Mr. Pierce stated that the meeting adjourned at 7:31 p.m.