

## Ashfield Zoning Board of Appeals

### Public Hearing

Tuesday, July 2, 2013

Town Hall, Ashfield

7:00 pm

MINUTES

Case #: **2013-1**

**John A. LaBelle**, 40 Stroheker Road, Ashfield, MA 01330

Application for Variance or Special Permit to obtain a building permit for 7.83-acre property with 150' frontage on Buckland Road, Ashfield, Assessors Map 4.1, lot 13 (Book 5265, Page 287).

Present: Stuart Harris, Chair; Mollie Babize; Kit Nylen; Anne Yuryan, Alternate.

John LaBelle, Appellant

Jerry Hoyt, owner of abutting property

Supporting documents:

- Application for Hearing, received with fee on June 3, 2013
- Letter from John A. LaBelle to Board of Appeals, dated May 29, 2013
- Letter from James D. Hawkins, Building Commissioner at Franklin Regional Council of Governments, dated May 2, 2013, stating lot is not grandfathered and requires a variance from frontage requirements of the Ashfield Zoning Bylaw.
- Email from Atty. John W. Richardson, forwarded by Richard Cox Bishop to John LaBelle dated May 3, 2013,
- ZBA decision, dated July 24, 1973, granting variance to Armond J. and Janice M. LaBelle for property on Buckland Road with frontage "less than the required 150'."
- Quitclaim deed transferring ownership of property on Buckland Road to John A. LaBelle et ux recorded December 30, 1988, Book 2295, Page 29, and excepting a 6.6-acre parcel also on Buckland Road.
- Site Plan for proposed building lot for property on Buckland Road (Map 4.1, lot 13) prepared for Richard O'Brien & Laura Quinn.
- MassGIS map of properties along Buckland Road, with property lines over ortho imagery of DEP wetlands, from Stockman Associates LLC
- Plan of land on Buckland Road, showing subdivision of property owned by Armond and Janice LaBelle into three parcels, prepared by Almer Huntley Associates, dated August 24, 1973.

Hearing opened at 7:17 pm.

Anne Yuryan recused herself from the hearing, noting that her office has done business with John LaBelle.

Stuart Harris noted the public hearing notice was filed with Ashfield Town Hall on June 13, 2013, and notices published in the Greenfield Recorder on June 17 and June 24, 2013. The Assessors Office provided a list of 14 abutters, who were duly notified by mail. Notices were sent to the Town Select Board and Planning Board, as well as the Planning Boards of

abutting towns. Three letters were received from abutting property owners Bev LaBelle, George G. Van Guilder, and Fritz Graves, each stating they had no objection to the variance. Jerry Hoyt, owner of abutting property at 325 and 335 Buckland Road, stated he had no objection to a special permit or variance, and left the hearing.

The General Laws of Massachusetts, Chapter 40A, Section 10 outlines criteria for issuing a variance, "where such permit granting authority specifically finds that owing to circumstances relating to the soil conditions, shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the ordinance or bylaw would involved substantial hardship, financial or otherwise, to the petitioner or appellant, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or bylaw."

John LaBelle said the Conservation Commission has reviewed the plan to build on this lot (there are intermittent streams on either side of the proposed building envelope) and has no objection; if the ZBA grants a variance, Conservation would issue specific conditions for building there.

Stuart Harris noted that Ashfield's Zoning Bylaws specify a minimum of 200' frontage. This parcel has just 150'. There is nothing in the "soil conditions, shape or topography" of this property that makes it unique to the neighborhood; in fact, most properties in the immediate vicinity have less than 200' frontage.

John LaBelle has tried to purchase a small triangular property to the east, which would provide sufficient frontage, but the owner (Chester A Gallup, Jr.) has not responded.

Ashfield's Zoning Bylaw was established in 1967; this lot was subdivided in 1973 and therefore subject to the minimum frontage. However, Kit Nysten noted the 1973 variance (for the abutting 6.6-acre lot) was granted, allowing a building permit on a parcel with less than the required 150' frontage. Was the Zoning Bylaw changed, and if so, when? Research in ZBA files uncovered the Zoning Bylaw from 1968 through September 1973, which in fact states the minimum frontage at the time was 150'. An amended page, dated July 3, 1974, increased the frontage from 150' to 200' (and the minimum lot size from a half acre to two acres). So it appears that the lot in question tonight was in fact a legal building lot when it was created. When the zoning changed, the lot became non-conforming but still a potential building lot. If that is the case, then the property does not appear to require a variance.

The meeting was adjourned AT 9:12 pm, to be continued on Thursday, July 11, 2013, 7:00 pm.

Respectfully submitted by Mollie Babize