

# TOWN OF THORNTON

## Zoning Board of Adjustment

Approved on: 24 April 19  
ZBA Initials: JMM  
Rec'd by Town Clerk on: 4/30/19  
Town Clerk Initials: djn

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### ZONING BOARD OF ADJUSTMENT MEETING MINUTES

June 27, 2018

#### CALL TO ORDER:

W. Rose called the meeting to order at 7:04 p.m.

#### ROLL CALL:

The following members were present:

W. Rose, Chairman    D. Day, Member            J. Marshall, Member  
S. Bartlett, Member    J. Monti, Member

Also Present: J. Fleury, Board Secretary

**Public Present:** Roy Sabourn, Sabourn & Tower Surveying and Septic Design, PLLC, Flora L. Boyce, and David and Nancy Dionne.

#### Public Hearing – Variance hearing for Map 6 Lot 3-3

Public Hearing on an application filed by property owner Robert W. and Flora L. Boyce and David and Nancy Dionne for "VARIANCE" from the provisions of Article VI. Paragraph A.1 of the Thornton Zoning Ordinance. The applicant's expressed intent is to subdivide the existing 8.96 acre parcel on Fir Tree Lane into two (2) lots of equal size, with dwellings thereon, without sufficient "qualifying acres".

At 7:05 p.m. W. Rose opened the Public Hearing to hold a hearing on the application submitted by property owner Robert W. and Flora L. Boyce and David and Nancy Dionne for "VARIANCE" to subdivide the existing 8.96 acre parcel on Fir Tree Lane into two (2) lots of equal size, with dwellings thereon, without sufficient "qualifying acres".

Chairman Rose asked Mr. Roy Sabourn if he would like to speak on behalf of the applicants in their variance request. Roy Sabourn submitted a second copy of the plan and addressed the Board.

R. Sabourn stated that two separate parties live on this property. Last year, the Downing family sold the property to the two current owners Robert W. and Flora L. Boyce and David and Nancy Dionne as two separate deeds with undivided half interests. There are two homes located on one piece of land.

There are 8.96 acres in total on the property, and the applicants are requesting to equally split the land that their homes are on. The properties each have frontage on Route 3, Lot 1 (Boyce) also has frontage on Hubbard Brook.

R. Sabourn stated that when the applicants were submitting their request for subdivision to the Town of Thornton and the State of NH, it was realized that they did not comply with the qualifying acreage. The reason is that the jurisdictional wetlands do not count toward qualifying acreage according to Thornton's zoning ordinance. The flood plain maps that Thornton uses are very poor,

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as an adequate flood study has not been completed. According to the flood map, the land towards Route 3 is designated as not in the flood plain, and in actuality this area is where the water gathers. The homes have never flooded even though it shows that they are in the flood zone.

R. Sabourn stated that the applicants would like to divide the property that their homes are on so that they have two separate lots of almost 5 acres each. The setbacks will be met with this subdivision. The applicants intend to continue to share the septic system and the well as they have in the past. Separate test pits were dug to illustrate that separate septic systems could be installed in the future if needed. Alternate well sites were displayed in the event that they decide to not share the well.

R. Sabourn stated that the property includes joint use of the driveway providing access to the two homes.

R. Sabourn stated that nothing on the property will change physically if the property is subdivided. Subdividing gives the applicant an opportunity to own the land with their home, and to deed the property to their children in the future.

J. Marshall asked for clarification on the need for application since each property has more than 1 acre as required by the zoning ordinance.

R. Sabourn explained that there is more than enough acreage to subdivide without a variance, however the acreage does not "qualify" due to the presence of floodplain issues, wetland soils, and slope in excess of 35%.

Chairman Rose closed the public hearing at 7:34 p.m.

Chairman W. Rose reviewed the five conditions for granting the variance.

1. **Granting the variance would not be contrary to public interest.** R. Sabourn explained that single family dwellings are allowed in all Thornton zones, the proposed variance does not unduly conflict with the basic zoning objective of the ordinance, the proposed variance would not alter the character of the locality, and it would not threaten public health, safety, or welfare.

R. Sabourn stated that granting the variance would actually bring the property into compliance with Article VI, A, 4 of the zoning ordinance.

The Board unanimously agreed.

2. **The spirit of the Zoning Ordinance will be observed.** The Board considered the information presented in #1. The Board unanimously agreed that the spirit of the ordinance would be observed.

3. **Granting the variance would do substantial justice.** The Board considered that the "only guiding rule is that any loss to the individual that is not outweighed by a gain to the public is an injustice". The Board unanimously agreed that the granting of the variance would do substantial justice by allowing the Boyce's and the Dionne's to enjoy their properties with each of them individually owning the land under their homes.

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**4. The variance if granted would not negatively impact the value of surrounding properties.** The Board unanimously agreed that there would be no physical change to the property.

**5. The denial of the variance would create an unnecessary hardship.** The Board unanimously agreed that denial of the variance would create an unnecessary hardship by interfering with the landowners' reasonable use of the property and that a denial would cause a loss to the two current families that would not be outweighed by any gain to the public.

**MOTION: "To grant the variance requested subject to conditions that the applicants will provide for deeded access to the second lot (Dionne lot) and that the use of water and waste water will be addressed in the deeds."**

Motion: J. Monti

Second: D. Day

Discussion: None.

**Motion Passes: 5-0**

### OTHER BUSINESS

#### 1. APPROVAL OF MINUTES - 1/31/2018

**MOTION: "To approve meeting minutes of January 31, 2018 as presented."**

Motion: S. Bartlett

Second: D. Day

Discussion: None.

**Motion Passes: 4-0**

**Abstained: Joseph Monti**

#### 2. Discussion:

The Board of Selectmen appointed Joseph Monti as a full board member in place of Chris Hodges' expired term.

The Board welcomed Mr. Monti to the Zoning Board as a full voting member.

The resignation of Sky Bartlett from the ZBA was rescinded by the Board of Selectmen while he remains a Thornton resident. W. Rose appreciates his continued involvement on the board.

W. Rose informed the Board that he is resigning from the Zoning Board effective tomorrow and this evening is his last meeting. The Board thanked W. Rose for his service. Vice-Chairman J. Marshall will assume chairman duties in the interim. The Board agreed to solicit for more community involvement to fill vacant positions on the Zoning Board of Adjustment.

16 Merrill Access Road  
Thornton, NH 03285  
603-726-8168  
zba@thorntonnh.org

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### ADJOURNMENT:

**7:59 p.m. MOTION: "To adjourn."**

Motion: J. Marshall

Second: D. Day

Discussion: None.

**Motion Passes: 5-0**

Respectfully submitted,

Jessi Fleury  
Board Secretary