

**ZONING BOARD OF APPEALS**  
**MEETING MINUTES**  
**April 3, 2019**  
**86 Willow Hill Road**

Members Present: Vaughn Hathaway, Chair; Jim Reinke, Vice-Chair; Jim Buckley, Mary Moore

Alternate Member Present: Richard Johnston

Absent: David Orth (letter of resignation submitted 4/3/2019)

Staff Present: Michelle Buck, Town Planner

The meeting was called to order at 7:30PM.

**Public Hearing, 86 Willow Hill Road Special Permit Continued**

Mr. Hathaway opened the hearing at 7:30PM and provided an overview of the hearing process.

Voting members for this application as follows: Vaughn Hathaway, Jim Buckley, Mary Moore, Jim Reinke and Richard Johnston. Mr. Buckley listened to the audiotape of the public hearing of March 6, 2019 so that he would be permitted to act as a voting member (pursuant to MGL Ch.39 §23D).

Mr. Hathaway opened the hearing up to the petitioner.

Mr. Norman Hill, Trustee of the Grafton Office Trusts, addressed the Board and explained his project. He commented that he has been designing and building houses for over 40 years and that he is a licensed engineer and licensed land surveyor. He stated that he was sensitive to the neighbors and said that he tries not to build anything that would hurt the neighbors in any way.

Mr. Hill stated that at the last meeting there were concerns regarding drainage. He said that he looked at the topography of the land on his lot and the surrounding lots and reviewed the plan with the Board. Mr. Hill explained how the water currently flows on the property. He stated that many years ago someone had dug a ditch that is now very deep. He said that because that ditch was so deep, the water cannot flow past that ditch onto Route 9. Mr. Hill stated that an abutter on Monterey Street spoke with him about water issues he has on his property. Mr. Hill explained that he would address that issue by digging a ditch to intercept that water flow and redirect it away from the abutter's property.

Mr. Hill stated that he felt that he had addressed the drainage issues. Mr. Hathaway asked if there were any abutters present that had any questions or comments in regards to the drainage issue. Peter Cusolito, 93 Willow Hill Road, addressed the Board. He stated that he did not agree with the characterization of where the water goes and Mr. Hathaway asked Mr. Cusolito to specifically address the topography plan. Mr. Cusolito stated that the topography shows the peak of the hill and then how it skirts out in multi-directions saying the water does not flow in just one direction.

David Drapeau, 92 Willow Hill Road addressed the Board. He stated that this house would be directly in front of his house and said that he already has water issues. He said that behind his

house is a hill that comes straight down into his backyard and he said that he gets water in his basement. Mr. Drapeau also commented that there is supposed to be 150 feet of frontage and he is not happy about that getting reduced to 50 feet of frontage. He stressed that he has 150 feet of frontage and asked the Board to go take a look at his property to see what he was talking about. Mr. Hill explained that the driveway will have a ditch on either side of it lined with stone so the water will trickle down the stone and follow that ditch to Willow Hill.

Ms. Moore stated that she spoke with someone who knows a lot about that land. She stated that in 1920, when they changed Route 9, the ditch was put in for drainage purposes. Ms. Moore said that the person's concern was that the state owned the ditch and that Mr. Hill was putting additional water into that ditch. Sue McNamara of Creative Florist said that she is also concerned about the additional water. Mr. Hill commented that the state did not own the ditch and explained that when they changed Route 9 in 1920, that land reverted back to the abutters.

Mr. Hill asked the Board if they would accept a condition stating that he would provide a 30 foot easement along the property line and deed that to the Town of Leicester. Mr. Hathaway commented that the Board may want to make this a condition, if they in fact approve this permit. Mr. Hill stated that he would be willing to do that.

Mr. Johnston asked Mr. Hill what the elevation change from the highest point to the lowest point was on his property. Mr. Hill stated that the highest point by Monterey Street was 848 feet and said that by the time you go past the house and down the driveway it drops to 800 feet.

Mr. Buckley asked Mr. Hill to again explain how this lot came to be. Mr. Hill explained that he purchased the parcel as one entire piece then he created three separate parcels and said that he already sold Lot 1. Mr. Hathaway explained that the limited frontage bylaw does not apply to property that is owned by the same person. Mr. Hill stated that he did not understand. Mr. Hathaway read from the limited frontage lot bylaw saying "The provisions of this Section shall not apply to any lot shown on a definitive subdivision plan under M.G.L. c41, sec 81 (O) *or to a lot which being owned in common with other lots could be configured to conform to the dimensional requirements of the zoning district.*" Mr. Hill stated the he does not currently own abutting property and Mr. Hathaway stated that he showed that he did own abutting property previously. Mr. Hathaway stated that this was self-imposed because Mr. Hill separated the parcels himself.

Ms. Moore asked Mr. Hill if by giving an easement to the town for the first lot, would it change the size of the lot to make it a buildable lot and Mr. Hill answered yes. Ms. Moore asked Mr. Hill when he sold 80 Willow Hill Road if those people were made aware of his plans and Mr. Hill answered yes.

Mr. Buckley commented that the limited frontage lot bylaw was not created for someone to make three separate parcels and making limited frontage lots. Mr. Cusolito said that Mr. Hill did own all parcels at the time that he applied for the special permit. He commented that Mr. Hill created this situation himself by manipulating the separate Boards.

Mr. Reinke commented that the town may not want that easement. He said he believes the town would have to accept that easement and suggested that Mr. Hill do some investigating on that issue. Mr. Hill asked if he should speak with the Highway Department and Mr. Reinke stated that he wasn't sure and said that it could be the Select Board. Mr. Hill stated that he will check with the Highway Department first. Mr. Reinke described changes he'd like to see made to the plans (addressing the drainage easement, moving the driveway on the easterly side of 80 Willow Hill Road' reconfiguring proposed Lot 2, if necessary, for proper square footage and relocating the proposed house further from abutters).

Mr. Hathaway explained 40B to the public. [Note: 40B refers to Mass General Law Chapter 40B. This law allows exemptions from normal Zoning Bylaw requirements to construct affordable housing.] Mr. Cusolito commented that a person could not build a multiunit on property under 40B just because a person calls it 40B. He stated that Mr. Hill has been threatening to do this. Mr. Hill stated that he is trying not to go that route and said the he only wants to build a single family house. Tracy Steiger, 12 Monterey Drive, asked Mr. Hill if he was planning on building a multifamily home on the property and Mr. Hill stated that he has plans for a single-family home only.

Ms. Buck stated that there was some likelihood that he could put in a multifamily project under the 40B process. She commented that it was not appropriate for Mr. Hill to bring that up at the meeting and said that the Board should only be considering what was submitted for the application on its merits and not think about a potential future threat. The Board agreed.

Mr. Cusolito suggested that the Board get an opinion from Town Counsel in regards to the limited frontage lot bylaw and how it would apply to Mr. Hill. Ms. Buck stated that how Mr. Hathaway explained the bylaw (that it's not applicable to new divisions of land owned in common) is consistent with how this bylaw has been used in the past. Mr. Reinke stated that he would like to have Town Counsel weigh in on this to see what their interpretation would be. Mr. Hill agreed to have Town Counsel give their opinion.

MOTION: Mr. Reinke moved to see Town Counsel's opinion in regards to the limited frontage lot bylaw.

SECOND: Ms. Moore. Discussion: Mr. Hill said that he will check with the Highway Department about the drainage easement and move the driveway. Mr. Reinke commented that it would be best for Mr. Hill to relocate the house also.

VOTE 4 in favor/1 abstention (Jim Buckley)

MOTION: Mr. Reinke moved to continue the public hearing to May 1, 2019 at 7:30 PM and requested that the Applicant address the drainage easement, moving the driveway on the easterly side of 80 Willow Hill Road' reconfiguring proposed Lot 2, if necessary, for proper square footage and relocate the proposed house.

SECOND: Mr. Johnston. Discussion: None.

VOTE: All in favor.

Correspondence/General Board Discussions:

Mr. Hathaway handed out copies of David Orth's resignation letter and said that it was effective immediately. He stated that they need to get another member for the Board. Mr. Reinke stated that the vacancies are listed on the town's website. Mr. Reinke requested sending a thank you letter to Mr. Orth for his many years of service.

MOTION: Mr. Reinke moved to adjourn the meeting.

SECOND: Mr. Johnston

VOTE: All in favor.

The meeting adjourned at 8:45PM.

Respectfully submitted,

Wanda Merced, Department Assistant

**Documents included in meeting packet or otherwise sent to ZBA in advance of the meeting:**

- Zoning Board of Appeals Agenda 4/3/2019

**Documents submitted at meeting:**

- Copy of David Orth's resignation letter.