

**Monkton Development Review Board
Meeting Minutes
April 25th, 2022
Draft**

Attendance:

DRB Members Present: Curtis Layn, Jaime Schulte, Philip Russell, Stephen Pilcher, Vicky Stern

DRB Members Absent: Chris Acker

Others in Attendance: Grant Liebersburger, Jennifer Liebersburger, Paul Roche, Leonore Tjia, LuAnne Rotax, Charles R. Huizenga Jr., Adam Huizenga

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

Minutes: Postponed review of minutes until next meeting or end of meeting.

Public Comment: None

Old Business:

Hearing continued: *Waiver Application #2021-008-WAV of Grant Leibersberger for a waiver from the side setback requirement located at 2569 Hollow Road (parcel ID is 04.102.076.000) in the RA-5 Zoning District*

Continued the hearing from April 11th, 2022 following a site visit by the DRB to 2569 Hollow Road at 6:45pm this evening. J. Liebersburger stated that the drawing in the waiver application has incorrect orientation/dimension. It should be rotated 90 degrees, such that the 30' side depth is into the setback and the 24' front side faces the driveway. This was an inadvertent error in creating the drawing. The east (driveway) side of the building would remain fixed and the building extends farther west.

During the site visit it was noted that there are very limited options for where a garage could be located due to the geography of the parcel and location of the stream. There is not a potential location that would avoid some impact to setbacks.

The criteria for a waiver were reviewed. There was discussion of whether the waiver would be consistent with the Town Plan. J. Schulte indicated the Town Plan mentions 50' setbacks as recommended for seasonal streams, but there is no language to that effect in the zoning rules themselves. This stream does not appear on Agency of Natural Resource or Monkton maps, but it presumably could/should as it was observed during the site visit to be more substantial than many small seasonal streams that are mapped and was mentioned by the applicants as typically running for 6-8 months of the year. The Town Plan describes the purpose of stream

buffers and does not specify only mapped streams. The proposed garage would extend up to 30' into the side yard setback parallel to and as close as about 10' to the south bank of the stream.

Regarding potential impact to neighbors the DRB heard from the neighbors immediately across the boundary line to the west, Paul Roche and Leonore Tjia, of 33 Stone Hill Lane. L. Tjia made a brief statement in support of the application and said there is adequate screening between their house and the proposed garage. P. Roche concurred.

J. Schulte noted that a waiver, if approved, should represent the minimum deviation that would afford relief (UPD 372.E). UPD 770.D also notes that a waiver cannot be granted if it would have the effect of nullifying the intent and purpose of the Town Plan, zoning regulations, etc. The proposed waiver may be in opposition to the intent or rules related to side yard setbacks and streams. He expressed concerns that approving this waiver would create precedent for future similar waiver applications. G. Liebersburger agreed that it could if there were similarly limited options on a parcel for where a structure could be located, but shouldn't if there are options to comply with zoning rules. There was discussion about how to weigh the importance of a waiver for a garage vs. a house and the Town Plan vs. the zoning regulations. Discussed whether some kind of stream impact permit might be needed. Presumably not if the building is kept back far enough and the stream is not altered. There was brief discussion of moving the building a few feet farther from the stream or changing the orientation to reduce the footprint in the setback. The applicants would prefer to keep the plan as-is (with the correction to building dimensions noted above) but intend to follow the guidance of the contractor, particularly with regard to a stable stream bank.

S. Pilcher moved to approve waiver application #2021-008-WAV as requested, with the correction for a 30' deep and 24' wide garage in the setback due to the location being the only workable option in the current landscape. P. Russell seconded. There was no further discussion. **The vote was 4-1-0**, with J. Schulte opposed. The motion passed and the waiver was approved. J. Schulte wished the Liebersburgers well and noted his opposition was due to the various concerns discussed previously.

New Business:

Sketch Plan of LuAnn Rotax for a 2-lot subdivision between Rotax Rd and Cemetery Rd. Parcel 01.228.001.000.

Discussed splitting the existing 25.9 acres between Rotax and Cemetery into a 20.3 acre parcel and a 5.6 acre parcel. J. Schulte noted that the proposed 5.6 acre parcel appears to have two residences on it. L. Rotax described that there is an older, now uninhabitable, home close to the intersection of Cemetery and Roscoe. The much newer home, where she now resides, is on the west side of the proposed parcel. L. Rotax stated that the old home contains asbestos in the siding and that she is not in a position to properly remove or repair the structure. It is, however, her intent to have only one building site on the parcel.

Discussed removing the older home's building site so it is no longer a residence and reclassifying the structure for current and future purposes to be a barn instead. The structure would need either a waiver or a conditional use, because the use of the building is changing and it is not in conformance with the current front yard setback of 50' from Cemetery Rd. There was discussion of whether the 50' is from the center or side of the road. J. Schulte estimated 38' from the center of Cemetery Rd to the front of the house using Google Earth, so either way approval for the change in non-conforming use would be needed. As the change in use would reduce the degree of non-conformance it should be straightforward to approve. We will ask the Zoning Administrator to determine the correct process (waiver or conditional use) and it could be considered concurrently with Preliminary and Final Plat applications. It was also requested that the map show the setback of both current residences from the parcel boundaries. L. Rotax will follow up with LaRose Surveys to have an updated map prepared for Preliminary.

Sketch Plan of Charles R. Huizenga Jr. for a 2-lot subdivision at 357 Nichols Rd. Parcel 07.101.171.007.

C. Huizenga would like to split the existing 28-acre parcel into approximately a 10-acre parcel and an 18-acre parcel. The proposed building site was discussed and no objections were noted. J. Schulte mentioned reviewing the parcel on the Agency of Natural Resources site and the Monkton zoning maps ahead of the meeting. No significant natural features/considerations were present other than two streams in the area of the proposed new residence and the forest block in the north and west of the parcel. The two streams may gain 50-foot setbacks in upcoming zoning changes, but the proposed building site is between them and not particularly close to either. The driveway could branch off the existing driveway or be a new curb cut on Nichols Road.

Adjournment: Phil Russell moved to adjourn the meeting at 8:57 PM. The motion was seconded by C. Layn and passed 5-0-0.