

HANSON BOARD OF APPEALS  
Minutes of Public Hearing February 7, 2017

Petitioner: Gary Lundgren – Case#17FB03  
Alden Way - Lot 7 – 7:30 PM  
Variance/Special Permit

Members presiding: Robert Overholtzer, Chairman  
Ryan Tully, Clerk  
William Cushing, Alternate

Also present: Gary Rice, Land Planning Inc.  
Attorney George Burke, for Mr. Lundgren  
Robert Curran, Building Commissioner

Petitioner is requesting a special permit/variance to allow for the construction of a single family home at the above address. Property is pre-existing, nonconforming and is in Residence AA zone.

Gary Rice of Land Planning, Inc., presented the proposal for the project. Plan submitted was prepared by Land Planning, Inc., 1115 Main Street, Hanson, Ma., dated December 12, 2016 and numbered P-3182.

Question asked by Board Chairman Overholtzer for Town Planner Laurie Muncy who was not at this hearing was who owns the land directly In front of the property.

Rice responded that the plan shows the existing lot is 23,885 sq.ft. and also shows the proposed house, garage and deck and the driveway accessing off Alden Way. Alden way is still a private way and you can access a private way also with a residence, per Rice.

Abutter Stephen Regan of Alden Way, questioned how this could be done. Regan questioned the ownership of the land in front on Lundgren's parcel – is it owned by Lundgren or Mark Tedeschi, the original developer of Alden Way. Rice responded the land is owned by whoever owns the road currently – Regan responded Mark Tedeschi. Rice stated that even though this shows a sliver of land this is all part of the layout. Per Rice this lot is preexisting – 1940 or before. The lot also has a right of way along the southerly side of the lot to access Liberty Street. So at one time they could have had a house built on this land with access right out to the street, per Rice. Along came Alden Way and provided them with a nice safe roadway, meeting the Town's standards to be able to front on and access road. Variance is needed as the front is shot 60'.

Per Building Commissioner Robert Curran there is a frontage issue – this did not exist on a way at the time the Town adopted zoning, so this does not have that protection. This is the first time in over 20 years that Curran has seen a road go by a single ownership lot prior to zoning and in his opinion this does require a variance. Regardless of whether the town accepts the road, Curran continued, it is still frontage on the street and is adequate access – is absolutely fine for access. Curran continued that if this lot existed just the way it is on a road since prior to the adoption of zoning it would be grandfathered in and a permit would be issued already.

Abutter Regan stated that this lot does not meet grandfather status because the lot was not on a way or a street on a recorded subdivision plan before the town adopted the subdivision.

The question was asked when was the land purchased – Atty. Burke answered 1987 - owned for 30 years by Lundgren and has been taxed as a buildable lot.

The lot is considered in a single ownership, said Curran.

Abutters present were concerned about wetland issues, drainage issues and lot size.

Gary Rice answered the question on the area and having enough room to build a house, he looked at a couple of other lots on the plans he had with him and pointed out that even though the lots meet the requirements of the zoning – 40,000 sq.ft.- some lots have mostly drainage easements having only 29,000 sq.ft. of buildable area – another lot only has 23,000 sq.ft. of buildable area.

Mr. Curran stated that just so everyone here will know what the law says if you have a lot that is 5,000 sq.ft of land and 50' of frontage on a street whether it is a way or a street, private way or otherwise or even if it is a paper street you have the right to build on it if it was owned in single ownership since prior to the adoption of zoning, so this case here – the street didn't exist on a map so that is why he needs a variance to build on it. If this was a paper street at the time zoning was adopted then he would have a permit already. A grandfathered lot is 50' of frontage and 5,000 sq.ft., continued Curran. This lot surely was owned in single ownership since prior to the adoption of zoning however Alden Way did not exist. This is the first time Curran has heard of a street being put in years later after zoning was adopted and happens to provide frontage on a way. Regardless of whether it is a private street or a public street it still has access to it, but Curran stated that he is not entitled to a building permit unless he gets a variance from the BOA because of frontage and lot area.

Motion made to approve the variance and special permit for relief from 40,000 sq.ft. to 23,885 sq.ft and frontage from 175 ft. to 115' to allow for the construction of a single family home at 0 Alden Way: William Cushing  
Second: Ryan Tully  
Vote: 3-0

Motion made to close the hearing.

