

**TOWN OF WEBSTER, NEW HAMPSHIRE**

*Zoning Board*

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**Zoning Board of Adjustment Minutes January 13, 2009**

Present: Chairman Marty Bender, Secretary Pat Inman and members Don Koberski, Dave Barnes, Bobby Drown and Shawn Smith

Attendees: Gregg Jordan (agent for Advertising Agency, Inc.), Dave Klumb, Pillsbury Lake Water Commissioner and Sue McGinnis, Pillsbury Lake Management President.

**7:01 pm** Chairman Marty Bender opened the meeting. Secretary Pat Inman took attendance and read the application for tonight's hearing.

Chairman Bender explained the hearing procedure to Mr. Jordan.

Mr. Jordan explained the request to the Board. He made note of the fact that, although his presence had been anticipated, the septic designer, Steve Luger, was not present. He would, therefore, make the presentation as best he could. The owner wishes to build a 2 bedroom house on the lot which he has owned since 1965. He stated that the owner had never received notice of a well being put in on the Pillsbury Lake property which is the adjacent lot to the West. Mr. Hackel (principle in Advertising Agency, Inc.) also owns the adjacent lot to the East. Because of the size of the lot in question, the required 100 feet setback from the proposed leach field to the well on the lot owned by Pillsbury Lake cannot be met. It would actually be only 61.63 feet. In support of the five conditions necessary for granting a variance, Mr. Jordan stated that:

1. if granted, surrounding property value should increase
2. if granted, real estate tax revenue would be increased
3. denial of variance would result in unnecessary hardship as the applicant would be denied the right to use and enjoy the property as intended
4. if granted, substantial justice would be done as the hardship would be avoided
5. denial of application would be contrary to spirit of the ordinance since the limit was imposed to protect the public water supply but the water contained in the adjacent well is not suitable for human consumption

No one else spoke in favor of the application.

Dave Klumb spoke in opposition. He stated that the well in question serves the Clubhouse at Pillsbury Lake. The well does not meet the State requirements for a community well but does meet the requirements for a transient well. He was not sure when the well was drilled, but it was on the original Plan for the subdivision.

Sue McGinnis presented a water test from November 26, 2008. It appears that the water is safe for human consumption. Her position was that the applicant should show a "necessity" to have the variance approved. It was her opinion that Mr. Hackel could merge the two lots and build one home that would be in compliance with the regulations. The beneficiary of a variance would be Mr. Hackel but would not be in the best interest of the Pillsbury Lake Community.

In rebuttal, Mr. Jordan stated that, as a real estate professional, he felt that the true essence of a ZBA variance is to provide relief of a hardship. He reported that they would be able to comply with all other state and town regulations if this application was approved.

A question from the Board asked how they could comply with the septic setback as it would apply to the new wells on their two lots. Dave Klumb presented one potential solution which would be to hook-up to the public water system.

7:50pm Chairman Bender closed the testimony for Board discussion.

One main consideration on the part of the Board was whether or not we could get an engineer to clarify the possible health ramifications if the variance was granted. Without more information, the inclination would be to vote no.

Don Koberski made a motion to put the application on hold until the Town Engineer for septic designs could be contacted and asked to appear at the February ZBA meeting.

The motion was seconded by Pat Inman and passed unanimously.

8:00pm The hearing was adjourned.

#### General business discussion.

It was decided that in the future, PB/ZBA Secretary Mary Smith would scan the applications and supporting documents and send to the Board with the agendas.

Also, a question arose at the Selectmen's meeting on January 12 as to whether or not there were a timeframe imposed with Special Exceptions which are granted. There is nothing in the regulations, but it is something that can be addressed in future decisions.

Respectfully submitted,

Pat Inman  
Secretary

Chairman Bender closed the hearing at 7:55pm.

Board discussion followed. Members felt that Mr. Lake had met the criteria necessary for the variance and that the addition would not be a detriment to the neighborhood.

Member Koberski made motions to approve the variance and the special exception; this was seconded by member Drown. The motions were passed unanimously with one condition. That being the procurement of both State and Town driveway permits.

Respectfully Submitted,

Martin Bender  
Chairman

MB/ms