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Zoning Board of Adjustment  
Minutes  
February 15, 2024

**Date:** 2/15/24

**Place:** Sandown Town Hall

**Members Present:** Chris Lonchamps (Chairman) John White (Vice Chair) Joel Logiudice, Dave Ardolino, Rob Lynch

**Members Absent:** Steve Meisner (Alt) Eric Olsen Selectman Liaison

**Opening:** 6:30 p.m. Mr. Lonchamps opened the meeting with introductions of members.

**Public Hearing for a second Variance Application** submitted by SEC Assoc.INC on behalf of Phillip Busby of Cross Road, also identified as Map 19 lot 19-1, requesting a variance under Art II Part D, Sec. 3.B to allow open space development with non-contiguous frontage totaling 201.22 of combined segments of 99.11’, 100.8’ & 1.31’

**Charlie Zilch of SEC Associates Inc. presenting:**

- Here on behalf of Phillip Busby for his requests for variances previously granted relating to his property identified at tax map 19 lot 19-1.
- The intent of this application as before, is to obtain variances to allow for the development of the property as an Open Space Development in accordance with the Town of Sandown’s zoning ordinance, Article II Part D.

- 35       • As shown on the accompanying plan, the property currently  
36 contains 20.21 acres. This represents the remaining area of a  
37 much larger tract of land that has been subdivided several  
38 times in the past 30 years. The first subdivision in 1972  
39 (RCRD plan #D-3286) created eleven street lots with  
40 frontages off of North and Cross Rd. Between several of the  
41 street lots within this initial subdivision, two 50 wide right of  
42 ways (shown on the referenced plan as “future roads”) were  
43 created on Cross Rd.
- 44       • In 2001 the previous property owners, Leon, and Susan  
45 Deveau, adjusted the boundary of the property along North  
46 Rd. to provide 200’ of contiguous frontage. That change  
47 enabled them to apply for a building permit to construct their  
48 dwelling on the property utilizing access from North Rd.
- 49       • In 2005, the Deveau’s subdivided off a five-acre parcel  
50 surrounding their home utilizing the entire North Rd.  
51 frontage. (RCRD plan #D-33412) The remaining property,  
52 our subject lot, was supported by its existing frontage  
53 (totaling 201.22’) through the two right of way’s as well as a  
54 small section of frontage at the extreme south end of the site  
55 on Cross Road. It should be noted that a variance was  
56 granted for 200’ of non-contiguous frontage to allow for that  
57 subdivision, that is now the subject of this variance request.
- 58       • In 2006 a subdivision application was submitted by the new  
59 owners, Cross Road Realty Trust for a conventional  
60 residential subdivision consisting of two single family lots  
61 and two duplex lots to be accessed via a 50’ wide public right  
62 of way entering through the northerly right of way. That  
63 application was conditionally approved by the Planning  
64 Board in early 2007 but the development was never  
65 constructed.
- 66       • This brings us to the current proposal, Phillip Busby whom  
67 purchased the property from Cross Road Realty Trust (whom  
68 previously were granted the requested variances), would like

69 to apply the Open Space ordinance to this site and propose a  
 70 zero lot line, condominium style single family residential  
 71 development. Access would be through a 50’ wide public  
 72 right of way through the northerly right of way similar to the  
 73 previous proposal. The dwellings will be served by a  
 74 community well and shared and/or individual septic systems.

- 75 • The yield plans that determine total number of  
 76 units/bedrooms would allow for 6 4-bedroom single family  
 77 homes totaling 24 bedrooms. The ordinance does not allow  
 78 for, nor does it prohibit reducing the number of bedrooms in  
 79 a single-family home to two or three to allow for additional  
 80 dwelling units matching the yield plan total bedroom count.  
 81 The owners would like consideration of this concept so that  
 82 they may increase the unit total to 8 3-bedroom dwellings  
 83 totaling the same 24 total yield amount. The reason for this  
 84 request is so that as a 3-bedroom home, a smaller overall  
 85 footprint can be obtained, and the cost of the unit can be  
 86 reduced thereby offering a more affordable home more in  
 87 keeping with the existing neighborhood and to offer  
 88 alternatives to those who otherwise would not be able to  
 89 afford a 4-bedroom dwelling.

- 90 • **In all, two variances are requested and are noted as**  
 91 **follows;**

92  
 93 Request for Variance  
 94 Open Space Development  
 95 Article II, Part D, Section 3, B

96 Minimum Tract Requirements (abbreviated)...and enjoy a  
 97 minimum of 200-feet of frontage on a Class V or better  
 98 public highway. The minimum area and frontage  
 99 requirements of this Section may be satisfied through the  
 100 merger or consolidation of two or more adjacent tracts. The  
 101 minimum frontage requirement of this Section may be  
 102 satisfied by either contiguous frontage on a public highway

103 or two non contiguous segments of frontage, each not less  
104 than 100-feet in length.

105

106 Variance Request To Permit:

107 Proposal to allow Open Space development with non-  
108 contiguous frontage totaling 201.22' of combined segments  
109 of frontage of 99.11', 100.80' & 1.31'

110

111 **1. The variance will not be contrary to the public interest**  
112 **because:**

113 By granting the variance, it will allow for the development of  
114 the property as an Open Space development. This type of  
115 development will allow for greater buffering of existing  
116 developed abutting properties as well as preserving a large  
117 area of open space. The access, whether as an Open Space  
118 development or as a conventional development would be  
119 through the existing northerly right of way. Should the  
120 variance be granted, the least impacting and reasonable type  
121 of development is an Open Space development. Granting the  
122 variance would not be contrary to the public interest.

123

124 **2. The spirit of the ordinance is observed because:**

125 The intent of the ordinance is to provide adequate frontage to  
126 properly serve the development. The access that already  
127 exists, the northerly 50' right of way, can adequately serve  
128 the site. The frontage requirement is met in three segments  
129 vs. the two required. Safe access can be provided thereby  
130 preserving the spirit and intent of the ordinance.

131

132 **3. Substantial justice is done because:**

133 There will be substantial justice in granting the variance by  
134 allowing the property to be developed as an Open Space  
135 community. As noted, this type of development preserves  
136 tracts of open space and provides greater buffering from  
137 existing abutting properties. Additionally, less roadway is

138 needed and dwellings can be served by shared wells and  
139 septic systems further lessening site impact.

140

141 **4. The values of surrounding property values will not be**  
142 **diminished because:**

143 The proposed use is permitted in the zone and as demonstrated,  
144 meets all other requirements of the Open Space Ordinance. The  
145 total amount of required frontage exists in the three non contiguous  
146 segments. As before, the development can be accessed through the  
147 northerly right of way and is unaffected by the frontage  
148 requirement. If the variance is granted a fully designed site plan  
149 with a comprehensive layout, roadway, grading and drainage  
150 design will be submitted to the Planning Board for review and  
151 approval. All requirements of the Town’s Site plan regulations will  
152 be applied to ensure there will be no adverse affect on the abutting  
153 properties and their owners. The development will be designed and  
154 maintained to the highest standard and will be in keeping with the  
155 surrounding community. In all, there will be no diminution of  
156 surrounding property values.

157

158 **5. Literal enforcement of the provisions of the ordinance**  
159 **would result in an unnecessary hardship because:**

160 This site, has the required frontage in three non contiguous  
161 segments vs. the two required. The importance of meeting the  
162 frontage requirement is to ensure that somewhere within that  
163 frontage there is a point that exists to safely enter the site with  
164 minimal impact. This property contains that point of access. Denial  
165 would be an unnecessary hardship due to the uniqueness of the lot  
166 and the lack of a reasonable alternative.

167

168 **Request for Variance**  
169 **Open Space Development**  
170 **Article II, Part D, Section 4, A.1. & Section 5**

171 Section 4. A.1. Permitted uses; Single family dwellings with a  
172 maximum of four bedrooms per dwelling unit.

173 Section 5 Maximum Permitted Residential Density; (abbreviated)  
174 ....The maximum number of single family dwelling units  
175 permitted in any open space development shall be equal to the  
176 number of lots eligible for single family residential construction  
177 identified on the approved yield plan....

178

179 **1. The variance will not be contrary to the public interest**  
180 **because:**

181 By granting the variance, it will allow for the development of the  
182 property as an Open Space development utilizing a smaller  
183 dwelling footprint and size. This reduced home could be  
184 constructed at lower costs than a larger 4 bedroom dwelling. This  
185 size and type of dwelling is more in keeping with the existing  
186 neighborhood and will allow for a more affordable home for  
187 someone whom otherwise may not be able to afford a larger  
188 dwelling. There would be no additional site loading due to the  
189 consistent bedroom count. Granting the variance would not be  
190 contrary to the public interest.

191

192 **2. The spirit of the ordinance is observed because:**

193 The intent of the ordinance is to provide a variety of housing  
194 options including duplex and multi-family homes. The ordinance  
195 does not consider the proposal offered by this owner. It is entirely  
196 reasonable and simply distributes the by rights total bedroom count  
197 among 8 dwellings vs. 6 to obtain the goals outlined. In all, it is an  
198 option that is not strictly prohibited by the ordinance and seeks to  
199 preserve the spirit and intent of the ordinance by its unique goal.

200

201 **3. Substantial justice is done because:**

202 There will be substantial justice in granting the variance by  
203 allowing the property to be developed with an option for housing  
204 not previously considered. A more affordable option that is less  
205 exclusionary than the current market which has prohibited  
206 potential buyers who could not afford a larger home.

207

208 **4. The values of surrounding property values will not be**  
209 **diminished because:**

210 The proposed use is permitted in the zone and as demonstrated,  
211 meets all other requirements of the Open Space Ordinance. The  
212 yield plan will allow for 6 4-bedroom dwellings totaling 24  
213 bedrooms. This proposal seeks to maintain the same total bedroom  
214 count distributed within 8 3-bedroom dwellings. As shown, the  
215 dwellings can be located in the same general layout as a 6 unit  
216 design with little, if any additional site disturbance. If the variance  
217 is granted a fully designed site plan with a comprehensive layout,  
218 roadway, grading and drainage design will be submitted to the  
219 Planning Board for review and approval. All requirements of the  
220 Town's Site plan regulations will be applied to ensure there will be  
221 no adverse effect on the abutting properties and their owners. The  
222 development will be designed and maintained to the highest  
223 standard and will be in keeping with the surrounding community.  
224 In all, there will be no diminution of surrounding property values.

225

226 **5. Literal enforcement of the provisions of the ordinance**  
227 **would result in an unnecessary hardship because:**

228 This site will support 24 bedrooms whether in single family homes  
229 or duplex or multi-family dwellings. The hardship is inherent in  
230 the Zoning Ordinance which does not consider this cost effective  
231 means of providing additional housing options. Denial would be an  
232 unnecessary hardship due to the lack of a reasonable alternative.

233

234 Mr. Logiudice asked if the Fire Chief was ok with the one entrance  
235 shown.

236

237 Mr. Zilch answered yes, he has reviewed the plans. He had  
238 requested a 30K cistern which we have been worked into the plans.

239

240 Mr. David Solomon of 13 Cricket Ln inquired from the audience,  
241 why approve if not enough frontage? Mr. Logiudice explained that  
242 is the reason for the variance request. Mr. Logiudice asked Mr.

243 Solomon if he was opposed to the project to which he responded  
244 that he was concerned about the wetlands.

245

246 Mr. Zilch explained that wetland impact is unavoidable, but that  
247 this design has the least impact on them. Storm runoff will be  
248 captured.

249

250 Mr. Longchamps reminded Board that the project will still go  
251 before Conservation in the form of a CUP.

252

253 At this time Mr. Longchamps read an email into the record:

254

255 Mr. Daniel Komenda, 38 Cross Road, Sandown NH wrote  
256 "I am opposed to allowing a variance to SEC for Phillip Busby to  
257 allow an eight unit development instead of 6 units on Cross Road  
258 (Map 19 lot 19-1). I am also opposed to him doing any  
259 construction on wetlands associated with this development. Please  
260 mail me a copy of the plans for the project so I am aware of what  
261 this builder is proposing. This development is directly behind my  
262 home and will impact traffic in the area, raise taxes for everyone  
263 resulting from services (including the school system). Well water  
264 in the area will be impacted among other things".

265

266 Mr. Zilch responded that wetland impact is limited to only the  
267 roadway. Water supply is one community well. With over 22  
268 acres and only 8 homes, this should not negatively impact any  
269 wells.

270

271 After polling the members for any further comments or questions  
272 and hearing none, Mr. Longchamps called for a motion.

273

274 Mr. White made a motion to approve **Variance Application**  
275 submitted by SEC Assoc.INC on behalf of Phillip Busby of Cross  
276 Road, also identified as Map 19 lot 19-1, requesting a variance  
277 under Art II Part D, Sec. 3.B to allow open space development

278 with non-contiguous frontage totaling 201.22 of combined  
279 segments of 99.11', 100.8' & 1.31'. Mr. Ardolino seconded the  
280 motion. All in favor 5-0-0

281

282 Mr. White made a motion to a **Variance Application** submitted by  
283 SEC Assoc.INC on behalf  
284 of Phillip Busby of Cross Road, also identified as Map 19 lot 19-1,  
285 requesting a variance under Art II Part D, Sec. 4.a.1&5 to allow 8  
286 *three*-bedroom dwellings where Yield Plan provides 6 *four*-  
287 bedroom dwellings. (24 bedrooms total) Seconded by Mr.  
288 Logiudice. All in favor 5-0-0 Both motions approved.

289

290 **Application Review** for a Variance Application submitted by  
291 James Lavelle on behalf of Richard Allen for North Road also  
292 Identify as Map 20 Lot 20A seeking relief under Article II Section  
293 3B for two lots being 5 acres each on a class 5 road to have 100' of  
294 frontage each, where 200' is needed.

295

296 Mr. Lavelle presenting.

297

298 After a review of the application and criteria, Mr. Longchamps  
299 asked if any question of the Board. Hearing none, Mr.  
300 Longchamps called for a motion.

301

302 Mr. White made a motion to accept jurisdiction for a Variance  
303 Application submitted by James Lavelle on behalf of Richard  
304 Allen for North Road also Identify as Map 20 Lot 20A seeking  
305 relief under Article II Section 3B for two lots being 5 acres each on  
306 a class 5 road to have 100' of frontage each, where 200' is needed.  
307 Mr. Ardolino seconded the motion. All in favor 5-0-0

308

309 Mr. White made a motion to accept the minutes of 1/25 as written.  
310 Mr. Logiudice seconded. All in favor 5-0-0

311

312 **New Business**

313 Mr. White advised of an open seat on the RPC transportation  
314 committee and advised any interested to contact the Planning  
315 Board.

316

317 **7:32pm Motion** to Adjourn by Mr. White seconded by Mr.  
318 Logiudice. All in favor 5-0-0 Motion carries, meeting adjourned.

319

320

321 Respectfully Submitted,

322

323 Thomas C. Perkins