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Pownal Board of Appeals
Public Appeal hearing
November 30, 2023

Subject: To consider the application for variance/waiver for the 35 acre parcel listed as Map 6 Lot 55 in the Pownal Pines Plan, owner of record Wesley Kinney, Jr. Mr. Kinney is requesting that a variance be approved to allow for a building permit for one residence on the parcel in question.

Board Members present: Dick Hogue, David Steckler, Phil Wentworth, Alice Rosenberg, Tom Hall, Ginifir Giddinge, CEO, Alison Purinton, Recording secretary.

Excused: Clifford Ruprecht

Public Present: Jon Morris (Selectboard), Stephanie Cheney, Doyle Marchant, Real Estate Developer

Dick- Calls the meeting to order at 7:00pm. The first order of business is to vote in a chair.

On a motion by Phil Wentworth to nominate Dick Hogue as chair. David seconds. Motion approved. 4-0

Dick- Confirms a quorum is present and summarized the appeal of why we are here. Paperwork is here and abutters have been notified. I am going to give you some time to tell us what the problem is. I have one question to start with. Do you own the property.

Doyle- No I do not.

Dick- Are you speaking for someone?

Doyle- I have been hired by the family and estate of Wesley Kinney. For 50 years I have been a facilitator for issues like foreclosures, individuals hire me to evaluate the property, and process it in one way or another. That is what I am doing today. I hope that helps.

Dick- I don't know that you have permission to?

Doyle - I have permission, we have a listing agreement.

Dick- Did you bring it?

Doyle – Yes

Dick- I would like to see it, his signature is where?

Stephanie- He faxed it back to us, I have it electronically.

Doyle- Rest assured that I would not go through this type of expense unless I was representing him.

Ginny- Asks to see the agreement.

Doyle- Explains that Wesley Kinney has hired him to represent him as stated in the listing agreement. In his opinion the Planning Board made two mistakes in 1987. Mr. Kinney inherited the property and asked for 3 lots than expanded to 4 lots subdivision. The Planning Board at that time agreed he could have a 4th

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lot. It was clearly against zoning at that time. The property is now very dense with a substantial amount of wood, and there is a mandate to sell the property. There are two alternatives; 1. Strip the property for the wood and auction it off or 2. Propose an environmental buffer which would be in the deed of the back lot, as pictured on the map in front of you, passed out earlier. Then only one residence would be permitted on the remaining 35 acres. They would not be able to come back later and ask for a 2nd, 3rd or 4th lot. I know which one I would prefer. We are sensitive to the town and the 4 neighbors in the front. I am sure they would not like to see it stripped. I am asking for your understanding and blessing.

Ginny- After reading this agreement, you are a real estate broker. Who is the attorney?

Doyle -The last attorney that I know of was Warren Turner who no longer has his license.

Ginny- I ask because when you reach a certain age under elder law you must be represented by an attorney to do such things, and there is no witness signature on this document.

Doyle- He is being represented by me.

Ginny- I understand but you are not an attorney you are a real estate broker.

Alice- How many of the lots are built on?

Doyle- All 4, and there is a 60- foot break, as shown on the map.

Dave- Is that 60 foot piece a right of way?

Doyle- It is an owner owned piece of land. It is not a right of way.

Tom- Owned by lot 5?

Doyle- Correct.

Tom- You say in 1987 when he requested the 4th lot which appears to be granted by the planning board and all 4 lots are of the size that conform. So how is that a mistake?

Doyle- Because it created a mistake, that's what we are here talking about tonight.

Tom- That's wasn't by mistake, it was by his request.

Doyle- In my opinion they should not have granted his wish. It left him with a situation in the back.

Alice- So your saying this back area is not to any of these individuals, so essentially it is 5 lots.

Doyle- That is correct, the question here tonight is what would you like to see tonight one lot with existing controls or we can just go in and cut it.

Tom- We have no jurisdiction over that. I don't know why you keep bringing it up.

Doyle- Because I only have two choices. One to sell it as a homesite and then the other form is to cut it. This man is elderly, and he wants to sell it and get some return out of it. It is not a threatening situation; we can't do one of these unless you allow us to. That's on you not me. I will tell you there will be machinery coming in to open up that road.

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Dick- Is that the only way in? There are four houses there now?

Doyle- Yes, it is the only way in and there are four homes there now.

Alice- The property could go on the market and be sold?

Doyle- Absolutely, But if they can't build on it why buy it.

Alice- These 4 people might want to buy it. It is not up to us to put a value on it.

Doyle- I have a value of if you are permitted to build is 280,000.00 dollars. If we are not permitted to build a structure, then the cutting materials would be around 40,000.00 and then be put up to auction.

Dick- When you are asking for an appeal, things have to be met. One of them is the undue hardship and who created the hardship. In this case Mr. Kinney wanted at that time those 4 lots, so he boxed himself into what we have now.

Doyle- I concur, but the town supported that.

Dick- There are a lot of people that have back lots because they want the land. Did he ever live here?

Doyle- No

Dick- So he sold the lots and retained the property in back. That is one of the problems here is who created the hardship. If it was my land and I created the hardship than it is difficult

Doyle- I concur with your logic. I feel in this case it was very clear there would be 35 acres in the back that should have been a consideration to the town before they granted this 4th lot. It should have been discouraged. Now the town has a property back there that the man can do very little with. The alternative is what I have indicated and that may not concern you. It makes more sense to have one home with a buffer for the community.

Dick- We did get one letter and I will pass it around so everyone can read it.

Dave- I have one question. You say clearcut the property. It can be selectively cut so there will be secondary growth. A lot of the forests here in Pownal have been selectively cut. There will be regrowth.

Alice- Conversely if we change it into a property, it will be clear cut also, you are just changing ownership of that 35 acres.

Doyle- The burden is on the planning board in 1987 and they both share that. I have been doing this work since 1969 when I moved to Maine. We have had a few more people move into town and have a different view on things. When I look at the highest use of that property it is not clear cutting it, and trees will grow again.

Dick- Any other comments or thoughts.

Stephanie – Asks for the letter as she would like to see the response, and she explains it to Doyle.

Alice- At the time this subdivision occurred was this 5th lot a buildable lot?

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Doyle- No. we came before the Selectboard before we came here, I had no negative feeling from them.

Tom- You must have had something because you are here in front of us.

Doyle- We did not know where to start so we started with the Selectboard, and they heard us and suggested we come here.

Phil- I would be interested in what the planning board would have to say.

Ginny- It doesn't meet the code; it doesn't classify as a backlot or meet the road frontage requirement.

Jon- I am a chairperson of the Selectboard and an attorney was contacted. This matter is not a matter of the Selectboard. I wanted to make sure to go to the attorney as we had no jurisdiction.

Tom asks Ginny what her thoughts are.

Ginny- I believe that is what the Planning Board decided and that was their intention by it being land retained and lot being unbuildable was definitely their intention. To make that known to Mr. Kinney at this point it does not meet codes and can't even be a 25-foot driveway and it would not allow for any safety vehicles to pass through.

Tom- I nominate Alice to be a regular voting member, Phil seconds, All in Favor 3-0

Dick- Is there anything else you would like to add?

Doyle- I am pleased that you took the time to hear us.

Dick- We have to go by our codes. Does anyone want to come up with a motion?

Tom- I move that the plan before us be denied as presented as it doesn't conform as the hardship was created at the initial time and no additional hardship has been created. Phil seconded 4-0 motion approved.

Doyle- Thank you very much.

Dick- We will get this in writing to you in a week or so.

Meeting adjourned at 8:15 pm.

Respectfully submitted,

Alison Purinton