

**MINUTES**  
**Town of Hubbardston Board of Appeals**  
**Meeting Held January 5, 2012**  
**Selectmen's Office, Slade Building, 7A Main Street**

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**Members Present:** William Homans, Scott Janssens, William Fernekees, Andrew Baum, and Secretary Joyce Green.

**Absent:** Edward Blanchard, John Prentiss.

**Also Present:** Applicant Callie DiVico, Attorney James Vevone, Planning Board member Peter Jefts, and 1 abutter.

**7:01pm** In the absence of both the Chair and Vice Chair, the meeting was called to order by William Homans. Introductions were made by the Board.

Variance Application: Callie DiVico, property off Selfridge Lane; for construction of single family home on a lot with insufficient frontage

Public Hearing was opened on a motion by Scott Janssens, seconded by William Fernekees and so moved by a vote of 4-0 in favor.

Representative for the applicant, Attorney James Vevone, provided an explanation of the variance application. He reviewed Ms. DiVico's previous application that had been withdrawn without prejudice last year. Mr. Vevone stated that because Selfridge Road was discontinued by the Town, his client's lot has only the width of Selfridge Lane at the end of the road for road frontage. They claim the width of Selfridge Lane to be 30' however the actual gravel roadway is only 18 feet wide. They are seeking a 170' variance off the frontage requirement for construction of a single family home. The plan submitted with the application shows an 80-foot turnaround at the end of Selfridge Lane proposed to be constructed on the applicant's property. Ms. DiVico stated that the property is on the market.

Board members asked questions of the applicant; Scott Janssens asked about the original history of the lot and the date the lot was first purchased by the DiVico family?). Ms. DiVico responded saying that the lot was 2 separate lots for many years until one year they were combined by the assessor's office into one lot. Andy Baum asked when the road was discontinued and the answer was in 1890. M. DiVico did not know the exact date when her grandfather first acquired the property but estimated it to be around 1960. Mr. Janssens asked if the proposed turnaround had been reviewed by Highway or Fire Departments. Mr. Vevone said they were just seeking the variance at this time. The Board pointed out that Hubbardston Zoning Bylaws requires only 150 feet of required frontage on a lot of 10 acres or more and containing one single family home (known as the Estate Lot Bylaw).

A letter from Town Counsel dated January 11, 2009 was submitted by a member of the Planning Board and was entered into the record. Peter Jefts, Planning Board member, also submitted a letter from the Planning Board in opposition to the variance. He stated that Town Counsel had given the opinion that the frontage for DiVico's lot on Selfridge Lane was "illusory" and that the Building Commissioner agreed with that opinion. He stated they have reports from highway and fire departments saying there is not sufficient access for emergency vehicles on Selfridge Road. Attorney Vevone replied that the issue of the "illusory" frontage referred to in those letters was the subject of the prior application and his client is no longer proposing to use that as frontage.

Abutter Steve Mannix expressed the opinion that everyone has a right to file for a variance however he was of the opinion that the investment required to upgrade the road to meet the necessary standards would not make sense economically for the owner and there would have to be more than one lot to make it feasible. He was not in favor of granting the variance.

Member Andrew Baum asked if Ms. DiVico had a perimeter survey done by a registered surveyor. Ms. DiVico replied no and referenced a plan from 1981 showing the division of surrounding land but not the subject property. She also mentioned a deed description from 1897 for 97 acres near land of Moses Bennett with a road going through it. It was not clear how this information pertained to the current application and was not submitted to the Board.

**Motion:** Scott Janssens, to close the public hearing on a variance application from Callie DiVico.  
**Second:** Andrew Baum. **Vote: 4-0 in favor.**

The applicant was thanked for their input and told they would be notified when the decision was made. All parties in attendance (applicant, attorney, abutter, planning board member) left the room.

Discussion: The Board discussed their findings and some possible options available to Ms. DiVico. One issue was the proposed turnaround and how it would have to be brought up to subdivision standards. Perhaps Selfridge Lane would also have to be improved at the owner's expense. It was thought that would be a Planning Board issue and outside of the scope of the Board of Appeals. The Board felt very strongly that the size of the variance was much too large, especially where historically the Board has not granted even small frontage variances. They did not want to set such a precedent by granting a frontage variance of that size. They felt that would nullify the intent of the bylaw.

The Board said the applicant did not provide enough information about the metes and bounds of the property, specifically where Selfridge Lane (the public way) ends in relation to the subject property. Therefore it could not be concluded that there was any frontage. There was no evidence provided as to when the lot was created with respect to when the road was discontinued or the adoption of zoning bylaws. It was suggested that if the road was discontinued in 1890 and the DiVicos acquired it in 1960 then the lot never had frontage on a public way.

**Motion:** Scott Janssens to deny the variance for Ms. DiVico based on the above findings. **Second:** Andrew Baum. **Vote: 4-0 in favor.**

The secretary will write a draft decision and send via email for the members to review. Mr. Homans requested that permission be obtained from the Town Administrator for review of the decision by Town Counsel.

**General Business**

- **Minutes:** Minutes of the December 15, 2011 meeting were reviewed however none of the Board members who attended that meeting were in attendance tonight, so the minutes were not approved.
- No vouchers were signed.

**8:15p.m. Motion to Adjourn** made by William Fernekees, seconded by Scott Janssens, and so voted.

Respectfully Submitted,

Joyce Green, Secretary

Approved by Edward H. Blanchard Date: 4/12/2012