

MEETING MINUTES
ZONING BOARD OF ADJUSTMENT MEETING

Barrington Annex Building
(next to Elementary School)
(NEW LOCATION) 572 Calef Highway

Barrington, NH
August 21, 2013
7:00PM

ROLL CALL

Regular Members Present

Karyn Forbes, Chair
George Bailey
Raymond Desmarais
Gerard Gajewski
David Vincent

Alternate Members Present

Dawn Hatch Ex-officio
George Schmalz
Meri Schmalz

MINUTES REVIEW AND APPROVAL

1. Approval of July 17, 2013 Regular Meeting Minutes

A motion was made by G. Bailey and seconded by R. Desmarais to approve the July 17, 2013 meeting minutes. The motion carried with D. Vincent abstaining

ACTION ITEMS

2. **115-48-GR-13-ZBA (Kevin Roy & Carrie Vaich)** Request by Owner/Applicant for a variance from Article 4, Sections 4.1, 4.2 & 4.2.1 nonconforming to setback, 5.1.1 Development on Nonconforming Lots and Article 11.2 District Defined, to construct a 20' x 20' addition and raise the existing home 7' by installing an 8" poured concrete foundation, the structure located approximately 66' away from the lake where a 75' setback is required on a .34 acre lot located in the General Residential (GR) Zoning District at 39 Knowles Drive (Map 115, Lot 48).

Requests Continuance to September 18, 2013

3. **126-20-GR-13-ZBA (Todd Calitri)** Request by applicant for a variance from Article 11, Section 11.2 (2) for the 100' Isinglass River Overlay Zone, to construct a 722 s.f. ground floor and a 1027 s.f. second level addition on a 13.7 acre lot located in the General Residential (GR) Zoning District at 267 Parker

Mountain Road (Map 216, Lot 20) By: Jason Pohopek; Pohopek Land Surveyors & Septic Design, LLC; 42 Flagg Road; Rochester, NH 03839.

A motion was made by G. Bailey and seconded by R. Desmarais to continue agenda items two (2) and three (3) to the September 18, 2013 meeting at the applicant's request. The motion carried unanimously

4. **114-30-GR-13-ZBA (Jenny & Mark Wilson)** Request by applicant for a variance from Article 4, Sections 4.1, 4.1.1& 4.2.1 nonconforming to setback, Article 5 Section 5.1.1 Development on Nonconforming Lots, to construct a 14 x 16 storage building located 6' +/- from the side where 30' is required and 22' +/- from the front setback where 40' is required on a 1.1 acre lot located in the General Residential (GR) Zoning District at 34 Edgewater Drive (Map 114, Lot 30)

Mr. Wilson explained the board had asked for a side survey 37' measurement and the impact to the setback to be less. As for moving the garage closer to the house as the board had requested he look at, the driveway would be impacted. Mr. Wilson explained he was trying to keep the garage as hidden as possible. Access via Summer and Baxter Road was not an option, there were septic issues, the crossing of the neighbor's property and visibility from the shore. Mr. Wilson explained he tried to keep his vehicles and equipment protected and covered. His position was to request a 12'X 22' foot building instead of a 15'X17' building which would narrow the impact. He did not have a plan for the building.

K. Forbes explained that they needed to have a plot plan with the distances and proposed building on it. It needed to be done by a surveyor.

K. Forbes asked if Mr. Wilson had any new information for the board.

Mr. Wilson stated he did not.

R. Desmarais pointed out the minutes from the meeting and the items listed which needed to be addressed.

Mr. Wilson invited the board to visit the site. He explained he had the option of adding a building of 200 s.f. or less and not requiring a building permit or a variance. He was trying to answer the questions from last month as best as possible.

K. Forbes gave the option of asking for a continuance or taking a vote by the board. Need the distance from the side, the distances were only shown from one corner; they needed the distance from the other corner as well. He needed to make the structure as conforming as possible and show something that is unique about his land that does not allow him to comply with the zoning ordinance.

D. Vincent requested the applicant please notify the Land Use Office in writing if planning to withdraw or continue.

K. Forbes explained to the applicant that he would need to go to the surveyor with either proposal because the current proposal was deficient and did not show all the side setbacks.

A motion was made by R. Desmarais and seconded by D. Vincent to continue the application to September 18, 2013. The motion carried unanimously

5. [219-72-GR-13-ZBA \(Timothy & Susan Estes\)](#) Request by applicant for a variance from Article 4, Sections 4.1, 4.1.1 & 4.2.1 nonconforming to setbacks, to construct a 24' x 24' garage located 19.5' and 23.4' from easterly front where 40' is required on a 5.44 acre lot located in the General Residential (GR) Zoning District at 156 Greenhill Road (Map 219, Lot 72) By: Kerry Fox, Fox Survey Company; PO Box 489; Sanbornville, NH 03872

Kerry Fox of Fox Survey Company represented the applicant. Mr. Fox gave an overview of the application, which included a proposal to construct a 24' X 24' garage adjacent to the existing home. The proposed construction would place four hundred and fifty-one square feet of the building into the setback area. Mr. Fox opined that the location was a practical one given the constraints within the immediate area. The request would put the garage 19.5' from the front setback at the closest point, where 40' is required.

Mr. Fox went through the five conditions.

- 1) Special conditions exist such that literal enforcement of the Ordinance will result in unnecessary hardship to the applicant as defined by applicable law. If the applicant were required to adhere to the 40' setback, they would not be able to build adjacent to the home due to steep slopes and wetlands. Although the lot was in excess of five acres, most of the frontage dropped off to the river. There was a small plateau area where the house was located which could support the home and an accessory structure, the area was shallow though and dropped off steeply to the river. The applicant required some form of relief from the Ordinance.

D. Vincent asked where the septic was, although the tank showed the leach field did not.

Mr. Fox explained that the leach field was beyond the tank.

- 2) Granting the variance would be consistent with the spirit of the ordinance. The proposal to construct a garage is consistent with other homes in the area. The compromise would be allowing for a safe setback from the steep slopes to the rear of the proposed garage.

- 3) Granting the variance would not result in diminution of property values. Mr. Fox explained that the building would add value to the existing home and would not have a diminutive effect on adjacent property values.

- 4) Granting of the variance would do substantial justice. Mr. Fox explained that the lot was created prior to the creation of zoning ordinances and subdivision regulations and the ability of the ZBA to grant relief was monumental. The home built in 1949 sits almost entirely within the front setback area. The garage would be setback further than the home but in a practical area safely from the steep slopes to the rear.

5) Granting the variance would not be contrary to the public interest. Mr. Fox believed the public's interest was whether a fair opportunity was awarded to someone. He believed the proposal was modest and every attempt had been made to safely locate the garage with respect to the various constraints.

D. Vincent asked for the location with a picture as reference.

D. Hatch asked how far back it was from the proposed location before the ground really dropped off.

Mr. Fox explained the property drops off like the great abyss. The property really drops off 14' back from where the garage is shown. They did not want to add fill. It would be better to locate on virgin ground.

G. Bailey asked if the embankment was natural or fill.

Kerry Fox explained that they were trying to keep the cost of construction reasonable.

G. Bailey asked what was to stop them from moving the structure back and building a six or seven foot foundation. He asked if the only hardship was monetary.

D. Hatch explained that it was a steep slope. She asked if it would need frost walls.

Kerry Fox did not know if the structure would need frost walls, the approach was to keep it as simple as possible.

D. Vincent suggested pushing it back and making it more conforming. He understood not going over the top of contour but moving it back to contour 217.

K. Forbes wanted to see it moved back and cause less of an encroachment.

R. Desmarais suggested moving the garage to the other side of the house. The board needed to see why it could not go on the other side.

Mr. Fox asked what would be difficult about visiting the site.

K. Forbes explained that they even if they visited the site they had to have the location on a survey to have for future reference on what was approved.

D. Vincent opinioned sliding the structure back and getting 10' would be better, along with a cost analysis they could take it into consideration.

G. Bailey stated he would like to see a full 20'.

A motion was made by R. Desmarais and seconded by D. Vincent to continue the application to September 18, 2013. The motion carried unanimously.

6. **102-93, 94-GR13-ZBA (Wilma Smith)** Request by applicant for a variance from Article 4, Sections 4.1, 4.1.1 & 4.2.1 nonconforming to setbacks, Article 5 Section 5.1.1 Development on Nonconforming Lots, to place a manufactured home located 15.7' from the side and 17.3' from the side where 30' is required on a .3 and .2 acre lots located in the General Residential (GR) Zoning District at Long Shores Drive (Map102, Lots 93 & 94)

Chris Berry of Berry Surveying & Engineering represented the applicant. Mr. Berry explained the applicant had the benefit of two lots; 102-93 & 94. The applicants had acquired a 14'X60' structure they would like to locate on the parcels once combined. The lot was 107' wide and to the west there are poorly drained soils that generated a single area where the septic could be located. There was ledge on the site that would need to be blasted. He explained you could not blast for a sewage disposal system. The home would need to be located parallel to Long Shores Drive. There is a 40' front setback, which they could meet and allow for steps. They were seeking a sideline variance of 15.7 feet. Currently there were no structures on abutting properties.

D. Vincent asked the type of well.

Peter Frechette explained it was a drilled well which was installed in 1985 at the location do to steep slopes at the time.

D. Vincent explained a 24 X 36 foot home could be located on the site.

G. Bailey showed how the structure could be turned around to meet the setbacks if the septic system was moved back on the lot.

Mr. Berry explained by moving the septic back they could not meet the 50' setback from poorly drained soils. When a 50' setback was applied, they would need to apply for a state waiver, which they may or may not get.

D. Vincent explained that the setback from poorly drained soils was not shown.

Mr. Berry explained they do not usually go on other people's property to delineate wetlands but there was a note on the plan.

K. Forbes clarified that they could put a home that is not as long on the property.

Mr. Berry explained the applicant's had vested interest in a structure they would like to place on the property.

D. Vincent suggested switching the well and septic locations. It would be costly but they would need to dig a new well.

Mr. Berry explained that if the poorly drained soils came to the front of the lot than it would not be possible.

D. Vincent expressed Mr. Berry was basing his arguments on wetlands but the delineation was not shown to back up his claims.

Mr. Berry reiterated they do not usually delineate wetlands on abutting properties.

Berry White of Portsmouth, NH, explained the applicant's well is to the front right hand side of his property and wanted to make sure it did not have an effect on his property. He knew there was a rock they could not move.

A motion was made by R. Desmarais and seconded by G. Bailey to continue the application to September 18, 2013. The motion carried unanimously

D. Vincent explained they needed to see poorly drained soils, setbacks, and 50' buffer for the leach field.

G. Bailey expressed that moving the tank down would allow the applicant to fit everything within the setbacks.

ADJOURNMENT

A motion was made by D. Vincent and seconded by G. Bailey to adjourn. The motion carried unanimously

G. Bailey wanted a new packet on all the cases that will be before them at the next meeting.

Respectfully submitted,

Marcia J. Gasses
Town Planner & Land Use Administrator