

MEETING MINUTES
ZONING BOARD OF ADJUSTMENT PUBLIC MEETING
**NEW LOCATION—EARLY CHILDHOOD LEARNING
CENTER**

77 RAMSDELL LANE

Barrington, NH

March 16, 2016

7:00PM

(Approved April 20, 2016)

Members Present

Karyn Forbes, Chair

George Bailey

Meri Schmalz

George Schmalz - Alternate

Raymond Desmarais

Dawn Hatch

MINUTES REVIEW AND APPROVAL

1. Approval of February 17, 2016 Regular Meeting Minutes.

A motion was made by G. Bailey and seconded by R. Desmaris to approve the minutes. The motion carried unanimously

CONTINUED CASES FROM FEBRUARY 17TH ACTION ITEMS

2. [114-42-GR-16-ZBA Variance \(Owners: John & Judie Churchill\)](#) Request by applicant for a variance from Article 4, Section 4.1.1 Minimum Standards Table 2 for the side setback where 30' is required to build an addition and a 20' x 16' Garage at 47 Otter Way on a .44 acre site (Map 114, Lot 42) in the General Residential (GR) Zoning District.

John Churchill reviewed the plan with the proposed adjustments from the February meeting. The measurements were 29.1', 28.7' and 28.4' from the side property line. Mr. Churchill went over the five variance criteria:

1. Special Conditions exist such that literal enforcement of the Ordinance will result in unnecessary hardship to the applicant as defined under applicable law.

Whereas the Zoning Ordinance called for a 2 acre minimum lot size, the lot was a lot of record and .44 acres in size making it problematic to conform to the setbacks.

2. Granting the variance would be consistent with the spirit of the Ordinance.

The project would allow for the cottage to be rebuilt closer to code. Additionally, there would be an upgrade to the quality of stormwater and wastewater coming off the lot.

3. Granting the variance will not result in diminution of surrounding property values.

The property would be modernized and would positively impact surrounding properties.

4. Granting the variance would do substantial justice.

Granting the variance would afford us the ability to enjoy indoor plumbing and to feel safer. Additionally our waste water footprint would be reduced.

Granting the variance would not be contrary to the public interest.

Modernizing the cottage would reduce safety and health issues often associated with older "fishing camps".

A pervious walkway would be installed to mitigate rainwater; a raingarden would be installed as well as an infiltration trench. Impermeable surfaces were 16%. They had voluntarily included: a drywell, a rain garden, a driveway infiltration trench with vegetated swales, gutters on impervious side of cottage. The improvements were modeled from the "NHDES Homeowners Guide to Stormwater Management". They believed the improvements and overall project met the objectives of the zoning ordinances – especially Article 11.

Public comment was opened and closed.

K. Forbes expressed he had complied as much as possible on a substandard lot.

The Board concurred.

A motion was made by R. Desmaris and seconded by M. Schmaltz to approve the application. The motion carried unanimously. (5-0)

3. 124-36-GR-16-ZBA Variance (Owners: Thomas A. & Diane L. Lombardo) Request by applicant for a variance from Article 4, Section 4.1.1 Minimum Standards Table 2 for the side setback where 30' is required and front setback where 40' is required for construction of two smalls decks and a variance from Article 11.2 (1) No structure in (75) feet of the shoreline for replacement of two retaining walls at 291 Hemlock Lane on a .26 acre site (Map 124, Lot 36) in the General Residential (GR) Zoning District. BY: Chris Berry, Berry Surveying & Engineering; 335 Second Crown Point Road; Barrington, NH 03825.

Daniel O'Lone of Berry Surveying & Engineering explained the Board had requested additional measurements and the measurements were shown on the revised plan. Christopher Berry had done the original presentation but was not available that evening.

The Board expressed the measurements requested were shown.

Public comment was opened and closed.

R. Desmaris expressed he was familiar with the site and what was proposed made sense.

G. Bailey was satisfied they had shown the measurements.

K. Forbes expressed special conditions existed on the lot. The variance would be consistent with the ordinance. Granting of the variance would not diminish property values and would be an improvement. Substantial justice would be done and the project was not contrary to the public interest.

A motion was made by R. Desmaris and seconded by D. Hatch to approve the application. The motion carried unanimously.

NEW ACTION ITEMS

4. [206-12-GR-16-ZBA Variance \(owners: Kenneth & Julie Santer\)](#) Request by applicant for a variance from Article 4, Section 4.1.1 Minimum Standards Table 2 for the side setback where 30' is required to allow the construction of a single family home that the setback is proposed to be 7.8 feet, to the overhang on Isaacs Turn Road on a .91 acre site (Map 206, Lot 12) in the General Residential (GR) Zoning District. BY: Chris Berry, Berry Surveying & Engineering; 335 Second Crown Point Road; Barrington, NH 03825.

Daniel O'Lone of Berry Surveying and Engineering represented the applicant. The objective was to build a retirement home while keeping outside the 75' setback to the lake. The request was for a side line setback where the setback at the closest point was 7.8 feet.

Mr. O'Lone went over the 5 criteria for a variance.

1. Special conditions exist such that literal enforcement of the Ordinance will result in unnecessary hardship to the applicant as defined under law.

The special condition of the property was the general width of the property which was created prior to conventional zoning. Given the topographic nature of the property, and the copious number of large boulders on the lot, the garage needed to be on the same vertical plane as the first floor living structure, with the doors to the side, to allow proper sweep in and out. A joint driveway was proposed between the two lots to accommodate this on the lot to the East for the future owners or any future construction. The literal hardship would be the denial of a variance request which only affects land that the Santer's own, and own, and or force the proposed driveway to enter at a steep pitch to the doors, which would create a constant storm water problem at the garage doors.

2. Granting the variance would be consistent with the spirit of the Ordinance.

The spirit of the ordinance was to create space between neighbors and allow for each lot to built out. The lot was developed at a time when the current zoning wasn't considered, and therefore to keep the space which would be otherwise afforded to Lot 13 the Santers are proposing to hold the house in one total direction.

3. Granting the variance will not result in diminution of surrounding property values.

The property values would not be diminished by the construction of single family homes, on an existing lot of record, in a neighborhood which is well suited and in common with this kind of construction.

4. Granting the variance would do substantial justice.

The substantial justice was in allowing the proper construction of a retirement home, on an existing lot of record, while not affecting any of the immediate abutters.

5. Granting the variance would not be contrary to the public interest.

The public interest is in permitting construction on lots of record in a reasonable manner, without disrupting abutting parties. In this case the interest was met, whereas the Santer's are respecting their abutter by adhering to the setback requirement which directly affected them.

K. Forbes asked the size of the home.

Mr. Santer expressed 2200 square feet including all floors.

K. Forbes expressed she had a septic design in the application material that was more conforming than what was proposed. If they were merging the two lots they owned they would not be before the Board. She understood them not wanting to merge, but they board did not usually grant such a large relief from setbacks.

R. Desmaris expressed there was more buildable area that was not being utilized.

Mr. Santer expressed they had looked at different options.

K. Forbes expressed that if they merged the lot they would not need any relief.

D. Hatch suggested centering the house.

R. Desmaris suggested the applicant request continuing the case.

R. Desmaris expressed they would rather see decks in the setback.

Daniel O'Lone expressed they were being told they needed to move the house more to the center. They were being asked to present why they believed they could not move the house based on the topography.

A motion was made by R. Desmaris and seconded by G. Bailey to continue the application to the April 20, 2016 meeting. The motion carried unanimously

5. **257-23, 23.3-GR-16-ZBASpExcept (owners: John R. & Pamela Bingham)** Request by applicant for a Special Exception from Article 4, Section 1.2 to allow a driveway not on the proposed frontage to share access point at an existing driveway location on Merry Hill Road (Map 257, Lots 23 and proposed 23.3) in the General Residential (GR) Zoning District. BY: Chris Berry, Berry Surveying & Engineering; 335 Second Crown Point Road; Barrington, NH 03825.

Daniel O'Lone represented the applicant. Asking for a Special Exception to take access from a side not its frontage; explaining there was a considerable amount of wetlands along the frontage along Merry Hill Road.

K. Forbes asked about the letter in the folder.

Jack Bingham expressed it was for another portion of the subdivision application.

Daniel went over the criteria for a Special Exception:

1. No detriment to property values in the vicinity of the proposed development will result on account of: the location or scale of buildings, structures, parking areas, or other access ways; the emission of odors smoke, gas, dust, noise, glare, heat, vibration, or other pollutants; or unsightly outdoor storage of equipment, vehicles, or other materials.

No reduction in property values will be seen as a result of a shared driveway to access the remaining land of the existing parcel.

2. No hazard will be caused to the public or adjacent property on account of potential fire, explosion, or release of toxic materials.

No further risk of fire, explosion or release of toxic materials will occur as a result of this shared driveway.

3. No creation of a traffic safety hazard or substantial traffic congestion will result in the vicinity of the proposed development.

The request is specifically requested to reduce the impacts on traffic and sight line problems.

4. No excessive demand on municipal services and facilities, including, but not limited to waste disposal, police and fire protection, and schools.

No additional demand will be placed on the Town as a result of this shared driveway.

5. The proposed use will not result in the degradation of existing surface and groundwater quality standards, nor will it have adverse effects on the natural functions of wetlands on the site that would result in the loss of significant habitat or flood control protection.

The shared access will not have degradation on existing surface or ground water quality standards and will have no adverse effects on natural resources.

D. Hatch asked if Peter Cook had look at the entrance.

Jack Bingham expressed they had looked at several options.

D. Hatch made a motion to approve the application with a letter from Peter Cook.

K. Forbes opened public comment.

Daniel Ayer expressed Peter Cook had been out to the site. Mr. Ayer had been working on the lot next door.

K. Forbes closed public comment.

R. Desmaris expressed the location was good.

Meri Schmalz seconded D. Hatch's motion. The motion carried unanimously.

ADJOURNMENT

A motion was made by R. Desmaris and seconded by G. Bailey to adjourn. The motion carried unanimously

Respectfully submitted,

Marcia J. Gasses
Town Planner & Land Use Administrator