

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

Barrington, NH
February 17, 2016
7:00PM
(Approved March 16, 2016)

Members Present

Karyn Forbes, Chair
George Bailey
Meri Schmalz
Raymond Desmarais
Dawn Hatch

Alternate Member Present

George Schmalz

MINUTES REVIEW AND APPROVAL

1. Approval of December 16, 2015 Regular Meeting Minutes.

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

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 represented himself and his wife Judy as applicants. They wanted to make the cottage more comfortable. They currently used a composting toilet. Mr. Churchill expressed they would like to work toward possible four season living. The home currently lacked a second exit. Mr. Churchill explained the goals of the project were: indoor bathroom, laundry room, egress windows, 2nd exit for convenience and emergency, staircase to code, 20'X16' garage, more storage and closets, improve hardscape, make passageways wide to accommodate a walker and preserve cottage feel and look.

Susan Faretra presented a plan on the septic. The septic had been approved pending the Shoreland permit.

D. Hatch asked if there was space for a replacement septic.

Susan Faretra expressed it would have to be replaced in the same location.

John Churchill expressed he had pulled the addition back to be outside the 75' Shoreland setback. They went with a one car garage 20'X16' to allow for some storage, instead of a two car garage. Mr. Churchill described the setbacks. He went over the 5 variance criteria and believed they had met them.

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.

Special conditions existed such that the lot was smaller than the standard size at .44 acres.

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 of the variance would do substantial justice.

Granting the variance would allow us the ability to enjoy indoor plumbing and to feel safer. Additionally the wastewater footprint would be reduced.

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

Modernizing the cottage would reduce health and safety issues and could potentially improve the Swain's Lake water quality.

R. Desmaris asked the applicant to explain their mitigation for drainage.

John Churchill discussed the addition of gutters which would be directed to a 4" pipe to a swale and then to a rain garden and second gutter would be directed to a dry well. There was an impervious layer of clay which would have a hole punched in it for access to the sand and horizontal flow.

K. Forbes asked for anyone to speak in favor.

D. Ayer asked if they had received the Conservation Commission's comments.

K. Forbes expressed they had.

K. Forbes asked if anyone was there to speak against the application.

K. Forbes closed public testimony.

R. Desmaris expressed they had done a good job.

K. Forbes expressed she would like to see the distances on the plan to show how close the existing building is to the water. The measurement would be a record of the conditions at the time of approval.

R. Desmaris expressed that they needed a plan that shows the 6" additional they were asking for.

The Board discussed the need to have further measurements from the water.

Distance from existing structures overhang to water

The addition of 6" to the back

The rain garden

The drywell

A motion was made by R. Desmaris and seconded by D. Hatch to continue to the March 16, 2016 meeting. The motion carried unanimously.

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 small 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.

Christopher Berry represented the applicant. He presented a colored plan for ease of reading and an aerial photograph. Mr. Berry explained the retaining wall had not been constructed properly. The site was mostly fill held back by a retaining wall. All retaining walls needed to be replaced. The small wall was on the bottom and the tall wall was on the top which was opposite of what needed to exist. The new construction could not be in the same location. The difference between the existing and the proposed was 1.6 feet toward the lake. The smaller wall would get approximately 2' closer. They could not push the wall further from the water because of the need for a strip footing. All of the storm water currently sheeted off the structure to the lake. They would install a porous patio and for infiltration and have an over flow structure that would infiltrate. An intergraded staircase would be installed in the wall to the south to allow access where currently there was none. Side decks were being proposed as opposed to structures closer to the lake. Mr. Berry considered the decks gangways because of the steep grade change. He had been to the conservation commission and they were in favor of the project but had requested the spacing be as large as possible in the proposed decks. There would be stone underneath to allow infiltration and did not become an impervious structure on site.

D. Hatch asked if the walls would be loose laid or mortared in.

Christopher Berry said yes with rebar reinforcement and portions filled with concrete.

K. Forbes asked if anyone was there to speak in favor.

Daniel Ayer expressed he understood construction and the design failures and was in favor of the application.

Justin Purpora of 47 Brewster Road asked about the height of the walls and spoke in favor.

Christopher Berry explained the bottom wall was 6' high and the top wall was between 3' and 4' high.

G. Bailey asked the current height of the wall.

Christopher Berry explained the bottom wall which took the brunt of the push pressure was currently between 2 ½' and 3' high and the top wall was between 6' and 8'. There was a small slope proposed between the two walls because of the four foot separation.

The requests for variances were: the retaining wall to be 1.6 feet closer to the lake at the closest point, front and side variances for the decks as well as Shoreland.

K. Forbes expressed a measurement was needed from the proposed deck to the water. A measurement was needed to the front from the proposed deck, and the distance of the stairs on the right from the side.

K. Forbes asked if anyone was opposed.

R. Desmaris expressed they should ask for equitable waivers for the other structures.

M. Gasses expressed an equitable waiver was granted because of a mistake that was made not something that was grandfathered.

Christopher Berry expressed an equitable waiver was only granted when the violation was not an outcome of ignorance of the law or ordinance, failure to inquire, misrepresentation, or bad faith on the part of the owner, owner's agent, but by either a good faith error in measurement or calculation made by the owner or owner's agent, or by error in ordinance interpretation or applicability made by a municipal official in the process of issuing a permit. He did not believe equitable error was the way to go.

K. Forbes expressed that she did not believe they needed to address it.

A motion was made by G. Bailey and seconded by M. Schmaltz to continue to the March 16, 2016. The motion carried unanimously

ADJOURNMENT

A motion was made by G. Bailey and seconded by R. Desmaris to adjourn the meeting at 8:00 p.m. The motion carried unanimously.

Respectfully submitted,

Marcia J. Gasses
Town Planner & Land Use Administrator