

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

Barrington, NH

(Approved August 16, 2017)

July 19, 2017

7:00PM

Members Present

Cheryl Huckins  
Meri Schmalz  
Raymond Desmarais  
Dawn Hatch

Member Absent

Karyn Forbes

Alternate Member Present

George Schmalz

Alternate Member Absent

George Bailey

ACTION ITEMS

1. [239-20-V-17-ZBA Variance \(Owner: Terry Rogers\)](#) Request by applicant for a variance from Article 4, Section 4.1.1 Minimum Standards Table 2 for the side setback is 28.7' where 30' is required to allow a pool at 24 Red Fox Lane on a 2.13 acre site (Map 239, Lot 20) in the Village (V) Zoning District. By: Jason Haberstroh; 768 Washington Street; Barrington, NH 03825.

Jason Haberstroh represented the applicant. Mr. Haberstroh explained the prior owner had installed a pool within the setback. The prior owner misrepresented the location on the building permit. Mr. Haberstroh explained when he had come in for a permit for a new deck the noncompliance was pointed out and he then worked with John Huckins on the process to gain relief.

Jason Haberstroh read from the 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 applicable law.

*Relocation of pool by one and a half feet, reconstruct the existing deck.*

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

*Pool had been in its current location since 2011, it would be upwards of \$5000 to relocate the 1'6"*

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

*The pool has been in its current location since 2011, with no adverse effects.*

4. Granting the variance would do substantial justice.

*It seemed unnecessary to move the pool 1'6" back, to the naked eye there would be no difference.*

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

*The pool was barely visible from any abutters.*

D. Hatch expressed the owner had done everything she could do.

R. Desmarais asked anyone in favor

No one spoke

R. Desmarais asked anyone opposed

No one spoke

D. Hatch expressed she had no issue, they had justified the requirements for a variance.

Members of the Board concurred.

*A motion was made by D. Hatch and seconded by M. Schmaltz to approve the variance as presented. The motion carried unanimously*

- 2. 220-9.1-GR-17-ZBA Variance (Owners: Knox Marsh Development LLC)** Request by applicant for a variance from Article 4.1.3 (1) to allow a back lot subdivision with less than the required 50' of frontage located on Greenhill Road on a 4.02 acre site (Map 220, Lot 9.1) 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 described the back lot ordinance and the requirements that there be 50' of frontage, each lot in a two lot back lot subdivision have 25' of frontage. In this instance there would only be one back lot. They had found no wetlands on the site. The subject parcel had 230.24' of frontage instead of the required 250' They did not see a difference between a single possible lot having 25' as opposed to two lots with 25' each. There was an existing trail in the area of the proposed driveway. Each lot had 80,000 square feet of uplands outside of the neck.

C. Berry read through the five 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.

*The special condition of this parcel is that it lacks a total of 250 linear feet of frontage along Green Hill Road, but otherwise meets the criteria for a back lot subdivision. The unnecessary hardship is the denial of the request which is an allowed, reasonable and otherwise conforming use, when the approval will not diminish or undermine the existing ordinance. The ordinance goes on to say that if two back lots are requested, they each share the ownership of the neck. In that instance it is conceivable that in that instance, each lot would contain 25 feet or potentially less. The ordinance is set up to allow less than the required feet, and therefore a denial of accessibility to a land area that is well suited for the development is an unnecessary hardship.*

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

*The spirit of the ordinance is to allow for reasonable development off narrow necks of existing parcels close to town infrastructure. This ordinance defines certain parameters to allow for driveways to be*

*placed within the narrow neck, which this proposal complies with. It also discusses requirements for the total lot area, which this proposal also complies with.*

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

*Other than the installation of a driveway where one currently does not exist, there will be little change to the site. As can be seen on the aerial provided, the proposed lot/unit would be built in an area where there is no other development and therefore will not be imposing on abutting land owners, and thus will not affect their value. This is a residential zone, and therefore has no potential to decrease abutting land values.*

4. Granting the variance would do substantial justice.

*It will allow the land owner to develop the property which is permitted in the underlying zone, on an appropriate amount of frontage which allows for driveway access and proper land areas for the lot involved.*

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

*The public interest, as stated above, is to allow for reasonable development within closer proximity to existing public infrastructure without creating costly urban sprawl. This request meets the public interest, without forcing a development where it wouldn't otherwise belong.*

R. Desmarais asked the frontage of the back lot.

C. Berry stated 30.24'

D. Hatch discussed the option of giving 50' to the back lot and making the front lot have less frontage.

C. Berry expressed that it could be done that way, but that was not what they were requesting.

D. Hatch expressed that they could make them both backlots.

C. Berry drew 2 lots splitting the frontage.

M. Gasses read the definition of back lot from the Zoning Ordinance and explained that in this instance there could not be two backlots.

D. Hatch expressed she like what C. Berry had originally proposed.

R. Desmarais asked if there was anyone to speak in favor.

The owner was present.

R. Desmarais asked if there was anyone opposed.

No one spoke.

*A motion was made by M. Schmalz and seconded by G. Schmalz to approve the option as presented. The motion carried unanimously*

### **MINUTES REVIEW AND APPROVAL**

3. Approval of June 21, 2017 Regular Meeting Minutes.

*A motion was made by D. Hatch and seconded by C. Huckins to approve the minutes as written. The motion carried unanimously.*

*A motion was made by G. Schmalz and seconded by C. Huckins to adjourn at adjourn at 8:40 P.m. the motion carried unanimously*

Respectfully submitted,

Marcia J. Gasses  
Town Planner and Land Use Administrator