

BOARD OF ADJUSTMENT  
DEERFIELD, NEW HAMPSHIRE  
OCTOBER 23, 2012

MINUTES OF MEETING

PRESENT: Board members Joshua Freed, Katherine Alexander, Sandra Logan. Alternate member Anthony DiMauro, secretary Jane Boucher. Also present Board member Darlene Cumming and prospective alternate Mark Hilliard.

Chair Joshua Freed called the meeting to order at 7:30PM and appointed Anthony DiMauro a voting member.

APPROVAL OF MINUTES

Anthony DiMauro moved to approve the minutes of September 25, 2012. Katherine Alexander seconded. Voted in favor with Sandra Logan abstaining.

At this time Chair Freed appointed Darlene Cumming a voting member. Sandra Logan moved to approve the minutes of July 25, 2012. Katherine Alexander seconded. Voted in favor with Joshua Freed abstaining.

OTHER BUSINESS

Joshua Freed advised that he will review the Board of Adjustment By Laws.

7:35 PM Clerk Sandra Logan read the notice of public hearing for Case # 12-04

(Map 205 Lot 70) C. Thomas Brown of 4 Lake View Lane has applied for a variance from Article II, Section 207.3 Minimum Side Line Setback and Case # 12-05 (Map 207 Lot 69) Tobin Farwell, 1 Willow Lane has applied for a variance from Article II, Section 204.3 Minimum Side Line Setback.

CASE # 12-04 C. THOMAS BROWN

C. Thomas Brown and Mrs. Brown were present as well as Richard and Patricia Pitman.

Chair Freed advised that two letters have been received from Deerfield Conservation Commission (DCC), a letter from Robert Mozier and an unsigned letter from Joseph Farrelly. Mr. Freed noted that the letter from Mr. Farrelly was not signed and will not be admitted for discussion.

Anthony DiMauro moved to remove Case # 12-04 from the table. Sandra Logan seconded. Voted in favor.

Chair Freed advised Mr. Brown that there was a four member board seated and asked if he would like to proceed. Mr. Brown replied that he would like to move forward.

Mr. Brown commented that they would like to add a 150 sq.ft. bathroom to the westerly end of the cottage which will be 64" from the property line. The bathroom will be easier to access from the outside.

Mr. Brown provided a drawing of the proposed addition and Mrs. Brown showed the location of the existing well and holding tank on the plan.

Chair Freed asked if anyone would like to speak in support of the application. Richard Pitman spoke in favor noting that the Brown's had three grandchildren and the proposed bathroom would be easily accessible.

Anthony DiMauro read a letter from Robert Mozier advising that he had no objection to add a bathroom. The addition will have no impact on anyone and only add value to the neighborhood.

Chair Freed asked if anyone present was opposed to the application.  
No one spoke.

At this time Chair Freed read a letter from DCC opposing the application. A copy of the letter is attached to these minutes.

Mr. Brown commented that they had owned the property for 35 years and his father had previously owned it for 15 years and they were very concerned with the quality of the water.

8:15 The Board went into deliberative session at this time.

Board members voiced concern regarding the closeness to the property line.

Katherine Alexander saw no hardship with having one bathroom.

Joshua Freed also indicated that he saw no hardship.

The Board completed work sheets at this time.

8:30PM Katherine Alexander moved to DENY Case # 12-04. Sandra Logan seconded. Motion approved. It was unanimous.

Chair Freed advised that Brown's that they have a 30 day window for appeal.

8:40PM CASE # 12-05 TOBIN FARWELL

Mr. Farwell was present as well as Charles and Loretta Monteverdi, Richard Pitman, Cathy Leer, Albert and Elizabeth Garlo.

Mr. Farwell indicated that he would like to proceed.

Mr. Farwell provided plans showing the proposed 24 x 24 garage noting that Mr. and Mrs. Monteverdi are transitioning to a full time residence and constructed the house in 2010. He said the building will be setback parallel to the property line with a 10 foot setback.

Anthony DiMauro expressed concern regarding backing out onto Willow Lane.

Mr. Farwell said that Willow Lane is not a busy road especially in the winter months and sight distance is more than adequate.

Tobin Farwell said it would be an 8 foot tall garage with truss roof and no storage above.

Mr. Farwell continued noting Best Management Practices including infiltration trench, proposed rock rain garden and proposed pervious surface gravel drive. These practices will reduce the runoff off site.

Mr. Farwell comment that, according to DES, they allow a 20% impervious coverage for a lot like this. We are currently at 13% impervious coverage well below State requirements.

Joshua Freed questioned if gutters will be installed. Mr. Farwell replied that at this time no. He indicated that they would be happy to look at it.

Chair Freed asked if anyone present would like to speak in favor of the application.

Cathy Leer spoke in favor noting that the Monteverdis strive to preserve the quality of the lake and are going above and beyond to preserve their property for future generations.

Richard Pitman spoke in support noting they he has a garage and does not have a problem with backing out onto Willow Lane. Mr. Pitman added that the garage will have no effect on anyone's view.

Chair Freed asked if anyone present would like to speak in opposition.

Albert Garlo spoke noting the disposition of nitrogen in this area and sulfur and phosphorus pollution. He said that vegetation will be disturbed and this lot has extreme difficulties for construction. Mr. Garlo saw no undue hardship and said environmental issues are quite serious. Mr. Garlo

suggested that the Board consider a site visit before making a decision.

Elizabeth Garlo spoke in opposition noting that they own a seasonal cottage and their view of the woods will be obstructed by this garage. She indicated that her biggest concern is runoff.

Mrs. Garlo felt this application was not in the spirit of the ordinance and having a garage constructed 10 feet from her property was not substantial justice and will effect her property value. She felt that the garage should have been constructed when the home was built in 2010.

Chair Freed asked the applicant if he would like to address any concerns made.

Tobin Farwell commented that he felt that not having a garage is a hardship. He noted that someone should have the right to protect their cars from the elements. The proposed garage is in the best location and he referred to Best Management Practices.

At this time Katherine Alexander read a letter from DCC. A copy is attached to these minutes.

Tobin Farwell commented that he wished that DCC had invited them to attend their meeting when the application was discussed.

9:40: At this time the Board went into deliberative session.

Joshua Freed questioned if lack of a two car garage was a hardship and is it important that the garage was not planned when the house was built.

Sandra Logan commented that the applicant has gone above and beyond what is necessary and based on testimony felt that a two car garage is a reasonable use and does meet the requirements for a hardship.

Anthony DiMauro felt that applicants should have the freedom to add a garage. He added that he would like to see the requirement drip edge roof be added as a stipulation.

Joshua Freed said that if this was a seasonal residence he would say there was no hardship.

Katherine Alexander said she felt the garage should have been constructed when the house was built. She voiced concern regarding the garage being 10 feet from the property line and

the effect it would have on the abutters property.

10PM The Board went out of deliberative session at the request of Mr. DiMauro who asked Mr. Farwell to better describe photos he presented.

Joshua Freed asked the Board if they would like to ask the applicant if they would be willing to move the garage. Both Sandra Logan and Anthony DiMauro did not wish to request moving the garage.

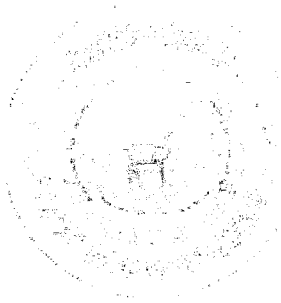
10:15PM The Board went back into deliberative session and completed work sheets.

10:25PM Anthony DiMauro moved and Sandra Logan seconded to GRANT a variance to Tobin Farwell Case # 12-05. Motion carries with Katherine Alexander opposed.

Joshua Freed moved to stipulate a drip edge drain be included to correct the water flow. Sandra Logan seconded. Voted in favor with Katherine Alexander opposing.

The meeting was adjourned at 10:30PM.

Recorded and transcribed by Jane Boucher  
Pending Approval by the Board of Adjustment



TO: Deerfield Zoning Board of Appeals and Adjustments

FROM: Deerfield Conservation Commission (DCC)

DATE: October 22, 2012

**RE: 7:45 PM Case 12-5 Map No 207 Lot No. 69** Tobin Farwell of 1 Willow Lane has applied for a variance from Article II, Section 204.1 Minimum lot size and yard dimensions, Section 207.3 Minimum Side Line setback (*to build a new 24 x 24 ft. garage 7 ft. 9 in from the property line on a 1/2 acre plot on Pleasant Lake*).

**BACKGROUND:** The Deerfield Conservation Commission (DCC) respectfully offers the following comments for consideration by the Zoning Board (ZBA) regarding this variance request. The issue in this case from the DCC's perspective is the need to strictly uphold set back, non-point source management, and vegetated buffer requirements for properties around Pleasant Lake. The lake is ringed with many small lots that would not be allowed under current zoning standards. More or larger homes, garages, outbuildings, and pavement should be allowed only when it can be demonstrated that such development does not threaten water quality in the coves and the lake overall.

Below we address the specific ZBA criteria that we feel are not met by this request:

- **The variance will not be contrary to the public interest.**

The increase in impervious surface area of the proposed garage on this small ½ acre lot will generate more rain and melting snow runoff. That runoff will be essentially unfiltered, bringing more pollution into Loon Cove. Public interest is to retain the existing water quality of Loon Cove and Pleasant Lake to protect the recreational and aesthetic value of the lake.

- **The values of surrounding properties are not diminished.**

Loon Cove is an "area of concern" for phosphorus pollution from soil erosion, fertilizer

runoff, and animal waste (including pets), as well as increasing turbidity (“cloudiness”). All of Pleasant Lake is classified as “extremely vulnerable” for becoming too acidic with a “low acid neutralizing capacity” (NH DES Volunteer Lake Assessment Program reports).

The fertilizing effect of phosphorus causes harm through a chain reaction of undesirable events, all of which harm property values. The added phosphorus from runoff increases plant and algae causing water to smell and discolor; algal growth interferes with swimming, fishing, boating, water skiing and swimming; increased populations of bacteria decompose dead plant material, lowering dissolved oxygen levels that can eventually result in the death of fish and invertebrates.

The two main strategies to prevent storm water and snowmelt from transporting and increasing phosphorus in a water body are to:

- (1) maintain vegetated buffer zones along the shore to prevent soil erosion and trap sediments with attached phosphorus, if it is wide enough and the terrain is not too steep so that runoff washes across the vegetation instead of in to it; and
- (2) funnel all storm water from streets and other impervious surfaces into holding ponds to settle before reaching the water.

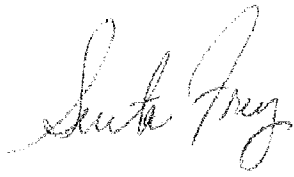
The proposed project proposes neither, and so threatens these values.

**(5) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.**

The applicants have made use of their lot with a house, driveway and septic field. The definition of “*unnecessary hardship*” includes “*special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it...*”. There does not appear to be unnecessary hardship associated with the absence of a garage.

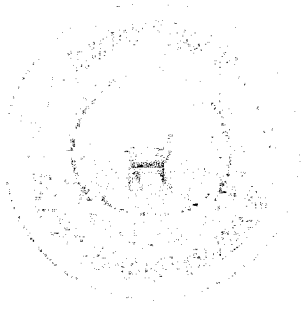
In summary, there is increased threat to Loon Cove water quality from adding the proposed structure, with increased impervious surface, near the shore, without either of the two strategies listed in criterion #4. Therefore, the proposed additional use does not seem to be one that meets any of the three ZBA criteria discussed above.

Thank-you for your consideration of these issues.

A handwritten signature in cursive script, reading "Serita Frey".

Serita Frey  
Chair, Deerfield Conservation Commission





TO: Deerfield Zoning Board of Appeals and Adjustments

FROM: Deerfield Conservation Commission (DCC)

DATE: October 22, 2012

**RE: 7:30 PM Case No. 12-04 Map No. 205 Lot No. L70 C** Thomas Brown of 4 Lake View Lane has applied for a variance from Article II, Section 204.1 Minimum lot size and yard dimensions, Section 207.3 Minimum Side Line setback (*to build a 10 x 15 foot addition 5 ft. 7 in from the property line on a 0.37 acre plot on Pleasant Lake*).

**BACKGROUND:** The Deerfield Conservation Commission (DCC) respectfully offers the following comments for consideration by the Zoning Board (ZBA) regarding this variance request. The issue in this case from the DCC's perspective is the need to strictly uphold set back, non-point source management, and vegetated buffer requirements for properties around Pleasant Lake. The lake is ringed with many small lots that would not be allowed under current zoning standards. More or larger homes, garages, outbuildings, and pavement should be allowed only when it can be demonstrated that such development does not threaten water quality in the coves and the lake overall.

Below we address the specific ZBA criteria that we feel are not met by this request:

- **The variance will not be contrary to the public interest.**

The increase in impervious surface area of the proposed addition on this small 0.37 acre lot will generate more rain and melting snow runoff. That runoff will be essentially unfiltered, bringing more pollution into Pleasant Lake. Public interest is to retain the existing water quality of Pleasant Lake to protect the recreational and aesthetic value of the lake.

- **The values of surrounding properties are not diminished.**

An "area of concern" is phosphorus pollution from soil erosion, fertilizer runoff, and

animal waste (including pets), as well as increasing turbidity (“cloudiness”). All of Pleasant Lake is classified as "extremely vulnerable" for becoming too acidic with a "low acid neutralizing capacity" (NH DES Volunteer Lake Assessment Program reports).

The fertilizing effect of phosphorus causes harm through a chain reaction of undesirable events, all of which harm property values. The added phosphorus from runoff increases plant and algae causing water to smell and discolor; algal growth interferes with swimming, fishing, boating, water skiing and swimming; increased populations of bacteria decompose dead plant material, lowering dissolved oxygen levels that can eventually result in the death of fish and invertebrates.

The two main strategies to prevent storm water and snowmelt from transporting and increasing phosphorus in a water body are to:

- (1) maintain vegetated buffer zones along the shore to prevent soil erosion and trap sediments with attached phosphorus, if it is wide enough and the terrain is not too steep so that runoff washes across the vegetation instead of in to it; and
- (2) funnel all storm water from streets and other impervious surfaces into holding ponds to settle before reaching the water.

The proposed project proposes neither, and so threatens these values.

**(5) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship.**

The applicants have made use of their lot with the existing structures and improvements. The definition of “*unnecessary hardship*” includes “*special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it...*” There does not appear to be unnecessary hardship associated with leaving the home as is.

In summary, there is increased threat to Pleasant Lake water quality from adding the proposed addition, with increased impervious surface, near the shore, without either of the two strategies listed in criterion #4. Therefore, the proposed additional use does not seem to be one that meets any of the three ZBA criteria discussed above.

Thank-you for your consideration of these issues.

A handwritten signature in cursive script, reading "Serita Frey". The signature is written in black ink on a white background.

Serita Frey  
Chair, Deerfield Conservation Commission