

**FRANKLIN ZONING BOARD
REGULAR MEETING AND PUBLIC HEARING
CITY COUNCIL CHAMBERS- CITY HALL
Wednesday, June 2nd, 2010, at 7:00 p.m.**

MINUTES

Call to Order: The meeting was called to order at 7:02 p.m.

- ❑ **Salute to the Flag**
- ❑ **Roll Call**

**Present: Chuck Farmer, Marty Russo and Floyd Sargent.
Absent: Cindi Styles and Donna Tully.**

- ❑ **Approval of Minutes: of the April 7th, 2010 Zoning Board Meeting**

MOTION: Member Sargent moved and Member Russo seconded to approve the minutes of the April 7th, 2010 Zoning Board regular meeting as submitted. All were in favor and the motion passed.

New Business

- ❑ **Z10-03:** Jack Watson, Owner; Daniel Ellis, Ames Associates, Applicant, requests a Variance to tear down an existing two-story cottage approximately 20' x 34' and porches and decks and replace it with a ranch style house being 24' x 40' and a 16' x 16' carport, on property located at 82 Gile Pond Road, identified as Tax Map/Lot # 128-026-00, C Zone (Conservation District). The existing distance to the pond is 31.9' and 26.4' from the roadway, with the side lot lines meeting requirements. At the closest points, the proposed structure would be approximately 34.8' from the pond, approximately 26.5' from the roadway, and it will continue to meet the side lot line requirements. The setbacks for the zone are 50' front, and 25' side and rear, with a 50' shoreline setback (application has been submitted to DES, File # 2010-01131).

Dan Ellis, of Ames Associates, was present to speak for Jack Watson. Mr. Ellis then gave copies of the following to the board: Tax map showing the location of the houses in the vicinity and their distances to the street and an aerial photo of the area. He stated Mr. Watson is looking at completely removing the existing structure and replacing it with a building that is more conforming to the setback set for the distance to the pond. The existing structure is located approximately 31.9' from the pond and the proposed would be 34.8'. The distance from the roadway currently is 26.4' and the proposed distance is 24.5'. The side yard setbacks would be maintained.

Mr. Ellis stated that they have received DES approval for shoreland and for the new septic system. The septic approval is for a two bedroom home.

Member Sargent asked if the new structure was going to be two or three bedrooms and Mr. Ellis stated that it was two. Mr. Sargent asked if it would be a year round property or seasonal. Mr. Ellis stated it has been a year round property for many years and is equipped to be one.

Mr. Ellis then went through the variance criteria. He stated the variance is not contrary to the public interest because the proposed structure will virtually be the same distance from the street as the existing house and the setback from the street that will be maintained is consistent with the other homes in the neighborhood. He stated the variance is consistent with the Spirit of the Ordinance in that the proposed house is not less conforming than the existing house and the applicant is seeking to balance the setback requirement from the street and the pond. By granting the variance, substantial justice is done in that it would be a benefit to both the applicant and the public as the proposed location is consistent with the current house and the proposed house and improvements to the property would be more attractive than the existing. He stated that in granting the variance the value of surrounding properties are not diminished because an existing cottage will be replaced with an attractive, modern home which is consistent with the Gile Pond Road area. There is an unnecessary hardship that is a special condition of the property in that the property is only 100' wide, and with a 50' front yard setback and a need from DES for 50' from the water, there is nowhere on the property that building could take place without the need for a variance. And the proposed use is a reasonable use in that it is a single family residence that is consistent with the neighborhood.

Member Russo asked if the workshop and shed would remain and Mr. Ellis stated that it would. Member Sargent asked when the aerials were taken and it was indicated they were taken in fall of 2009. Member Sargent indicated in the pictures the dock looks like it is in good shape, but in actuality it is not.

Public Comment:

Mr. Joe Murphy Jr. was present to speak. He asked for clarification as to where the house next door is located. This was then explained and the property was explained to Mr. Murphy by Mr. Ellis. Mr. Ellis stated the neighbor's house is shown on the plans, as far as the location.

There were no further comments.

Board Discussion:

Richard Lewis stated that as normal, he did provide to the board draft approval and denial language. He asked if the board would like to make any changes to the draft and if not, then the entire motion does not need to be read, but that the memo and draft language can be referenced.

MOTION: Member Russo moved and Member Sargent seconded to approve the Variance request, referenced as Z10-03, for Jack Watson, for work involving the removal and replacement of a single family residential home located at 82 Gile Pond Road, Tax Map/Lot # 128-026-00 and located in the C Zone [Conservation District]. The findings and conditions approved are consistent with the draft approval document, dated May 26, 2010, reviewed by the board. All were in favor and the motion passed.

At this time there was a request from the next two applicants, Mr. Robinson and Ms. Blinn, that the order of the hearing of their applications be changed. The board was in favor of the order being changed.

- **Z10-05:** Barbara A. Blinn, Owner/Applicant, requests a Variance to build a 16' x 24' garage, which will be located 12' from the easterly side lot line and will meet the rear and front yard setbacks, on property located at 152 Victory Drive, identified as Tax Map/Lot # 116-174-00, RS Zone (Single Family Residential District). The setbacks for the zone are 30' front and 25' to the side and rear.

Ms. Barbara Blinn was present to speak. She stated that both she and Mr. Robinson are asking for variance to construction 16' x 24' garages. The garages will be an improvement to the neighborhood and will be consistent with the look of the surrounding properties. They will bring in more tax revenue.

The garages are being proposed for between the two subject lots, being lot 116-174-00 and 116-173-00, so they will be the closest and most affected person to the others garage. Member Farmer asked what the distance was between the two garages and it was indicated there would be 27' and Ms. Blinn indicated the driveways already exist.

Member Russo asked if it was correct that Ms. Blinn was going to be replacing the existing car port with the garage at the same location and it was indicated it would be in the same footprint, and that it is more a tent type structure than a carport.

Public Comment: There was no one present to speak for or against this application.

Board Discussion:

Mr. Lewis stated that he gave the board a memo dated May 26th, 2010, with the draft approval and denials, and indicated that the proposed condition is standard.

MOTION: Member Sargent moved and Member Russo seconded that the Zoning Board of Adjustment approve the variance application request by Barbara Blinn for a variance to construct a garage with less than the required side yard setback. The property is identified as 152 Victory Drive, tax map/lot 116-174-00, in the RS [single family residential] zoning district; the application is referenced as Z10-05. The Board finds that the application request meets the tests and criteria necessary for the granting of a Variance in that:

1. **The Variance will not be contrary to the Public Interest, the Spirit of the Ordinance is observed, and the use is a reasonable one due to the facts that accessory structures are allowed in this residential district and are common features for individual homes, the garage will not create overcrowding and congestion to the neighborhood, and is an appropriate use of the land.**
2. **The Values of the Surrounding Properties are not diminished due to the fact that the garage will enhance the value of the subject property and will have an overall benefit to the value of the neighborhood.**
3. **The facts that the northerly lot line is set at an angle, the house itself does not sit perpendicular to the street, and is off-set to the north side of the lot create special conditions and features that distinguish it from other properties in the neighborhood.**
4. **Substantial Justice is done due to the fact that the Board does not identify any harm to any abutter or other properties or residents of the surrounding neighborhood.**

This approval is subject to the following conditions:

1. **The applicant or their designee shall obtain the necessary building permits for the proposed work and a Certificate of Occupancy once the work is completed.**

All were in favor and the motion passed.

- **Z10-04:** Joel Robinson, Owner/Applicant, requests a Variance to build a 16' x 24' garage, which will be located 15' from the westerly side lot line, 20' from the rear lot and will meet the front yard setbacks, on property located at 154 Victory Drive, identified as Tax Map/Lot # 116-173-00, RS Zone (Single Family Residential District). The setbacks for the zone are 30' front and 25' to the side and rear.

Mr. Robinson indicated that Ms. Blinn just spoke for the both of them, and he would like to just second what she already indicated.

Public Comment: There was no one present to speak for or against this application.

Board Discussion:

Member Russo asked if the proposed garage would be going at the end of the driveway and it was indicated that it would be and the driveway is paved.

MOTION: Member Russo moved and Member Sargent seconded that the Zoning Board of Adjustment approve the variance application request by Joel Robinson for a variance to construct a garage with less than the side yard setback. The property is identified as 154 Victory Drive, tax map/lot 116-173-00, in the RS [single family residential] zoning district; the application is referenced as Z10-04. The Board finds that the application request meets the tests and criteria necessary for the granting of a Variance in that:

1. **The Variance will not be contrary to the Public Interest, the Spirit of the Ordinance is observed, and the use is a reasonable one due to the facts that accessory structures are allowed in this residential district and are common features for individual homes, the garage will not create overcrowding and congestion to the neighborhood, and is an appropriate use of the land.**
2. **The Values of the Surrounding Properties are not diminished due to the fact that the garage will enhance the value of the subject property and will have an overall benefit to the value of the neighborhood.**
3. **The fact that the southerly lot line is set at an angle creates a special condition and feature that distinguish it from other properties in the neighborhood.**
4. **Substantial Justice is done due to the fact that the Board does not identify any harm to any abutter or other properties or residents of the surrounding neighborhood.**

This approval is subject to the following conditions:

1. **The applicant or their designee shall obtain the necessary building permits for the proposed work and a Certificate of Occupancy once the work is completed.**

All were in favor and the motion passed.

Old Business
Planner's Update

Richard Lewis stated to the board that in their packet there was a copy of the Zoning Board procedures. He indicated that if the board was comfortable with the changes that he would schedule a public hearing as soon as the governor signs off on the legislation that is pertinent to these changes. The board indicated they were good with the changes and as soon as the legislation was signed off on that they would be comfortable with Richard scheduling the public hearing on these changes. They stated they would send any recommendations, comments or changes via email.

He stated that the changes are mostly concerning quorums and maintaining consistency, regarding once a board member (regular or alternate) is seated on an application that they would stay as the voting member for the case until it is completed.

Richard indicated that the Superior court has recognized that the board has the ability to reconsider conditions set at a previous meeting, so that the decision set forth would be the best decision possible.

Member Sargent asked Richard if the alternates would have the ability to speak during the discussion, but just wouldn't be able to vote and Richard indicated that was correct.

Other Business

Member Sargent asked Richard if, when a member resigns from the board, if an alternate is automatically moved to a voting member or if someone says they are interested if they could be put as the regular member and the alternate left as an alternate. Richard Lewis stated that the alternate member, already on the board, should make the City Council aware, at the time of an opening that they want to be a regular member and it is not a requirement that the alternate be moved to the full and the new are placed as an alternate.

Public Comment
Adjournment

MOTION: Member Russo moved and Member Sargent seconded to adjourn the June 2nd, 2010 meeting of the Zoning Board of Adjustment, at 7:55 p.m. All were in favor and the motion passed.