

**FRANKLIN ZONING BOARD  
REGULAR MEETING AND PUBLIC HEARING  
CITY COUNCIL CHAMBERS- CITY HALL  
Wednesday, November 4<sup>th</sup>, 2015, at 7:00 p.m.**

**MINUTES**

**Call to Order:** The meeting was called to order at 7:12 p.m.

- ❑ **Salute to the Flag**
- ❑ **Roll Call**  
**Present:** Kathlene Fleckenstein, David Testerman, Debbie Davis and Jeffrey Dickinson.  
**Absent:** Michael Weatherbee and Donald Gagnon.

**Member Davis was seated as a voting member in place of Member Gagnon.**

- ❑ **Approval of Minutes: October 7<sup>th</sup>, 2015 Zoning Board Meeting**

**MOTION: Member Testerman moved and Member Dickinson seconded to approve the minutes of the October 7<sup>th</sup>, 2015 Zoning Board regular meeting. All were in favor and the motion passed.**

**Old Business:** None.

**New Business**

**Z15-014:** Wayne A. Bennett, Applicant/Owner, requests a Variance from Section 305-14, Lot and Yard Requirements, to an addition of a deck to the porch on the back of the house, located at 3 North Shore Lane, Tax Map/Lot # 032-043-00, LP Zone (Lake Protection District), New map #H4. The Deck will be enlarged by 10' x 35', and will be located 5' from the westerly property line and 5' from the easterly property, 43' from the front (northerly) lot line and approximately 48.5' from the lake (southerly lot line) and would require State of NH, DES Approval if this application is approved..

Mr. Bennett was present to speak for his application. He stated he would like to add a deck off the existing deck and porch. It would be 10' x 34' and would be 48.5' from the lake. He is filing to DES for approval and this is based on the permeable area and the distance/proximity to the lake.

Member Fleckenstein asked about the well and septic and Mr. Bennett stated that there is no leachfield and then showed the location of the well and septic.

Mr. Lewis asked about the impervious area and asked if he still needed approval with there being grass under the deck. Mr. Bennett indicated he asked the same question at the state and they indicated grass will not grow under the deck, that because the house meets the setback to the lake and he is adding to the impervious area of the lot, he needs approval and may need an engineer to get involved. Mr. Bennett stated that there is a question as to whether the distance to the high water mark is 50' or 48.5' and based on this he needs the approval from the state.

**Public Comment**

Jeff Hinds was present to speak. He stated he will be doing the work for Mr. Bennett. It was indicated that if the existing home wasn't 50' from the lake, then they would not have to go through the process that they do at DES. He stated this does not make sense, but is their rule. He indicated he has no problems with the deck and the deck will meet the existing line of encroachment to the side lot lines.

**MOTION: Member Testerman moved and Member Dickinson seconded that the Zoning Board of Adjustment approve the Variance application requests, of Wayne A. Bennett, Owner/Applicant, from Section 305-14, Lot and Yard Requirements, to enlarge his deck 10' x 35', on property**

**located at 3 North Shore Lane, Tax Map/Lot # 032-043-00, LP Zone (Lake Protection District). The Board finds that the application request meets the tests and criteria necessary for the granting of the Variance as spelled out in the draft decisions to approve, which have been reviewed and approved, including any modifications, by the Board, with the following conditions:**

- 1. The applicant must contact the State of New Hampshire, Department of Environmental Services, prior to applying for a building permit and shall obtain any approvals needed through their office.**
- 2. The applicant or their designee shall obtain a building permit for the proposed work and a Certificate of Occupancy once the work is completed.**

**All were in favor and the motion passed.**

### **Decisions of Approval**

I move that the Zoning Board of Adjustment approve the Variance application requests, of Wayne A. Bennett, Owner/Applicant, from Section 305-14, Lot and Yard Requirements, to enlarge his deck 10' x 35', on property located at 3 North Shore Lane, Tax Map/Lot # 032-043-00, LP Zone (Lake Protection District). 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 and the Spirit of the Ordinance is observed due to the facts that: the deck would be built flush with the existing house, porch and deck and would not extend into the side yard setbacks any more than already exists. The deck will also be 48.5' from the lake, which is a greater distance than most decks in the Lake Protection Zone. The homes to the east and west of this property are both approximately 20' from the lake.
2. Substantial Justice is done as: this will allow the applicant and owner a more versatile space as the existing deck is very small, 5' x 8' with a small 3'x3' bump out.
3. The values of the Surrounding Properties are not diminished due to the fact that the addition of a deck will not change the use of the property and the deck will not be located any closer to the property lines than the existing home and deck and porch.
4. Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship:

Unnecessary hardship mean that, owing to the special conditions of the property that distinguish it from other properties in the area, then: i) No fair and substantial relationship exists between the general purpose of the ordinance provision and the specific application of that provision to the property; and ii) the proposed use is a reasonable one. The property is an abnormal configuration, and due to this configuration nothing new could be placed on the property without the need for a variance.

The Variance is subject to the following conditions:

1. The applicant must contact the State of New Hampshire, Department of Environmental Services, prior to applying for a building permit and shall obtain any approvals needed through their office.
2. The applicant or their designee shall obtain a building permit for the proposed work and a Certificate of Occupancy once the work is completed.

**Z15-015:** Matt A. Anderson, Applicant/Owner, requests a Variance from Section 305-14, Lot and Yard Requirements, to build a 28' x 32' garage, on property located at 312 Webster Lake Road, Tax Map/Lot # 034-005-00, LP Zone (Lake Protection District), New Map #K4. The garage would be located 11'8" from the westerly lot line (and would not encroach any further than the main house) and 19' from the rear (southerly) lot line.

Mr. Anderson was present to speak. He stated that he has moved the location of the garage based on his neighbors, the O'Connell's, not wanting to look at the rear of his garage. He stated the garage will remain 28' x 32' and he gave the board a new plan. He is planning on moving the garage away from the westerly lot line and closer to the easterly lot line, and that it would be approximately 25' off the property line. He stated the bank would be left, and at the top of the bank are trees so the abutter to this side of his property will not be able to see the garage. The garage was also being rotated 90 degrees. The garage would be two-stories.

After a lengthy discussion it was determined that based on the moving of the location, and the public notice that was sent out to abutters and published in the papers, that a new hearing notice would need to be sent and that the application would be continued to November 18<sup>th</sup>.

Public Comment

Mr. O'Connell was present to speak. He indicated originally he was against the variance as he did not want to look at the back of the garage, the owner has volunteered to move the location and he is okay with that. He stated that due to the embankment and the trees at the top of the embankment the other abutter would not be able to see the garage.

**MOTION: Member Fleckenstein moved and Member Testerman seconded that the Zoning Board of Adjustment continue application Z15-015 to the November 18, 2015 hearing date, at 7:00 p.m. in Council Chambers, so that the new location of the garage can be re-noticed to the abutters via courtesy notices and a new public hearing notice can be published in the newspaper. All were in favor and the application was continued.**

Planner's Update:

Richard Lewis stated that he has spoken about this before, but that maybe the Zoning Board should make some changes to the setback requirements. It was indicated that the 50' to the lake, streams, brooks and rivers should be maintained; however, to the other property lines 25' might suffice.

Other Business: None.

Public Comment: None.

Adjournment

**MOTION: Member Testerman moved and Member Dickinson seconded to adjourn the November 2<sup>nd</sup>, 2015 meeting of the Zoning Board of Adjustment, at 7:55 p.m. All were in favor and the motion passed.**

Respectfully submitted,  
Angela M. Carey  
Planning and Zoning Assistant