

APPROVED
New Castle Board of Adjustment
October 16, 2014

Public Hearing re: Jennifer McConathy & Christopher Bonner, 45 Quarterdeck Lane, Map 12, Lot 21-B.

BOARD MEMBERS PRESENT: Todd Baker; Russ Cox; Donald Moore; Susan Stetson

BOARD MEMBERS ABSENT: Mark Gardner; Will Smith

Chairman Stetson called the meeting to order at 7:00 p.m.

Public Hearing re: Jennifer McConathy & Christopher Bonner, 45 Quarterdeck Lane, Map 12, Lot 21-B:

GUESTS: Jennifer McConathy, applicant; Attorney Bernie Pelech, representing the applicants

Chairman Stetson announced this was a public hearing for Jennifer McConathy & Christopher Bonner, 45 Quarterdeck Lane, Map 12, Lot 21-B. The applicants have requested the ZBA to determine if they are entitled to relief from the provisions of the New Castle Zoning Ordinance, Article 7, Section 7.5.1 and Article 9, Section 9.2.4.1 to add an addition to a nonconforming structure which is located within the wetland buffer. The applicants propose an addition 70' from the edge of wetlands and excavation and retaining wall 67' from the edge of the wetlands. The public hearing was properly advertised, abutters have been notified and all fees paid.

Attorney Bernie Pelech distributed photographs of the property, (Attachment A) and addressed their proposal. One of the primary reasons they are before the Board this evening is because this house was built before the 100 ft. wetlands buffer so that 2/3 of this property is within the buffer but the house was built on a steep grade. One of the issues the applicants wish to correct, because they have two small children, is the front entry way has a retaining wall that has a 4 to 5 ft. drop off. This is the primary way in and out of the home and creates a dangerous situation with the steep drop off.

The applicants hired an architect to correct the problem. As a result the applicant proposes to extend part of the deck and porch to the end of the building in order for the gap to disappear.

Because the house is nonconforming, the applicant requires a variance to extend the structure as well as a variance to build 70' from the edge of the wetlands and excavate 67' from the edge of the wetlands.

Attorney Pelech referred to Plan C-2, Attachment B, and noted the circle on the left hand side of Plan C-2 shows the in-fill that is being proposed measuring 16'-6" x 14'-6". That is the area that is being newly constructed to fill in that large ravine that exists presently.

The applicant appeared before the Conservation Commission and that board recommended their approval to the Planning Board with the following conditions, (Attachment C.)

- 1) the applicants would have to redirect one of the downspouts from the existing home into a new area where there is a lot of vegetation so that it will not run directly across the driveway, it will run through this vegetation;
- 2) the retaining wall will be sloping and that the detail of the retaining wall is provided to the Planning Board, which it was.

The Planning Board has also approved this project, (Attachment D.)

The Conservation Commission and Planning Board were quite impressed because the applicants did a great deal of work on this project including a large amount of planting vegetation.

Moore asked for clarification on the proposed stone walkway and wondered how would that get you into the house?

Attorney Pelech replied the new proposed stone walkway is the one from the driveway into the new addition. The new entryway will be at the lower level; the other stone walkway has been removed.

Attorney Pelech addressed the five criteria:

- 1) **The variance will not be contrary to the public interest;** (Attachment E, Page 2)
- 2) **The spirit of the ordinance is observed;** (Attachment E, Page 2)
- 3) **Substantial justice is done;** (Attachment E, Page 2)
- 4) **The values of surrounding properties are not diminished;** (Attachment E, Page 2)
- 5) **Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship;** (Attachment E, Page 2)

Attorney Pelech concluded that the applicants met the five (5) criteria necessary for the board to grant the two (2) requested variances.

Cox questioned where this building stood in relation to the restrictions regarding cubage.

Attorney Pelech replied that both Building Inspectors reviewed this building and it met the requirements.

Cox asked if these wetlands were connected to Lavenger's Creek.

Attorney Pelech replied the State said it was not titled, it is fresh water so the State does not have jurisdiction.

Chairman Stetson asked if the Board had further comments. There were none. She asked for public comments. There were none.

Baker moved for the Board of Adjustment to approve the variances, as requested. Cox seconded the motion. Approved.

Review of the ZBA minutes of September 18, 2014:

Baker moved for the Board to approve the ZBA minutes of September 18, 2014, as presented. Moore seconded the motion. Approved.

Other Business:

Discussion followed on obtaining new board members.

Adjournment:

Cox moved to adjourn the meeting. Baker seconded the motion. Meeting adjourned at 7:30 p.m.

Respectfully Submitted,

Anita Colby
Recording Secretary

Attachment A: Site Photograph #1; #2; #3; #4

Attachment B: Plan C-2

Attachment C: Recommendation of Approval from Conservation Commission

Attachment D: Approval from the Planning Board

Attachment E: Addressing the five criteria