

**MINUTES OF THE NEW CASTLE ZONING BOARD OF ADJUSTMENT  
Tuesday, November 27<sup>th</sup>, 2018 – 7:00 p.m. (Town Hall)**

**Members Present:** Todd Baker, Chair, John Fitzpatrick, Mark Gardner, Rebecca Goldberg, Ben Lannon, Margaret Sofio, Alyson Tanguay.

**Members Absent:** None.

**Others Present:** Paul Dobberstein, Ambit Engineering, 200 Griffin Rd. Unit 3, Portsmouth, NH; Bill Masiello, William J. Masiello Architect, Inc., 389 Central St., Boylston, MA; R. Timothy Phoenix, Hoefle, Phoenix, Gormley & Roberts, P.A., 127 Parrott Ave., Portsmouth, NH; David Severance, 24 Elm Ct., New Castle, NH; Barbara and Edward Wilson, 99 Beach Hill Rd., New Castle, NH; James Zuckerman, 63 Beach Hill Rd., New Castle, NH.

Chair Baker called the meeting to order at 6:58 p.m. and asked attendees to sign in.

**Case #2018 – 11 Filed by Edward J. Wilson and Barbara A. Wilson, Trustees, Beach Hill 99 Trust, owners of 99 Beach Hill Road, Map #10, Lot #28, requesting a variance to Article 4, Section 4.2 Table 1 in order to permit exterior modification/expansion of existing home; interior expansion.**

Prior to the hearing of the case, Ms. Sofio noted that she lives on Beach Hill Road, though she is not a direct abutter to the Applicants. She stated that she can hear this case impartially.

Attorney Timothy Phoenix and Architect Bill Masiello presented an overview of the project, in which the Applicants propose exterior and interior modifications, which in some instances slightly expand, and in other instances slightly reduce exterior dimensions and interior volume. The lot sits on two-thirds of an acre and encroaches slightly into the right side setback. The proposed demolition would consist of removing an existing rear deck, front steps, and bay window, and shortening of an existing deck on the left side of the home. On the second floor, the porch roof, bay window and chimney would be removed, as well as a portion of the existing home, which would be reconstructed back from the street.

Construction additions would primarily be in the demolition areas and would include a rear screen porch with an attached deck, a new front entry way, and new covered porch over the existing deck area. A smaller chimney would be rebuilt with granite stone veneer. There would be infill between the existing bay windows in order to add a continuous roofline on the street side. The current ridge line is varying, which Attorney Phoenix noted is bad for water infiltration. By connecting the roofline, Mr. Masiello stated that it will aesthetically look less chaotic and would allow for livable second floor space, while also helping with snow removal by not trapping water. The garage façade would be modified, and the corner roof overhang would be extended approximately three feet closer to the lot line. The existing paved driveway would be replaced with pervious pavement in order to meet Department of Environmental Services requirements for protected shoreland. Mr. Dobberstein added that the Applicants do not need to go before the New Castle Conservation Commission, as their lot is well outside the wetland

buffer zone. The Wilsons were granted a Shoreland Impact Permit from the NH DES on October 31, 2018.

The height of the existing home is 38.9 feet, and the proposed renovations would raise the left side of the house to the same height of 38.9 feet. Attorney Phoenix pointed out that the Town zoning ordinance requires the height measurement to be the average along the lowest side, which would be 38.9 feet because the lot at the left side of the house slopes significantly downward. But from the front of the house, the height is approximately 32 feet, which is in accordance with the zoning ordinance. The building area would be increased from 6,570 square feet to 7,341 square feet, where 6,250 square feet is allowed. Attorney Phoenix noted that most of the increase in building area is not an increase in volume, rather, it would be an increase in living area from putting in a second floor where a vaulted ceiling currently is, and from putting a roof over a deck that already exists. The Wilsons would also need relief for the right setback, which is already nonconforming at 10.9 feet where 15 feet is required, and 7.9 feet is proposed. The three foot difference would be from the proposed roof overhang along the garage.

Mr. Masiello commented that the Wilsons wish to keep the cozy New England feel of the home, and will use wood siding and trim, a combination of wooden clad doors, and native granite stone for a base.

Attorney Phoenix then went through the five criteria for zoning relief.

1. *The variance will not be contrary to the public interest; and*
2. *The spirit of the ordinance is observed:*

Attorney Phoenix argued that visually, the proposed changes are tasteful and reasonable, and would create a more aesthetically pleasing home while also preserving the appearance of the nearby shoreline. The overall impervious surface area of the lot would be significantly reduced from a non-compliant 23.4% to a compliant 16.4%. The proposal would protect the character of the Island, and none of the variances for height and building area would threaten the public health, safety and welfare. The footprint of the house would only increase approximately 47 square feet, and the exterior left side of the home would be pushed back from the existing wall, which would create an overall less impactful look and reduce the sense of overcrowding.

3. *The values of surrounding properties are not diminished:*

The proposed changes are tasteful and would increase the value of the property by creating a more livable home. Most of the modifications are only visible inside the home, which would not diminish surrounding property values.

4. *Literal enforcement of the provisions of the ordinance would result in unnecessary hardship:*

Any changes to the house would require variances since the property is already nonconforming. The height change is minor and would only match up the roof line heights along the home. The back porch area would be used as a screen porch instead of a deck, and would be unseen from the street. The homeowners would benefit from the water views while not impacting neighbors' sight lines. The building area is primarily increasing because of in-filling the vaulted ceiling family room, which would not be visible from outside the home. The overall proposal would be less imposing than the current structure. The use of the structure as a single family residence is permitted and will not change, so the proposed use is reasonable.

5. *Substantial justice is done:*

Denial of any of the variances would in no way benefit the public, while the Wilsons would be denied reasonable use of their home.

Mr. Fitzpatrick asked if there are any objections from neighbors. Ms. Wilson replied that they have not received any objections, and that the neighbors they have been able to reach have been supportive of their plans. Jim Zuckerman, Town Health Officer, commented that he appreciates that the health and welfare of the general public was taken into account in the Wilsons' plans, and that he is in favor of their application.

Upon hearing no further comment from the public, Chair Baker turned to Board members for their feedback. Ms. Goldberg felt that the application is reasonable and was inclined to grant the variances after finding that the Wilsons have met all the criteria for zoning relief. Mr. Lannon commented that the setback issue was minimal and did not really infringe on anyone else's space. He felt that the Applicants have demonstrated hardship regarding the height of the structure, as there is no way to rectify the water infiltration issues without raising the height of the roof to evenly match the rest of the roofline along the house. Mr. Lannon noted that while the Applicants may not have demonstrated hardship for the volume increase from the covered porch in the back, he felt that overall, the proposal is a significant improvement for the property, and he appreciated the design.

Mr. Fitzpatrick is in favor of granting the requested variances because the Wilsons have met their burden. Ms. Tanguay commented that the design was a big improvement and would benefit more than just the Wilsons. She did not have major objections to the proposal, but cited the increase in building area as a slight issue for her given the importance of being stewards of living on the water as well as the importance of reducing impervious areas. Mr. Gardner stated that the application was strong and felt that the rationale for the variances was sound, and as such, he was in favor. Ms. Sofio was also in favor, and added that she appreciated the proposed aesthetics of the design as well as having the criteria well laid out.

Mr. Gardner motioned to approve the variances as submitted by Attorney Phoenix and the Applicants. Mr. Fitzpatrick seconded. The Motion passed unanimously.

**Continued Case #2018 – 10 Filed by David Severance and Michelle Mancherje, owners of 24 Elm Court, Map #18, Lot #17-43, requesting a variance to Article 4, Section 4.2 Table 1 and Article 7, Section 7.5.1 in order to permit an addition within the setback.**

Chair Baker read a letter from Attorney Justin Pasay, of Donahue, Tucker & Ciandella, PLLC, on behalf of the Applicants. The letter states that the Applicants are withdrawing their pending application from consideration.

**CASE #2018 – 05 Filed by Stephen D. Eldred, owner of 180 Portsmouth Avenue, Map #15, Lot #5, requesting a variance from Articles IV, Section 4.2 Table 1 and Article VII, Section 7.3.1, in order to permit demolition of the existing boathouse and replacement with a new accessory structure.**

The Board unanimously approved the continuance of the rehearing of the Applicant's case to the December meeting, subject to renotification of all abutters.

**2. Approve Minutes.**

Mr. Lannon moved to accept the October 2018 minutes as submitted. Mr. Fitzpatrick seconded. The motion carried unanimously.

**3. Set Date of Next Meeting.**

Chair Baker announced that the next Zoning Board of Adjustment meeting will be held on Tuesday, December 18<sup>th</sup>, 2018 at 7:00 p.m.

**4. Adjournment.**

There being no further business, Mr. Gardner moved to adjourn the public meeting. Ms. Goldberg seconded. The motion carried, unanimously, and the meeting adjourned at 8:04 p.m.

Respectfully Submitted,

Meghan Rumph  
*Secretary*