

MINUTES
NEW DURHAM ZONING BOARD OF
ADJUSTMENT
SEPTEMBER 9, 2009

Chairperson Larry Prelli called the meeting to order at 7:02 PM.

Roll Call: Larry Prelli (Chair), Wendy Anderson, Mike Hoffman, Helen Wellman

Excused: Bill McGrew

Others Present: Richard Cody, Donald Somers, Ryan Noonan, Arthur Hoover

Somers Variance: Chair Prelli noted that there were four members of the ZBA present. He informed Mr. Somers that he would need three affirmative votes to approve the variance, and that Mr. Somers had the right to a full ZBA board of 5 members. Mr. Prelli asked the applicant if he wanted to proceed with four members. Mr. Somers agreed to go ahead with 4 members.

Mike Hoffman informed the Board that he knows Mr. Somers through meeting him at social events and having some conversation with him in that context. He has not been to Mr. Somers house and Mr. Somers has not been to his. He said he believed he could be an impartial judge of the application. Chair Prelli if anyone on the board or in the audience had any concerns about Mr. Hoffman's impartiality. There were no concerns expressed.

Chair Prelli the asked if there were any other concerns about potential conflicts of interest. There were none.

Chair Prelli asked the applicant to present his application. Mr. Arthur Hoover introduced himself as representative for Mr. Somers.

Mr. Somers is asking for a variance from Article IV, Section C.2 to allow him to build a two car garage measuring 32' x 30' that will have its foundation at 6' from the property line, and the roof overhang will be 5' from the property line. Mr. Hoover said that is the only location on the property where it is possible to put the garage without incurring very significant expense for blasting and removal of ledge.

There is an unused driveway between the house and Merrymeeting Lake. The slopes in front of the house very steep and there is no location in front of the house except steep slopes where the garage could be place. A garage in front of the house would block part of the view of the lake, and it could not be attached to the house.

There is less space to the south of the house than to the north of the house, so the garage would either have to be smaller, or closer to the southerly abutting property.

The land behind the house is also steep and filled with ledge. Building behind the house would not allow the garage to be attached to the house. The applicant needs it attached because elderly relatives are having increasing difficulty in getting to the house from the driveway in the rear of the house.

This driveway crosses land owned by Mr. Russell Weldon. Mr. Weldon has granted a right of way to Mr. Somers. Mr. Hoover said his client planned to build a retaining wall between the garage and the property line to ensure there is no increase in water runoff to the abutting property.

Mr. Hoover reviewed the 5 criteria for a variance as shown on the application.

Mr. Prelli asked if there was any public input. Mr. Cody said he was familiar with the plans and had no concerns. Because of the location of his house in relation to the proposed garage it will not be part of his view. He agrees that the proposed location of the garage is the most appropriate place to locate it.

Mike Hoffman said he had visited the site and said the elevation rise on the lot is 50'-60' and there are huge boulders that look to be about 25' high in some places on the lot that would make it very difficult to build on those parts of the lot.

Larry Prelli questioned Mr. Somers about the dimensions of the proposed garage. Mr. Somers said the part usable for vehicle storage will be about 27' of the 32' width because 5' will be taken up by access from house to garage and a stairwell to the second floor of the garage. Wendy Anderson noted that her garage was 30' wide.

Mr. Prelli also asked about the design of the retaining wall. Mr. Somers said he did not yet have detailed design plans but the wall will run parallel to the property line and be about 30' long. He is considering the possibility that the foundation of the garage can also serve as a part of the retaining wall.

Mike Hoffman moved to approve a variance from Article IV, Section C2, for Mr. Donald Somers at xx Merrymeeting Road (Map, Lot) to construct a garage as shown in the application materials, that reaches no closer than 6' from the north property line, instead of the required 10'. Helen Wellman seconded.

Mr. Hoffman said he had seen the site, and heard the applicant's presentation. He said there is a need for a garage and believes there is no alternative plan that is not too expensive to be reasonable. He feels the proposal is within the spirit of the ordinance which is designed to prevent residential congestion, protect abutter and neighborhood aesthetics, and allow protection from fire jumping from one structure

to the next. The plan meets all these goals and the abutter has no concerns about it impinging on his rights.

Other members spoke in favor of the motion. **Motion approved by a vote of 4 yes and 0 no.**

Minutes of October 29, 2008. Board members made the following corrections:

Correct spelling of Wendy Anderson's last name from "sen" to "son". Correct spelling of Mr. Prelli's last name from "Pirelli" to "Prelli".

Page 3: Strike the 3rd paragraph starting with "Mr. Hoffman stated that if we approved...."

Larry Prelli moved to accept the minutes of October 29, 2008 as corrected. Wendy Anderson seconded. Helen Wellman abstained because she was not at the meeting. Minutes were approved 3-0.

Minutes of August 13, 2008: Board members made the following corrections:

Page 1, 2nd paragraph from bottom, first sentence: Insert "he" between "asked if" and "lived in".

Page 2, motion by Helen Wellman: correct Mr. Lyons' address from "xx" to "75 North Shore Road."

Larry Prelli moved to accept the minutes of August 18, 2008 as corrected. Wendy Anderson seconded. Minutes were approved 4-0.

Minutes of August 27, 2008: Board members made the following corrections"

Page 1, add "**Excused: Mike Hoffman**" to Roll Call

Page 1; put "Madden" as item heading in bold. Insert the word "Application" in front of "by Peter and Nancy Madden."

Page 1; put motion by Terry Jarvis in bold.

Helen Wellman moved to accept the minutes of August 27, 2008 as corrected. Larry Prelli seconded. Mike Hoffman abstained as he was not present. Approved 3-0.

Minutes of June 11, 2008. Board members made the following corrections:

Page 1, 2nd to bottom paragraph: Insert "one board member" in place of "_____" at beginning of sentence.

Helen Wellman moved to accept the minutes of June 11, 2008 as corrected. Wendy Anderson seconded. Approved 4-0.

Minutes of June 10, 2009: Board members made the following corrections:

Page 1, last paragraph: replace “xxx” with “Vernon Balser”, the name of the abutter.
Change spelling of applicant’s name to “Browne”.

Larry Prelli moved to accept the minutes of June 10, 2009 as corrected. Wendy Anderson seconded. Minutes were approved 4-0.

Wendy Anderson moved to adjourn at 9:23 PM. Mike Hoffman seconded. Approved unanimously.

Respectfully submitted,

David Allen
Land Use Administrative Assistant

TOWN OF NEW DURHAM