

**Zoning Board of Adjustment
June 9, 2008**

**Members Present: Elizabeth Ashworth, Chair; Katheryn Holmes, Vice-Chair;
Barbara Richmond; Steve Russell; Helen Wright; Sue Russell, Alternate**

Ms. Ashworth called the meeting to order at 7:15 p.m.

MINUTES

Ms. Ashworth advised the Board that the minutes of public meetings need to be reviewed by the Board in a public forum.

The Board reviewed the minutes of May 12, 2008.

Ms. Holmes made a motion to accept the minutes of May 12, 2008 as written. Mr. Russell seconded the motion. All in favor.

At 7:15 continuation of application for Geraldine S. Bateman, for property located at 9 Frazier Ave, Newbury, NH, will seek a variance from the requirements in Paragraphs 5.9 & 7.3 of the Newbury Zoning Ordinance to permit the following: to allow for reconstruction of an existing structure within the 15 ft. and 75 ft. setbacks. Newbury Tax Map 020-327-448.

Mr. Hirshberg was present to discuss the Bateman application. He reminded the Board that where he left off at the last hearing there were issues with the Wetlands Board regarding the proposed change in height. The initial response from the Wetlands Board was that the change is functionally the same use, and therefore, allowed. However, upon further consideration of the application the Wetlands Board determined that the way that the statutes are written, no increase in height is allowed on the section of the boathouse over the water and no increase in the outside dimension. Consequently, the plans have been redesigned so that the portion of the boathouse that is over the water will not change in height. The long, flat pitch of the existing roof will remain the same. The living area is a little tighter than before, but meets all requirements by the State and satisfies the needs of the owners. The living space was lifted up 7 in. to bring it above the high water mark. There is a State Shoreland Waiver for the proposed plantings, storm water management and erosion control plans, which relates to the new set of plans. The kitchen and bathroom plumbing is proposed to be entirely over the land.

Ms. Holmes stated that the shoreland waiver is not effective until it is recorded at the Merrimack County Registry of Deeds.

Ms. Ashworth opened the hearing to public input.

Carey Demers, abutter, commented that he is pleased with the plans and asked the Board to grant the variance.

Being no further comment from the public, Ms. Ashworth closed the hearing to public input and the Board began deliberation.

Ms. Holmes commented that the parameters of the State's conditions are very limiting. She reviewed the requirements of Article 5.9 Setback Requirements.

Ms. Richmond commented that she likes the idea of getting the plumbing away from the water. She stated that this plan is a nice improvement for the site.

Mr. Russell commented that Mr. Hirshberg has satisfactorily addressed the concerns of the Board and the abutters.

Ms. Wright agreed with Mr. Russell and commented that she also likes the plumbing over the land.

Ms. Ashworth commented that this is a good concept to begin with and is glad that Mr. Hirshberg addressed the concerns of the abutter.

Ms. Richmond made a motion to vote on the Bateman application for variance as presented this evening with the condition that the State and Building permits need to be properly adhered to and in place. Ms. Wright seconded the motion.

Ms. Holmes voted to grant the variance with the stated condition.

Ms. Richmond voted to grant the variance with the stated condition.

Mr. Russell voted to grant the variance with the stated condition.

Ms. Wright voted to grant the variance with the stated condition.

Ms. Ashworth voted to grant the variance with the stated condition.

Ms. Ashworth advised Mr. Hirshberg that there is a 30-day appeal period during which time any of the abutters may appeal the Board's decision.

John Murray, applicant, commented that they never received a copy of the letter of complaint submitted by Carey Demers against the first application. In the future, a copy of the complaint should go to the applicant who is being complained about so that they have full disclosure.

At 7:30 p.m., Albert Plass, property located at 44 Southgate Road, Newbury, NH, will seek a Special Exception as provided for in 4.10 to permit the following: Convert a sugar house into an accessory apartment. Newbury Tax Map 051-606-462.

Mr. Plass explained that his mother recently suffered a stroke and has not responded well in the different nursing homes she has been residing at. Mr. Plass and his sister, who

lives in Colorado, have decided to share the care taking of their mother themselves. As a result, Mr. Plass would like to convert the existing sugar house on his property into an accessory apartment in order to make room at his home for his mother during her time in New Hampshire. The sugar house was built in 1993 and has not been used by the Plass's since they purchased the property four years ago.

Ms. Wright asked Mr. Plass if there were any deed covenants for the Southgate subdivision that may prevent accessory apartments.

MaryAnn Plass commented that there are no restrictions mentioned in their deed, and there is no homeowner's association to oversee or enforce any deed covenants or restrictions.

Ms. Wright asked Mr. Plass how he was going to address the water source and septic provision.

Mr. Plass explained that the State has already approved tying into the existing system. Additionally if the existing system fails, there is another system already drawn up and approved for installation.

Ms. Holmes asked Mr. Plass how he plans to side the exterior of the sugarhouse.

Mr. Plass explained that the exterior would probably be primarily clapboard with a mix of cedar shakes on the gable ends. There is no cellar. The sugarhouse is built on a slab as an outbuilding on 2.2 acres.

Ms. Ashworth opened the hearing to the public.

Being no public input, Ms. Ashworth closed the hearing to the public, and the Board began deliberation.

Ms. Ashworth commented that the zoning regulations are set up to allow this kind of use per Article 4.10 *'It is the specific purpose an intent of allowing accessory apartments on one-family properties in all residential districts to provide the opportunity and encouragement for the development of small rental housing units designed, in particular, to meet the special housing needs of single persons and couples of low and moderate income, both young and old, and of relatives of families presently living in Newbury. ...'*

Ms. Holmes clarified that this is an accessory apartment, not a second dwelling.

Mr. Plass stated that he is not using the whole sugarhouse for the apartment space. Only about half will be for the accessory apartment, and the other half will be used for storage.

Ms. Ashworth made a motion that the Board vote on the Special Exception as presented with the condition that the applicant needs to meet all of the zoning regulations and get a building permit. Ms. Holmes seconded the motion.

Ms. Wright voted to grant the special exception with the condition stated.
Mr. Russell voted to grant the special exception with the condition stated.
Ms. Richmond voted to grant the special exception with the condition stated.
Ms. Holmes voted to grant the special exception with the condition stated.
Ms. Ashworth voted to grant the special exception with the condition stated.

Ms. Ashworth advised Mr. Plass that there is a 30-day appeal period during which time any of the abutters may appeal the Board's decision.

The Board recessed for a 5-minute break at 8:15 p.m.

The Board reconvened at 8:20 p.m.

At 8:00 p.m., Christine Windler Trust, for property located at 21 Bay Point Landing Road, Newbury, NH will seek a Variance from the requirements of Paragraph 7.3.2 of the Newbury Zoning Ordinance to permit the following: construction within the 75' shoreline setback. Newbury Tax Map 007-057-483.

Mr. Windler advised the Board that he would like to replace the existing cottage that was built in 1890 with a new two-story cottage. The plan will observe the 15 ft. side setback to the south and the proposed garage to replace the existing garage will honor the front setback. The existing footprint of the cottage and garage is 1636 sq. ft. The proposed footprint is 1633 sq. ft. The new building will be rotated 10% to accommodate the side setback. The existing cottage is 23 ft. from the lake, and the proposed cottage is 29 ft. from the lake.

Ms. Holmes commented that there is not cutting or planting plan. She stated that the Board needs to see a plan of which trees will be cut in order to accommodate the construction equipment and new buildings, and a vegetation plan is needed to assure the 50 ft. shoreland buffer and permanent erosion control. She commented that this lot also has steep slopes and a lot of ledge, and blasting is not permitted.

Mr. Windler stated that there was an erosion control plan submitted with the application.

Ms. Ashworth acknowledged the erosion control plan submitted with the application but explained that the Board needs more information regarding what is proposed to be cut and what temporary and permanent erosion control measures are proposed.

Bill Andrews, Old Hampshire Design, explained that the applicant is seeking guidance from the Board as to where to place the house that would be most acceptable to the Board prior to investing a lot of time and money in plans that are not acceptable.

Ms. Ashworth explained that the Board will be voting to grant or deny the application as submitted. This Board is not allowed to conduct conceptual meetings; it can only

consider what is presented by the applicant. She advised Mr. Andrews and Mr. Windler that if the new cottage is constructed in the same foot print as the existing cottage, there is no need for a variance from this Board.

Ms. Wright asked Mr. Windler what the proposed building height will be on the new cottage.

Mr. Windler stated that it will not be more than the allowed height of 34 ft. per the Newbury regulations

Ms. Ashworth commented that the Board will also need to see building elevations so that it can determine if the abutters may have a valid complaint.

Ms. Richmond asked Mr. Windler if he intends to have a full basement in the proposed cottage.

Mr. Windler stated that there is a crawl space in the front of the house and the foundation currently sits on cinder blocks and rocks. Proposed is a full basement with a 7 ft. 10 in. ceiling, but that depends on whether or not they hit ledge.

Mr. Russell commented that if Mr. Windler is going to re-orient this house and not rebuild in the existing footprint, more information is needed.

Ms. Holmes advised Mr. Winder that per Article 7.6.5 *As required by Section 7.8., an erosion and sediment control plan is required for any land disturbance activity within three hundred (300) feet of a lake or stream.*

Mr. Andrews commented that the applicant wanted to know if the Board is supportive of something before there are elaborate plans drawn up for the State and Town.

Ms. Ashworth suggested that this hearing be continued for the purpose of receiving more information regarding temporary and permanent erosion control, a tree cutting plan, a re-vegetation plan, height and dimensions of the proposed buildings and any other information required in the regulations.

Mr. Windler asked if he is allowed to remove trees without a variance approval from the Zoning Board.

Ms. Ashworth advised Mr. Windler that he may remove trees but there is a formula for the number of trees that may be removed. Clear cutting on the lake is not allowed.

Ms. Holmes made a motion to continue this hearing until July 14, 2008 at 7:15 p.m. Mr. Russell seconded the motion. All in favor.

Mr. Andrews commented that the Windler's are very conscientious about protecting the lake and will do everything necessary to do so.

Ms. Ashworth made a motion to adjourn. Ms. Holmes seconded the motion. All in favor.

Meeting adjourned at 9:00 p.m.

Respectfully submitted,

Linda Plunkett
Recording Secretary