

**NOTTINGHAM**  
**ZONING BOARD OF ADJUSTMENT**  
**November 5, 2014**

**Accepted:** 4-7-2015

**Members Present:** Michael Russo, Chair; Bonnie Winona-MacKinnon, Vice- Chair; Terry Bonser; Robert Davidson,

**Members Absent:** Kevin Bassett, Alternate, Romeo Danais

**Others Present:** JoAnna Arendarczyk, Land Use Clerk; Christina Schiel, applicant; Robert Sponagle, abutter

Mr. Chairman called the meeting to order and opened the Public Hearing at: 7:00pm

**Public Hearing Case**

Mr. Chairman Read the following Public Hearing Notice:

**Case 14-008-VA** Application from Christina Schiel for a Request for Variance from Article II Section C.2 of the Zoning Ordinance to permit the allowance of building without the required 50' (fifty feet) between the building and the property line. Tax Map 39 Lot 23-9 20 South Summer Street, Nottingham NH 03290.

The Chair stated that the Board conducted a Site Walk on November 2, 2014.

- There are minutes reflecting the Site Walk
- Applicant identified the property line
- Applicant staked out:
  - The proposed building
  - The leach field
  - The well
- Applicant provided an updated site map
  - more accurate portrayal of proposed building with dimensions

The Board had no other questions for the applicant.

**Motion made by:** Mr. Chairman to close the public hearing portion of the meeting

**Seconded by:** Mr. Bonser

**Vote:** 4-0-0 **Motion Passed**

Public Hearing closed at 7:03pm

**Deliberation:**

Mr. Chairman stated that he is concerned about roof runoff. No matter how the garage is situated the rainwater will hit the ground and have very little time to be absorbed into the ground before it runs into the wetland.

- Suggest rainwater harvest or following low impact development
  - will provide forms regarding this for the Land Use Clerks office
- Suggests this as a condition
- The Board members all agreed with the concern and condition

Mr. Chairman commented on the property value issue raised by the abutter- all surrounding homes in that area have a mixture of garage styles. Some are attached, next to and under homes.

Mr. Sponagle stated that he begs to differ with that issue.

There was some more discussion about the runoff into the wetland area.

Ms. Schiel stated that the runoff is caused by the town.

Mr. Chairman said that it is the lay of the land.

Ms. Winona-MacKinnon addressed Mr. Sponagle:

- The Board's most common cases deal with setback issues

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- Strict setback requirements compared to communities around Nottingham
- Ms. Winona-MacKinnon was a real-estate broker for 25 years
  - Owned her own agency
  - Never had anyone check what the neighbor's setbacks were.
- The Board has passed a number of cases dealing with setback issues
- Before the Ordinance passed some existing buildings were closer to boundaries than the Ordinance would have allowed

Mr. Sponagle asked why there is this Ordinance if it isn't going to be followed.

The Board informed him that they don't write the Ordinances and that this particular Ordinance is going to be discussed the following week at a joint meeting with the Planning Board and may be changed.

Ms. Winona-MacKinnon also stated that one of the Boards jobs is to protect everybody's property rights. In this case the applicant wants to build a garage and due to the way the ordinance is written as well as the location of her well, septic, leach field and the lay of the land it makes it difficult. She further explained the job of a Zoning Board of Adjustment.

Mr. Sponagle added that he was upset that the Board "met before 3:30pm on Sunday". All the Board members who attended the Site Walk informed Mr. Sponagle that they were there at the agreed upon time of 3:30pm on Sunday.

Ms. Winona-MacKinnon informed him that there was a time change that day - the abutter may have missed the time change.

Mr. Sponagle also stated that he wasn't made aware of this meeting until the Sunday's Site Walk meeting.

The Board members informed him that it was agreed on at the October 29<sup>th</sup> meeting to hold the Site Walk on Sunday November 2<sup>nd</sup> and continue the deliberation and make the final decision on November 5, 2014. He was also informed that there is no requirement to notify the abutters after the first meeting notification.

Ms. Winona-MacKinnon stated that due to an illness in her household she was not able to attend the Site Walk meeting but had gone to the property prior to the October 29<sup>th</sup> meeting. After viewing the property and the lay of the land she feels that it would not harm anyone if the request is granted.

Mr. Davidson asked Mr. Sponagle why he feels his property value will be decreased if this request is accepted.

Mr. Sponagle replied that he assumes there will be another flood light put on the garage- there is one already on the house that shines directly into his bedroom.

Ms. Schiel stated that their home has been broken into before (Mr. Sponagle stated that their home had as well) so they installed the floodlight for added protection.

Mr. Bonser stated that Mr. Sponagle's home is up on a hill. He doesn't see how the floodlight can shine that much in his home.

Mr. Sponagle insisted that it does.

The Board discussed that the garage would probably reduce the glare from the flood light and that the applicant would likely put a flood light on the front of the garage not on the side of it. – Ms. Schiel agreed that is where she would put it.

Mr. Chairman read the applicants responses to the five criteria in the application.

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Mr. Chairman added further comments to the applicant's responses:

1. After measuring it will be at least 22' if not more
2. Originally the abutter was not opposed but now he is - However other houses in the area also have garages
  - Keeps in character with the neighborhood
  - It is in maintenance with other cases heard in town
3. A.) Based on placement of the existing driveway, well, leach field, impacted wetlands to the rear of the house which was exacerbated by the town's reconstruction of the road  
B.) The only other place to put the garage would be to cross the wetland and put it in further to the back of the lot which is not reasonable
4. (nothing to add)
5. It is within maintenance with other cases heard in town

**Motion made by:** Mr. Chairman to approve case 14-008-LLA with the condition that the rear portion of the roof of the garage is to have a water harvesting or low impact development to prevent large rain event run off directly into the wetland area.

**Seconded by:** Mr. Bonser

**Vote:** 4-0-0 **Motion Passed**

Mr. Chairman requested the Board members fill out the Finding of Facts sheets.

Mr. Sponagle informed the board that he intends to build on his side in the spring and asked if he would be allowed to just like Ms. Schiel.

Mr. Chairman said he would have to apply.

Mr. Chairman informed the applicant that there is a 30 day appeal period and advised her not to start the building until that period passed.

Upon hearing of the appeal period Mr. Sponagle asked questions about that process and stated that he may appeal the Board's decision.

Mr. Sponagle left and soon after Ms. Schiel did as well.

**Minutes**

October 29, 2014

**Motion was made by:** Mr. Davidson to accept the minutes as amended

**Seconded by:** Mr. Chairman

**Vote:** 4-0-0 **Motion Passed**

November 2, 2014

**Motion was made by:** Mr. Chairman to accept the minutes as amended

**Seconded by:** Mr. Davidson

**Vote:** 3-0-1 **Motion Passed**

Mr. Chairman commented that Mr. Sponagle had driven by as the Board members and applicants were talking at the Site Walk meeting and then backed up as the Board members were leaving.

**Budget for 2015 Discussion**

The Board members agreed to leave the budget figure as is.

**Motion was made by:** Mr. Chairman to leave the budget figure as is for 2015

**Seconded by:** Mr. Davidson

**Vote:** 4-0-0 **Motion Passed**

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**Reminder- Joint meeting with Planning Board- November 12, 2014**

Mr. Chairman suggested the following topics for discussion:

- Steep Slope ordinance under consideration
- Setback distances on 2 acre lots for accessory structures
- Anything Planning Board deems suitable

Mrs. Arendarczyk also informed the Board that the Planning Board has also worked on a Minimum Lot Disturbance ordinance for consideration. The Board agreed to add that to the discussion list as well.

**Adjournment**

**Motion was made by:** Mr. Chairman to adjourn

**Seconded by:** Ms. Winona MacKinnon

**Vote:** 4-0-0 **Motion Passed**

Adjourn at: 7:37pm

Respectfully Submitted,

JoAnna Arendarczyk

Land Use Clerk