

**Town of Sandown
Zoning Board of Adjustment
Minutes 1/31/2019**

- Meeting Date:** January 31, 2019
- Type of Meeting:** Public Hearing
- Method of Notification:** Public Posting - Sandown Town Hall, Sandown Post Office, Sandown Website, *Eagle Tribune*
- Meeting Location:** Sandown Town Hall
- Members present:** Steve Meisner- Chairman, Chris True- Vice Chairman, Chris Longchamps, Dave Ardolino
- Members absent:** Jon Goldman- Selectman Liaison, Melyssa Tapley

Mr. Meisner opened the meeting at 7:10 pm

Mr. Meisner noted that the board has only 4 members and if the applicants would like to continue, they can.

Public Hearing

M 28, L 42, 25 Lakeside Drive- An application submitted by Richard Leather requesting a variance from Article III Part A, Section 1 B to allow construction of a dwelling without the 15’ side setback from neighbors property line.

Mr. Meisner noted that the board has only 4 members and if the applicants would like to continue, they can.

Richard Leather- 28 Lakeside Drive present.

Mr. Leather is looking to add a car port type structure on the right side of his garage facing the garage from the street. He is adding on to the original roof of the garage. The neighbor to the right side of the garage will be helping Mr. Leather build the structure and Mr. Leather is letting him store his snowmobile and trailer under the car port. Mr. Ardolino asked Mr. Leather what the distance between the car port and his neighbor’s property line is? Mr. Leather stated it would leave about 6’ from the middle post of the car port to the property line.

Mr. True would like to see the exact distance between the closest point on the car port and the property line. The garage is 24x 24 and if it is roughly in the middle of the lot, he would leave 3’ from the closest pole of the car port to the property line.

Mr. Meisner noted that the Zoning Ordinance for side setbacks is 15’ and for sheds, swimming pools, and their ancillary accessory structures, swing sets, gazebos, animal houses or runs shall be located no closer than 8 feet to the property line.

Mr. Leather has roughly 17 to 18 feet tops from the base of the garage to the property line. The issue with building something 3 feet from the neighboring property line is the location of properties line aren’t easily located and they tend to move. The structure size of the structure Mr. Leather is looking to build is 16 x 16. Mr. Leather can just go out and buy 16 footers and have very little cutting involved.

47 Mr. Meisner noted that he personally would like to work with Mr. Leather on this
48 variance. Mr. Leather is willing to change the size of the structure to fit within the 8-foot
49 side setback Ordinance. If Mr. Leather builds a 12 x 20'' structure that would leave
50 roughly 5 feet between the close's posts to the property line. Mr. True noted that looking
51 at Article III A that it is difficult enough to consider eating into the 15foot setback but
52 when you go less then 8 feet it is a difficult decision and for Mr. True to much of a
53 variance.

54 Mr. True voiced his concerns that he does not recall the Board voting for the 8-foot side
55 setback and that the Zoning Ordinances are in place to prevent overcrowding. Mr.
56 Meisner noted what Mr. Leather wants to put on is an auxiliary structure and not a livable
57 space. Mr. Meisner also mentioned that the Board awhile back granted a variance for a
58 garage with a livable space above it with an 8-foot side setback

59
60 **Motion**

61 Mr. Longchamps made a motion to GRANT the variance application for M 28, L 42, 25
62 Lakeside Drive requesting a variance application from Article III Part A, Section 1 B to
63 allow construction of a car port without the 8' side setback from neighbors property line
64 and the car port shall NOT extent 12 feet from the garages foundation on the right side.
65 Mr. True second the motion. Mr. Meisner called the vote. All in favor. The motion
66 passed. (3-1-0) Mr. Meisner, Mr. Longchamps and Mr. Ardolino voted yes, Mr. True
67 voted no.

68
69 Mr. Meisner stated that there is a 30-day appeal process.

70
71 **Application**

72
73 **M 28, L 3, 6 Shady Lane-** An appeals application of a pervious variance application that
74 was submitted by Debra Ann Trust for M 28, L 3, 6 Shady Lane that was requesting a
75 variance from Article II B, Section 3 ABC to allow construction of a dwelling on a pre-
76 existing undersized lot of records.

77
78 The Board agreed that the Notice of Decision didn't not contain adequate reasons on why
79 the application got denied.

80 The Board reviewed the abutters lists and the applicant has completed the entire
81 application and wrote a lengthy letter as to why they are requesting an appeal hearing.

82

83 **Motion**

84 Mr. Longchamps made a motion to accept the application for the rehearing of M 28, L 3,
85 6 Shady Lane submitted by Debra Ann Trust for M 28, L 3, 6 Shady Lane that was
86 requesting variance from Article II B, Section 3 ABC to allow construction of a dwelling
87 on a pre-existing undersized lot of records. Mr. True second the motion. Mr. Meisner
88 called the vote. All in favor. The motion passed. (4-0-0)

89

90 **Review of 12/27/2018 Minutes**

91 **Motion**

92 Mr. True made a motion to accept the 12/27/2018 minutes as amended. Mr. Longchamps
93 seconds the motion. Mr. Meisner called the voted. All in favor. The motion passed. (4-0-
94 0)

- 95
- 96 • Delete Line 17 and 18
- 97 • Line 24 add- **Mr. Meisner noted that the board has only 4 members and if the**
98 **applicants would like to continue, they can.**
- 99 • Line 25- spelling error change one in one half to one and a half
- 100 • Line 42 ending on North Road add Mr. Lavelle stated that they are in an
101 agreement for the 80' plus or minus 3 feet of frontage. Mr. True stated that the
102 200' ordinance is to prevent overcrowding and that having 80' of frontage on
103 North Road is not overcrowding.
- 104 • Line 47 after the motion passed (4-0-0) add Mr. Meisner read the 30 days appeal
105 rule.
- 106 • Line 54 after Steve Doherty Presents. Mr. Meisner noted that they are a 5-member
107 board with only 4 members present and if they would like to continue. Mr.
108 Lavelle stated yes.
- 109 • Line 66 delete after Mr. True stated- Mr. Meisner stated that they are a 5-member
110 board with only 4 members present. Mr. Meisner asked Mr. Lavelle if he would
111 like to continue with the presentation of the application or request a continuance
112 and wait for a full 5-member board? Mr. Lavelle stated he would like to continue
113 with the presentation before the 4-member board.
- 114 • Line 91 to Line 94 - Mr. Meisner voiced his concerns. He measured the size of the
115 house on the plans and it measured 1100 square feet and the flooding issues that
116 the members saw at the site walk. This is a 9,082 square lot and put a 1,100 roof
117 on top which can potential cause more ponding and flooding issues for the wells
118 of Map 28, Lot 7 and Map 28, Lot 8. Mr. Meisner also stated that Ridge Road is
119 not a public road and it is privately taken care of.

120 Mr. Lavelle mentioned that there are somethings they can add to the house to help
121 prevent any extra ponding and flooding issues. Mr. Lavelle mentioned they can put in
122 drip line trenches to help with the runoff and along with the raised septic will also help
123 with the run off. Mr. Lavelle answered Mr. True's concerns about the well-being so close
124 to the road. All the wells in the area are close to the road and because it is on a dirt road
125 the chances of anything getting into the well are slim. Mr. Lavelle noted that his applicant
126 doesn't want flooding on his property either and that his applicants is willing to do some
127 changes to help with the run off.

128 Mr. Doherty brought up to the Board that there is about a 15' berm that the water is
129 collecting in. Mr. Doherty mentioned that you can see where the water had once flowed
130 that it didn't cause any flooding to the surrounding properties and flowed right into the
131 pond. That berm is preventing the water from flowing down the natural path already there
132 and going into the surrounding areas. Mr. Doherty stated that if he removes that berm the
133 run off issue will be resolved and the water will go back to its natural flow and not affect
134 anyone's property.

- 135
- 136 • Mr. True discussed the ongoing situations with Philip's Pond, Showell Pond, and
137 Angle Pond being shut down due to the advisory warnings by the state for

- 138 dangerously high levels of Cyanobacteria/fecal bacteria. According to the state
139 DES, a main cause of these bacteria is overcrowding leading to excessive run off
140 into the lakes.
- 141 • The high levels of bacteria have shut down the town beach and the beach on
142 Angle Pond because these bacteria are very dangerous to pets, livestock, and
143 humans, causing seizures, damage to liver and kidneys, the nervous system, and
144 death. An effective way to fight the spread of these bacteria is to prevent the
145 overcrowding and over building around these lakes.
 - 146 • Mr. True then addressed the variance criteria.
 - 147 • Criteria #2- The spirit of the ordinance is observed. The ordinance exists to lessen
148 congestion and protecting people from fires, panic and other dangers.
149 Shady/Ridge road is a narrow road... 14ft. wide in places and if firetrucks
150 responding to a fire were on the road, no other vehicles could pass. Lemyjoma is
151 the other way to exit from the neighborhood and that road is even narrower and
152 you bottom out with a car even in the summer. Allowing more buildings would
153 jeopardize the health and safety of the residents.
 - 154 • Criteria#3- Substantial justice is done. The land in question was bought in
155 Dec2017. The buyer knew or should have known the lot did not meet Sandown
156 Zoning Ordinances. Therefore, I do not see that the town is taking away anyone's
157 rights. The land remains as it was bought... land too small to meet building per
158 Sandown Ordinances.
 - 159 • Criteria#4- Values of surrounding properties are not diminished. If we continue to
160 allow the overcrowding and allow more and more stress to put on Angle Pond the
161 values of the surrounding properties will go down if more and more excessive
162 nutrients enter the lake system and cyanobacteria attacks start to occur even more
163 frequently. More frequent cyanobacteria occurrences with more frequent shut
164 downs of the ponds will lower the property values of those around the ponds, and
165 if those values go down, the values of all town wide properties will be affected.
 - 166 • Criteria#5- Literal enforcement of the provisions of the ordinance would result in
167 unnecessary hardship. The land was bought, and it was known or should have
168 been known that it did not meet Sandown Zoning. It was bought on the chance a
169 variance would be granted. The purchase does not obligate me to grant a variance
170 of Sandown Zoning that exists to prevent overcrowding. The well does not meet
171 the 50-foot radius from the road. I believe the reason for the 50-foot radius is for
172 the health, safety, and welfare of the public.
 - 173 • I find the application fails the variance criteria of 2,3,4, and 5 and thus I can't
174 support the motion.
 - 175 • Mr. Meisner stated that the property was purchased with the knowledge of it was
176 unbuildable without a variance and it would have possible health and property
177 value on Map 28, Lot 7, Map 28, Lot 8 or other lots, failing on 2 criteria.
 - 178 •
 - 179 • Mr. Meisner mentioned that if the applicant and Mr. Lavelle would like to look at
180 a similar case to look up the court case Trotter vs. Lebanon case number 117
181 NH148.

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183

Correspondence

- 184 • **Letter from the Danville Zoning Board of Adjustments will hold a public**
185 **hearing on December 20,2018 at 7:30 p.m. in the Town Hall to discuss a**
186 **request for a special exception by CMS Sullivan, INC for the property**
187 **known as Brendan’s Way, tax map and lot 3-174-9. The request is to build an**
188 **accessory dwelling unit per Zoning Ordinance IV.A.4**

189

190 **Motion to Adjourn:**

191 Mr. True made a motion to adjourn. Mr. Ardolino second the motion. All in favor. The
192 motion passed. (4-0-0) Meeting ADJOURNED. 9:00p.m.

193

194 Respectfully Submitted,

195

196 Melyssa Tapley