

**TOWN OF CHESTERFIELD, NH
ZONING BOARD OF ADJUSTMENT**

**MINUTES
March 20, 2012**

Present: Chairman Burt Riendeau, John Perkowski, Harriet Davenport, Renee Fales, Alternate Lucky Evans and Selectmen's representative Elaine Levlocke

The Zoning Board of Adjustment met at the Chesterfield Town Office on March 20, 2012. Riendeau explained the process of the meeting.

1. Robert Allen & Robin Karlin request a Variance from Article 503.1 Expansion of a Non-Conforming Building to permit expansion on the second floor. The property is located on 4 Dompier Rd, Spofford (Map 5F Lot C1) Spofford Lake District. Continued from the February 17th site visit.

Board reviewed the new plans submitted to raise the roof 1 ft 10 in to accommodate the 3rd floor access door. The existing ridge is 23 ft 8 in and the proposed would be 25 ft 6 in. Allen advised there are several houses in the neighborhood that have been increased in height, some significantly. The cottage would remain seasonal.

The bridge would be 7 ft 10 in from the south side boundary line. Perkowski noted that the building and bridge bring the building coverage to 15.5%. Allen stated the existing stairs to the 3rd story would be removed if the bridge was granted. This is not depicted in the plans that were presented. With those stairs removed the bridge could be closer to the house and that would bring it approximately 12 ft from the side property line. The dormer would be 21 x 18 ft increasing the cubic ft by 1520 (this figure is noted on the submitted plot plan).

Fales moved to close the public portion. Davenport seconded the motion, which carried unanimously.

Fales stated they could put in stairs down along the ground to make access to the lot safer without building a bridge. It would be a better way to access and bring it out of the setback; they have alternatives. It was noted there are 3 exits from the building. The Board calculated the coverage. The lake front deck is 336 sq ft, the building footprint is 744 sq ft totaling 1,080 then the addition of the bridge brings it to 1,300 sq ft of building coverage. The parking area and walkways were not calculated.

Evans reviewed the criteria. There is too much development on this small lot. There are coverage issues, lake and side setback issues and expansion of a non-conforming building. There would be 1,300 sq ft on a lot that is 7,225 sq ft allowing 723 sq ft of building coverage, so they are 76% over what is allowed on building coverage. The lake is less than 20 ft from the deck.

Davenport noted that the holding tank is permitted for 3 bedrooms. The card notes 2 bedrooms. Ross advised it is because they had remodeled; however they are still approved for 3 bedrooms. It

was noted that a loft could be used as space for bedroom area with a ladder access. The Board noted that the houses on the south side are larger but the north and behind them had similarly sized houses.

The Board agreed that the application for the dormer expansion would be covered under Article 503.1; however, the bridge structure would be covered under Article 203.6b Section B, side setback. Fales made a motion with regard to both these articles to deny the expansion of the non-conforming building to expand on the 3rd floor and the addition of the bridge from the parking area.

Criteria for approval:

- *The variance is not contrary to the public interest. No, the building is within the lake and side setbacks and the ordinance prevents encroachment and creep onto other people's property lines and also prevents massing and too much density in the environment especially on Spofford Lake.*
- *The variance will not be contrary to the spirit and intent of the ordinance. No, the spirit of the ordinance is to not to expand and they would like to expand 75% over what is allowed for coverage.*
- *Substantial justice is done. No, the benefit to the applicant does not outweigh the benefit to the public.*
- *The variance will not diminish the values of surrounding properties. Yes, it might not affect the value of properties as you would not be able to see the bridge expansion from the lake.*
- *Literal enforcement of the ordinance would result in unnecessary hardship.*

(A) Because of the special conditions of the property that distinguish it from other properties in the area:

(a) There is no fair and substantial relationship between the general public purposes of the ordinance provision and the specific application of that provision to the property. No, other properties in the area to the north and behind are of similar size. There is an issue with topography where there is a steep drop off to the lake and that is why the cottage is built so close to the lake

And

(b) The proposed use is a reasonable one. No, he has the reasonable use of the cottage as a 3 bedroom cottage on the lake.

Perkowski seconded the motion, which carried unanimously.

2. Gary & Ellen Cota request a variance of Article 503.1, Expansion of a non-conforming structure to permit increasing the pitch of the roof and expanding the footprint by 450 sq ft. The property is located at 1011 Route 9, Chesterfield (Map 4B Lot A26) Residential zone. This application is continued from February 14th.

There was clarification that this was never a home business but a grandfathered commercial use that was started in 1951 by a resident on the property. The Board reviewed the history of the property supplied by Ross. She advised that she had contacted an LGC attorney and was told this is an grandfathered non-conforming use and does not require the resident on the property to also own the business.

Cota advised he would like the roof expansion to increase the pitch. He would like the addition of 530 sq ft in the rear of the building to accommodate larger items i.e. furniture to be displayed. Fales asked if Cota had checked with the state regarding the entrances onto the site. He stated he hadn't

but he would like to increase the parking by going into the hill and keep the existing parking for a drive through area.

The building is on cement blocks and he proposes using sonar tubes with insulation.

Cota stated that if he had to leave the building as is it would limit him to do what he'd like to there to create an upscale venture. He is trying to draw high quality artisans. He stated it comes down to keeping it the way it is or he can improve it.

Fales moved to close the public portion. Evans seconded the motion, which carried unanimously.

Riendeau stated that the entire building is within the front setback and is totally non-conforming. He does not see the hardship to expand this building. The use is grandfathered; but the building is in the front setback. He is not as concerned with the roof pitch increase.

Perkowski stated that 15 years ago the State took land to expand Route 9. The State created a part of the hardship. Cota stated if he can only expand 25% it may not be worth changing the roof. The proposal is an increase of 40% in the size of the building. It was noted that he could expand the building if it were outside the setback area.

Riendeau stated the intensity of use would increase. The proposed parking increase is still in the non-conforming part of the lot. He noted that the Board required that Aldrich put his parking back 50 ft from the road for his farm stand. Riendeau stated that whenever you have the opportunity you should make the property more conforming, not less.

Perkowski noted the hodgepodge of zoning along Route 9. He stated he is okay with the raising of the roof but not expanding in the back. The Board discussed if this would be required to go to the Planning Board. Fales noted that changes and increases are required according to the Land Development Regulations. It was noted that raising the roof minimally would not require a site plan review.

Perkowski made a motion noting that after the review of the application it appears the entire building is within the front setback and therefore square footage expansion is not allowed. However, we would allow repair and raising the roof by 3 ft as proposed to better handle the snow load and give a little more vertical space inside the building.

Criteria for approval:

- *The variance is not contrary to the public interest. No, the ordinance restricts activity too close to the road.*
- *The variance will not be contrary to the spirit and intent of the ordinance. No, it would jeopardize the safety of the public.*
- *Substantial justice is done. No, it is the same as when he bought the property. His benefit does not outweigh the benefit to the public.*
- *The variance will not diminish the values of surrounding properties. Yes, it might not affect the value of properties either way.*
- *Literal enforcement of the ordinance would result in unnecessary hardship.*

(A) Because of the special conditions of the property that distinguish it from other properties in the area:

(a) There is no fair and substantial relationship between the general public purposes of the ordinance provision and the specific application of that provision to the property. No, there is no hardship as the building has been in use for 60+ years and it can continue to be used.

And

(b) The proposed use is a reasonable one. No, he has the reasonable use as it is now.

Fales seconded the motion, which carried unanimously.

3. Review Meeting Minutes

- **February 14, 2012 & February 17, 2012 Site Visit** – *Perkowski move to accept the minutes as presented. Fales seconded the motion, which carried.*

4. Other

- **Letter of interest from Kristen McKeon to become a member** – Levlocke advised that McKeon had submitted a letter of interest to become a member of the Zoning Board. The Board was agreeable to the appointment.
- **Tree cutting ordinance** – Davenport advised that the Spofford Lake Education Comm will be meeting Thursday, March 22nd. The Comm had requested input from the ZBA. These items were noted: 1) the minimum tree diameter should be listed so there is clarity on what could be cut without a permit. 2) Can you limb without a permit? 3) Are bushes included?

It was noted that the ordinance would help give Chet some authority. It would also bring attention to what is allowed on the Lake or the River.

- **Impact fees** – Perkowski asked if there is movement towards implementing impact fees. Ross noted that the Planning Board has been looking into it. There is much to do before it can be implemented.

5. Adjourn: The meeting adjourned at 11:00 pm.

Respectfully submitted,
Carol Ross
Secretary

Approved

Burton Riendeau
Chairman, Zoning Board of Adjustment
Date _____