

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

**MINUTES
April 10, 2012**

Present: Chairman Burt Riendeau, Harriet Davenport, Renee Fales, Andy Cay and Alternate Kristin McKeon.

The Zoning Board of Adjustment met at the Chesterfield Town Office on April 10, 2012. Riendeau explained the process of the meeting.

1. Susan McLachlan requests a variance from Articles 204.5 Section A, Front Setback and 503.1 Expanding a non-conforming building to permit a fire escape and recreational deck from the 2nd floor bedroom. The property is located at 193 Mountain Rd, W Chesterfield (Map 25 Lot A19) Rural/Agricultural District

McLachlan advised she had purchased the property this year. It is one of the original cottages on Mountain Rd. The windows on the 2nd floor are very small. She proposes to build a deck with access from the master bedroom to improve the egress. She advised there would be no impact to any abutter. The house is up against a hill so the deck would not be impacting the neighborhood.

McKeon stated that the egress could be improved by installing windows that were up to code.

The house is 36 ft from the road. She would put a door in the master bedroom on the north side of the house. The house is in the front setback except for 6 ft. The proposed deck is 2 ft back from the front of the house. Phil Howe, the builder, advised that the deck with stairs would go 4 ft beyond the rear side of the house. It was noted that 96 sq ft would be within the front setback.

There will not be anything under the deck. The house is accessed on the south side with the driveway entrance. Two lots have deeded ROW over her driveway.

Riendeau noted that the setback is measured from the front property line and not the road. Howe stated they could not find pins and McLachlan thought the property line was at the road. Howe advised the road had been moved closer to the house due to flood damage years ago.

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

It was noted that relief would be given for the portion of the deck that is within the front setback (8 x 12ft); the remainder of the deck and the stairway are conforming.

Cay stated this is a small impact and a reasonable request. Giving relief for 96 sq ft is not excessive and has minimal impact. McKeon asked how this could be approved using the ordinances. Cay stated it would be a reasonable use; is the scope of what they are asking for reasonable with a minimal request. Davenport stated it is a reasonable size and not a grandiose design.

Fales moved to grant the request of Susan McLachlan to add an 8 x 16 deck on the north side of the house with a stairway.

Criteria for approval:

- *The variance is not contrary to the public interest. **Yes, they are encroaching into the front setback but it is not an excessive encroachment.***
 - *The variance will not be contrary to the spirit and intent of the ordinance. **Yes, there is no threat to the public safety and gives them a safe egress from the second floor of the house in the event of a fire.***
 - *Substantial justice is done. **Yes, there is no harm to the general public or other individuals by adding this deck. Because of the topography it will not be readily seen by neighbors.***
 - *The variance will not diminish the values of surrounding properties. **Yes***
 - *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. **Yes***

And

*(b) The proposed use is a reasonable one. **Yes***

Cay seconded the motion, which carried unanimously.

2. Nina Foster requests a Variance from Article 203.5 Section B to permit a driveway within the 20 foot side setback. The property is located on Maple Rd, Spofford (Map 11B Lot A17) Residential district

Jeffrey Foster was present to present the request. Foster stated there is an existing driveway that has been used for many years to access the lot. The frontage on Maple Rd is 34.47 ft. This is an 8 .7 acre lot that has been in the family for many years. He stated that the bank is being careful to approve the loan without a variance. The Board reviewed abutter John Sexton's letter supporting the application.

Foster stated he had thought the Mulligan Rd easement noted on the Elsie Foster Plan of Land went through this lot; however it goes up Nina's driveway and goes into Route 9A.

Foster advised that they could conform from the Sexton property that is south/west of the lot. The existing driveway is close to the pin on Foster's property north of the lot in question. He showed pictures of the existing entrance.

Foster stated there is a natural spring that is by the property. The driveway entrance is on a dry area as it pitches up hill. Sucker Brook is near the Sexton property line. Joan Cook, abutter, advised that Sucker Brook is a protected brook. Article 209.1 was reviewed. Sucker Brook is not listed as one of the protected streams. Foster stated there are no signs noting it is a protected brook.

Foster stated the lot had once been used as a gravel pit many years ago. He uses the existing driveway to access the property where he stores his boat.

Cook stated her only concern is that the driveway would be too close to the brook. Foster stated that Bevis has looked at the location and stated it was a very safe entrance to the lot. McKeon asked if they could access the lot off Nina’s driveway. Foster stated he was concerned that if they shared a driveway he would have to have the property resurveyed.

Fales stated if at all possible it should have its own driveway in the event the properties were sold and then there may be problems. Riendeau stated it makes sense to have it separate if possible.

Foster showed a picture of the entrance. It was noted that the brook is approximately 25 ft away from the existing driveway. The brook is actually on the Sexton lot.

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

Fales stated that the driveway is already there and the Fosters are just getting their ducks in a row. McKeon stated the driveway is existing as the picture shows. Why would it be necessary to get a variance? Cay stated a variance would be on record for the property.

Fales noted that this was the only point of access to the lot.

Fales moved to grant the variance for Nina Foster to install a driveway within the 20 ft side setback of the property line.

Criteria for approval:

- *The variance is not contrary to the public interest. Yes*
- *The variance will not be contrary to the spirit and intent of the ordinance. Yes, there is a driveway there and had previous use on the property of a horse barn; looking at the property we can see there is a driveway there.*
- *Substantial justice is done. Yes, there is no harm to the public or other individuals.*
- *The variance will not diminish the values of surrounding properties. Yes, as the driveway has existed for a very long time.*
- *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. Yes, there is no other way to access the property except at this one point on Maple Rd.

And

(b) The proposed use is a reasonable one. Yes

The motion was seconded and carried unanimously.

3. Review March 20, 2012 Meeting Minutes

Davenport moved to approve the amended minutes. Fales seconded the motion, which carried. (Voting were Riendeau, Davenport and Fales)

4. Other

The Board reviewed Gary Cota’s request for a rehearing. His application had been denied at the March 20, 2012 meeting. Davenport, Riendeau and Fales had voted on this application. Zoning Ordinance Article 606 Hearings and Appeals was reviewed.

Riendeau stated the Board looked at this application request pretty hard the last time. It was noted that the Board had reviewed/discussed the application for 2 months. He stated that this is not the building to be expanding.

Davenport stated that Cota’s argument to expand because he would have larger pieces of art that would require more space.

Riendeau moved to deny the rehearing request based on the lack of any new information that wasn’t already considered during the first decision process.

Fales seconded the motion.

Board discussion – Riendeau stated this is a fully non-conforming building with a non-conforming use. Bringing more vehicles to access the lot would not be safe. There is not sufficient parking. There is no reason to increase the size of the building.

The vote was called. The motion carried unanimously. (Voting: Riendeau, Fales, Davenport and Cay)

5. Adjourn: The meeting adjourned at 8:55 pm.

Respectfully submitted,
Carol Ross
Secretary

Approved

Burton Riendeau
Chairman, Zoning Board of Adjustment
Date_____