

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

**MINUTES
June 9, 2015**

Present: Vice Chairman Harriet Davenport, Lucky Evans, Renee Fales, John Perkowski, Alternates Kristin McKeon and Roland Vollbehr

Absent: Burt Riendeau

Also in attendance were Selectmen Jon McKeon and Jim Larkin.

The Zoning Board of Adjustment met at the Chesterfield Town Office on June 9, 2015. Davenport opened the meeting at 7:32 p.m. and explained the process of the meeting.

Robert J. Kasper, Jr., Attorney for Beach Revocable Trust requests a Special Exception from Article II, Section 207.4c and RSA 674:41 I (d) shared driveway for Lots 8-A-4 and 8-A-6 off Forest Avenue. The property is located at Forest Avenue, Spofford, NH 03462 (Map 8 Lot A4 and Map 8 Lot A6) Rural/Agricultural District.
(Continued from March 17, 2015)

Present: Attorney Robert J. Kasper, Jr.

Voting on this application will be Davenport, Evans, Fales, McKeon and Perkowski.

Kasper presented a letter to the board advising them that his clients, Bruce K. Beach and Dawn H. Beach, request that their application be put on hold without prejudice to pursue the matters raised in the application in the future. The applicants also request the board to allow Kasper to contact the board's attorney, H. Bernard Waugh, to discuss this matter. The applicants have agreed to pay for any fees incurred by the Town of Chesterfield as a result of that contact with Attorney Waugh.

Kasper noted that it has been difficult for him to present this matter to the board without the attorney present. He added that the attorney would not talk with Kasper regarding this application because he has not been given authority by the board to do so.

Davenport stated that this issue should possibly be address at the Selectboard or the Planning Board level. McKeon noted that it would apply if it required a building permit.

McKeon moved to accept the letter from Attorney Kasper for his clients. McKeon moved to authorize Attorney Waugh to talk to Attorney Kasper. Fales seconded the motion.

Discussion: McKeon had concerns of Kasper having discussions with Waugh without the board being present versus having the attorney attend the next board meeting, whereby the board would be privy to any conversation between the attorneys. Perkowski stated that there should not be discussions on issues that the board will have to be making decisions. McKeon suggested having Attorney Waugh attend the next meeting on this subject. Resident Jeff Scott stated that he had concerns with the town attorney having discussions with Kasper without the zoning board

members being present. Evans stated that it is not appropriate for the board to allow this process of discussions between attorneys on the procedures of this matter.

Perkowski noted that the board should speak with the board's attorney for his opinion as to whether the discussions between attorneys are appropriate and if he feels that it is appropriate, the board would need to be involved in the discussion. Perkowski would like the board's attorney to advise how to proceed.

The vote was called. Yes – 1 No – 4
The motion was denied by majority vote.

Perkowski moved to consult with the attorney, that is representing the town in this matter, to get his take on this and to respond to the applicant once we have adequate information.

Fales moved to add an amendment in that the applicant not be charged again for the application on this issue. Perkowski seconded the amendment.

The vote was called on the amendment.
The motion passed unanimously.
The vote was called on the motion.
The motion passed unanimously.

John Koopmann asked if the abutters would be notified if there are any changes of the procedures. Davenport responded that abutters would be notified only if there was a new application or new hearing. Davenport added that the board has not given the board's attorney authorization to meet with Kasper.

Kenneth & Karen Siedler request a Variance from Article II Section 203.4C and Section 203.6b B to permit a 100 sq. ft. intrusion into the right setback and 230 sq. ft. excess lot coverage. The property is located at 71 North Shore Road, Spofford, NH 03462 (Map 5C Lot B11) Spofford Lake District.

Present: Kenneth & Karen Siedler
Voting on this application will be Davenport, Evans, Fales, Perkowski and Vollbehr.

Kenneth Siedler presented his application, proposing the net variance of 100 sq. ft. of intrusion into the right setback. The purpose for the variance is to save the hemlock tree on the corner. He stated that the other reason is to have an additional area on the driveway, up to the back of the house, for a minimum area of 15x18 ft. for parking the car at the lower area. The existing area starts inside the left setback and aligns its way to the back of the house. The overall objective is to allow Siedler to build an 18x14 ft. addition on the right side of the house and have room within the 10% limitation for a garage, at some point in the future.

The existing coverage is at 22.06% of the lot. The building coverage is 6.75% and the existing driveway is 15.31%. The total coverage is 4,467 sq. ft. that equals 22% coverage. The 6% coverage for the building is well within the 10% that is allowed. The proposal is that it keeps the

buildings, with the addition and the garage, within 10% of the total lot size and it reduces the size of the driveway. The total coverage will be less, as a result of the request for a variance, than it is at this time. The proposed house and garage addition is 2,021 sq. ft. and the proposed driveway is 2,259 sq. ft, which is 11.16%. The total is 21.13%, which is 1.13% over the allowable 20%. The board noted that substantial completion of any construction work involved with the variance must be completed within 2 years of the time of variance authorization or such variance will lapse, unless an extension has been previously requested.

Siedler noted that he is putting on an addition to the house, which will be two stories with a cable roof at a height of 21 ft. He stated that all of the patios have been included in the coverage and the shed will be removed.

Davenport noted that the changes, including the driveway, would make the lot less non-conforming and it doesn't seem to be an unreasonable request.

Perkowski moved to close the public portion. The motion was seconded by Evans, which passed unanimously.

Perkowski noted that the parking area under the deck should be timbered that will block access to parking in that area. Evans stated that the new driveway would not be covering the septic system. Vollbehr noted that this application fits the town spirit of the zoning.

Fales moved to approve the variance for Kenneth and Karen Siedler from Article II Section 203.4C and Section 203.6b to permit a 100 sq. ft. intrusion into the right setback and 230 sq. ft. excess lot coverage of impermeable surface.

Criteria for approval:

1. The variance is not contrary to the public interest. **Yes, because he is reducing coverage by a small percentage and is taking the existing driveway, currently in the left side setback and keeping most of it out of the right side setback.**
2. The spirit of the ordinance is observed. **Yes, the variance will not be contracted to the spirit and intent of the ordinance by going into the side setback and he is preserving a large hemlock tree and they are taking the driveway out of the left setback.**
3. Substantial justice is done. **Yes, it will give them a better access and allow them to build a garage and an addition to their house to give them better living area.**
4. The values of surrounding properties are not diminished. **Yes, they will be saving a large hemlock tree and taking the existing driveway out of the left side setback.**
5. Literal enforcement of the ordinance would result in unnecessary hardship.

Because of 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. **They are reducing their intrusion into the setbacks and going into the right setback and preserving a large tree in doing so.**
- (b) The proposed use is a reasonable one. **As the overall coverage is reduced in the property.**

Fales made an amendment to the proposed parking area of 18x15 ft. to be boarded to prevent parking beyond the parking area. Perkowski seconded the motion.

The vote was called on the amendment.
The motion passed unanimously on the amendment.

The vote was called on the motion.
The motion passed unanimously.

Review March 17, 2015 and April 14, 2015 Meeting Minutes

Voting on the March 17 meeting minutes were Evans, McKeon and Vollbehr.
McKeon moved to accept the meeting minutes of the March 17, 2015. The motion was seconded by Evans, which passed unanimously.

Voting on the April 14 meeting minutes were Davenport, Evans, Fales and McKeon.
Evans moved to accept the meeting minutes of April 14, 2015. The motion was seconded by McKeon, which passed unanimously.

Review Meeting Minutes

- **March 17, 2015** – *Vollbehr moved to approve the meeting minutes. Evans seconded the motion which passed unanimously.*
- **April 14, 2015** - *Fales moved to approve the meeting minutes. McKeon seconded the motion which passed unanimously.*

Other Business

The next meeting will be scheduled for July 14, 2015.

Adjourn: *Perkowski made a motion to adjourn the meeting. Vollbehr seconded the motion, which carried unanimously. The meeting adjourned at 8:57 p.m.*

Respectfully submitted,
Patricia Grace
Secretary

Approved

Harriet Davenport
Vice Chairman, Zoning Board of Adjustment

Date _____