

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

**MINUTES  
November 10, 2015**

**Present:** Chairman Burt Riendeau, Harriet Davenport, Lucky Evans, and Alternates Kristin McKeon and Roland Vollbehr

**Absent:** Renee Fales and John Perkowski

The Zoning Board of Adjustment met at the Chesterfield Town Office on November 10, 2015. Riendeau opened the meeting at 7:35 p.m. and explained the process of the meeting. Vollbehr will be voting on the applications at this meeting in place of John Perkowski and McKeon will be voting on the applications at this meeting in place of Rene Fales.

**Jonathan Andresen** requests a Variance from Article II Section 203.6b (B) and 503.1 of the zoning ordinance to permit the raising of the front second floor and extending the width of the dormer. The building is non-conforming in setbacks. The property is located at 864 Route 63, Spofford, NH 03462 (Map 5B Lot A8) Spofford Lake District

Riendeau noted that the abutters have been renoticed because Section 503.1 has been added to the original application for the October 13, 2015 meeting.

Andresen plans to extent the second floor to the full width of the building. He will replace the two windows to four windows. The roofline will remain exactly the same. He will not be raising the roof and the peak line is staying the same. The two bedrooms in the front of the building are 10 ft. wide. The front portion of the building is in the front setback and the building is located 37 feet from the edge of the road. The narrow lot is on an angle and the house sets square on the lot putting the house in the side setbacks. Andresen will put on a metal roof and siding at the same time he extends the frontage on the upstairs of the building.

Riendeau stated that the board considered what is unique with this building. Davenport noted that hardship is in the land because this is a small lot and he is not asking to expand beyond the existing footprint, making more use of the space that is already exists. McKeon stated that the gross square footage is 1,354 with the living area of 554 on the first and second floor. Vollbehr noted that the house is approx. 800 square feet and the lot size is 7,675 square feet with the house taking up less than 11% of lot coverage. The house was built in 1890. There will be an increase of approximately 160 cubic feet in the house.

*McKeon moved to close the public portion. Davenport seconded the motion which passed unanimously.*

Discussion: McKeon noted that the footprint is not changing in this application and the overall height is staying the same. The hardship speaks to the age of the house and there were no

regulations when the house was built. Davenport stated that there was no road in front of the house when it was built. McKeon stated that the windows could be made egress. *Evans moved to open the meeting to the public. Vollbehr seconded the motion, which passed unanimously.*

Andresen noted that the bedroom on the back side of the house has a full size window already. McKeon stated that the front windows could be made egress if the applicant combined the windows and install the windows sideways.

*McKeon moved to close the public portion. Davenport seconded the motion, which passed unanimously.*

Riendeau stated that an egress size window is 5.7 square feet.

*McKeon moved to approve the variance for Jonathan Andresen for Article II Section 203.6b (B) and 503.1, as applied for where the expansion is that the dormer size is very specific and the roof line does not go up at all, it keeps the same pitch and length with the dormer being three (3) feet tall and it extends to twenty (20) feet across the front and it does not raise the height of the building at all. The motion was seconded by Evans.*

*Criteria for approval:*

- 1. The variance is not contrary to the public interest. Yes*
- 2. The spirit of the ordinance is observed. Yes*
- 3. Substantial justice is done. Yes*
- 4. The variance will not diminish the values of surrounding properties. Yes*
- 5. 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. It would help to make the second floor safer with egress.*

*The vote was called. The motion passed unanimously.*

**Charles A. Donahue Revocable Trust** requests a Variance from Article II Section 203.4 (A), 203.4 (B), 203.4 (C), 203.6b (A), 203.6b (B) and 503.1 of the zoning ordinance to permit the renovation of and minor expansion of an existing dwelling located on an existing non-conforming lot. This property is located at 41 South Shore Road, Spofford, NH 03462 (Map 5A Lot B10) Spofford Lake District

Michael Petrovick, Architect represented Charles A. Donahue Revocable Trust for this application. Section 503.1 was not listed on the original application for the October 13, 2015

meeting, therefore, all abutters to this property were renoticed. A site visit took place on October 17, 2015 by the Zoning Board members, Davenport, Evans, Perkowski and Vollbehr.

Petrovick provided dimensions for calculating the increase of work being proposed. Petrovick stated that this is a two-bedroom cottage and has an existing porch on the second floor and is unsafe and falling into disrepair. It is nearly impossible for making part of the living space to use it the way it is. There is also a second floor deck that will be removed and put in a new gabled roof on to unify the roof line and make that porch part of the living space. Petrovick also proposed to remove a set of stairs that come out onto the road and fill in that part of the deck. He proposed adding a covered porch roof over the deck along the east side of the house along the driveway. Davenport noted that during the site visit, it appeared that two small rooms were made into one larger room.

Evans stated that, during the site visit, it appeared that there was more impermeable coverage on the lot than what is permeable. Petrovick stated that the applicant is not changing any of the permeable or impermeable coverage. McKeon stated that the driveway was paved without coming to the ZBA and the applicant is asking for more impermeable coverage.

Evans noted that the proposed changes would send most of the rain runoff to go straight into the lake and not go into the ground.

Petrovick stated that the roof line is going up 3 feet by 32 feet front to back with a 6 inch pitch on the roof.

During the site visit, the concrete foundation on the front of the house measured 28-1/2 feet, 5-1/2 feet from the Old New England Village property pin to the right corner of the foundation and the left front foundation corner across 12 foot tarred driveway to a pin measured 18-1/2 feet. Petrovick noted that the side setbacks overlap each other. There will be 960 cubic feet increase in the proposed application.

Riendeau stated that the applicant hasn't taken any consideration of the expansion of the porch or roofs. Petrovick stated that he calculated total roof footprint at 1,470 square feet including the front porch. The calculated old roof measures 1,096 with a total increase of 374 square feet for the front and side.

*McKeon moved to close the public portion. Vollbehr seconded the motion, which passed unanimously.*

**Discussion:** McKeon stated that there is no hardship issue because there is nothing keeping the applicant from fixing the decks or the porches or using the interior space that they have and they are encroaching everywhere. The changes on the tax cards didn't match up with any of the permits on file and one of them is the paving of the driveway, which should have come before the ZBA, based on the amount of coverage they already had. That alone put the applicant over the 20%.

Evans stated that the runoff of water can affect the water table and can run sideways as well as downhill. Vollbehr noted that the runoff will send water to the neighbor's property. Evans added that the request doesn't fit the lot size that creates a more impermeable situation.

Riendeau stated that the board needs to focus on the expansion size and as soon as you put a roof over the top of the deck, that becomes the expansion of that building and the impermeable coverage changes. In this application, they are asking to put porches on two sides and one being close to the street. The 3 foot height expansion is a problem that we can't give relief to and this property is already maxed out and the whole thing is a nonconforming lot. The applicant has not tried to cut any corners to compromise.

McKeon noted that the application listed substantial justice is done because the proposed work seeks to correct potential safety issues and they have spoke of items that have fallen into disrepair, i.e. stairs, porches, decks and that is a maintenance issue and not a hardship. It is not the scope of the board to correct maintenance issues.

Vollbehr noted that the applicant had safety issues because of the power line and they can easily divert the power line in another manner. McKeon added that increasing the height to 960 cubic feet is outside of approving this variance. Evans stated that increasing the impermeable coverage will created more runoff into the lake.

*McKeon moved to deny the request for variance from Charles A. Donahue Revocable Trust from Article II Section 203.4 (A)(B)&(C) and 203.6 and 503.1 referring to plans submitted. Vollbehr seconded the motion.*

*Criteria for approval:*

- 1. The variance is not contrary to the public interest. **No, the water runoff is going to create more water runoff into the lake.***
- 2. The spirit of the ordinance is observed. **No, it is intended from within what they have and this property has already been maxed out.***
- 3. Substantial justice is done. **No, the benefit to the applicant should not be outweighed by harm to the general public or to other individuals.***
- 4. The variance will not diminish the values of surrounding properties. **No, the applicant can already use the building and any maintenance issues can be addressed.***
- 5. Literal enforcement of the ordinance would result in unnecessary hardship. 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***  
**And**  
(b)*The proposed use is a reasonable one. **No****

*The vote was called. The motion passed unanimously.*

**Mildred E. Green** requests a Variance from Article II Section 203.6b (B) of the zoning ordinance to permit the installation of a generator. The property is located at 43 Echo Cove Way, Spofford, NH 03462 (Map 5J Lot A13) Spofford Lake District.

Present: Mildred E. Green and Nathan Day, Power's Generator representative

Mildred Green stated that the generator has not been installed yet. Evans stated that generators must be at least five (5) feet away from windows and doorways if they are not UL listed. Nathan Day stated that the choice of proposed site was because there are no windows on that side and is further from the living space and it will be next to the garage. He added that it wasn't proposed to be in the back of the lot because of existing landscaping. Green noted that it was suggested that the tank be at this location because it is within ten (10) feet of where the gas line runs underground and is five (5) feet away from the building. The gas line will supply the generator and the house. The gas line for the generator will be set up from where the regulator is set up in the "L" cove for the house.

Day noted that there will be concrete pavers with pressure treated lumber surrounding the generator pad. The generator is approximately 3x4 feet. The generator will be within fifty (50) feet from the road and will set just inside the setback.

*Evans moved to close the public portion. Davenport seconded the motion, which passed unanimously.*

Discussion: Evans stated that the area is the best for sound and safety and is the most reasonable proposal and the gas line is not too far from the tanks and direct to the electric lines. Vollbehr noted that the generator site is approximately ten (10) feet from the driveway and will allow access to the generator. McKeon noted that the generator site is away from the lake side.

*Vollbehr moved to approve the application by Mildred Green for the installation of a backup generator, as proposed for a Variance from Article II Section 203.6b (B) of the zoning ordinance for a generator having a twelve (12) square ft. footprint. The motion was seconded by Davenport, which passed unanimously.*

## **Review Meeting Minutes**

- **October 13, 2015 & October 17, 2015** – *Vollbehr moved to approve the meeting minutes of the October 13 and October 17 meetings as presented. McKeon seconded the motion which passed unanimously.*

## **Other Business**

Riendeau noted that McKeon was putting together some dialog for the Planning Board for the driveway permit of addressing multiple side setbacks. McKeon will get the draft to Grace by the end of the week to distribute to the board for their review. Selectboard representative, Jon McKeon, noted that the last public hearing for ordinance changes is the end of January.

Riendeau indicated that the Beach property now has a tarred driveway from Forest Avenue all the way to the adjacent lot. A driveway permit was issued on August 26 to the owner to put a driveway for one lot only on Forest Ave. Riendeau stated that he questions the amount of road frontage required for this driveway to be allowed and how attorneys can determine how the Zoning Board of Adjustment of what would be allowed. He would like to have the board decide

what the spirit and intent is for this ordinance. On August 14 Zoning Board of Adjustment decided to send the decision back to the Board of Selectmen on this application.

Jon McKeon stated that there has been a cease and desist order that is being processed on that driveway. The Board of Selectmen is waiting for an opinion from legal counsel on the process. The Board of Selectmen decided not to approve the appeal at a meeting early this evening. An abutter may be coming forward to appeal, if there is time allowed. Kristin McKeon stated that if there is no public access to the permit that there is no reasonable way that a permit had been granted, then the abutter may be relieved from some of those conditions. Jon McKeon stated that there is no notification to abutters for driveway permits.

Riendeau would like clarity put into the ordinance as to whether the frontage of a driveway may cross the front setback or should it say shall cross the front setback, with the only exception to that is being on a corner lot. Then the corner lot should specify what the requirements should be. A driveway permit means that there will be a building permit. This applicant had indicated that there will be not building permit requested. Riendeau stated that Attorney Waugh noted that a driveway permit is in conjunction with a building permit. Riendeau noted that the applicant of this driveway did not request a variance for a driveway and this process needs to be set for recording purposes.

Jon McKeon stated that Planning Board and Zoning Board of Adjustment Notices of Decision and the meeting minutes for the Notice of Decision must be provided to the code enforcement officer.

Jon McKeon reminded the members of the ZBA that the Right-To-Know Law seminar is scheduled for December 3 at the Town Offices. He also requested that any Zoning change requests need to be forwarded to the Planning Board. He also noted that John Perkowski will be resigning his seat on the ZBA at the end of his term in 2016 and the Board of Selectmen has moved to have Kristin McKeon from ZBA alternate to full board member seat at the end of Perkowski's term.

Vollbehr stated that he shares the Zoning Board issues with the Planning Board when the issues pertain to what the Planning Board are discussing.

**Adjourn:** *Vollbehr made a motion to adjourn the meeting. McKeon seconded the motion, which carried unanimously.* The meeting adjourned at 9:39 p.m.

Respectfully submitted,  
Patricia Grace  
Secretary

Approved

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Burt Riendeau  
Chairman, Zoning Board of Adjustment

Date\_\_\_\_\_