

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

**MINUTES  
October 11, 2016**

**Present:** Chairman Burt Riendeau, Harriet Davenport, Renee Fales, Kristin McKeon, Alternate Christopher Oot and Selectboard Representative Norman VanCor

**Absent:** Lucky Evans and Alternate Roland Vollbehr

Riendeau opened the meeting at 7:32 p.m. and explained the process of the meeting.

**Hearings:**

**Steven & Karen Sebastian** request a Variance from Article II Section 204.4 (A) of the zoning ordinance to permit a side lot line adjustment between two lots that will result in Lot #2B A5 with the existing house having plus or minus 10.57 acres and Lot #2B A6 with the existing house having plus or minus 2.08 acres, each lot is presently nonconforming. The properties are located at 392 & 402 Streeter Hill Road, West Chesterfield, NH 03446 (Map 2B Lot A5 & Map 2B Lot A6) Rural/Agricultural District. (This application was deferred from the meeting of September 13, 2016.)

Present: Steven & Karen Sebastian

The Sebastians own lots 2B-A5 and 2B-A6 whereby they requested approval for a side lot line adjustment to have plus or minus 10.57 acres for 2B-A5 and the 2B-A6 property having plus or minus 2.08 acres, both being nonconforming lots in the rural/agricultural district. Steven Sebastian wants to insure that they are able to rely on the ability to receive solar gain for the solar panels on their home. He also would like to maintain open space for wildlife habitat. McKeon suggested that they consider doing a conservation easement to prevent development. Sebastian also requested that the house on 2B-A6 not be allowed to be used as a 2-family home. Riendeau noted that there is a state regulation that is allowing homeowners to have permitted 2-family dwellings that will pass in 2017.

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

Davenport stated that the lot line adjustment would allow them to keep the rural character of their property. Fales noted that not allowing a 2-family home at the 2B A6 property would be a mute point for this application. Oot stated that towns will have provisions to allow 2-family dwellings in June 2017 and both lots could have an additional dwelling. Riendeau noted that the ZBA tries to bring properties into more conforming lots. Riendeau added that making one lot less useable is not in the spirit and intent of the ordinance.

*McKeon moved to approved the request of Steven and Karen Sebastian for a variance from Article II Section 204.4 (A) of the zoning ordinance to permit a lot line adjustment of the two lots owned by the Sebastians in the R/A zone referring to lot 2B-A5 of 10.57 acres and lot 2B-A6 of 2.08 acres as presented on their site plans dated August 12, 2016 based on their reasons on their application and their presentation. Davenport seconded the motion.*

Discussion: Riendeau noted that the board is granting them a variance by allowing them two nonconforming lots, based on the proposal. They are still required to go to the Planning Board for a lot line adjustment. The applicants had consultation with the Planning Board, whereby they were told to request a variance for the nonconforming lots.

Riendeau stated that granting of the variance is only for the granting of the two proposed lots and it is up to the Planning Board to decide where the lines will be.

*McKeon moved to amend the motion in that the actual lot line adjustment is contingent upon Planning Board approval. Fales seconded the amendment.*

Criteria for approval:

1. The variance is not contrary to the public interest. **Yes. The request does not conflict with the explicate ordinance or alter the neighborhood. Due to the fact that there is already a house on both properties, the applicants are not impacting the concentration of houses in the R/A district.**
2. The spirit of the ordinance is observed. **Yes. It does not alter the character of the neighborhood and there is no threat to public health, safety or welfare. There is no housing impact.**
3. Substantial justice is done. **Yes. The benefit to the applicants are not outweighed to the general public or any other individuals because it does not give them any advantage; there are already two houses. This is just shifting the lot lines. It does not give the ability to put in extra housing by doing the lot line adjustment and doesn't compact the concentration of housing.**
4. The variance will not diminish the values of surrounding properties. **They are not diminished. The houses on the north side of this property are long termed enhanced because if the fields stay open, the view stays open. It could improve the value of the houses above them.**
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. **The relationship between the general public and this ordinance is not to continue a greater concentration of houses in the R/A district and encourages more open land. This specific application has the potential to provide more open land because it creates more than a 10 acre lot.**  
**And**
  - (b) The proposed use is a reasonable one. **Yes. It is reasonable to want to bring back agricultural land, which is being lost at a fast pace. This allows that to be done and makes it a reasonable use. It does not impact the house that is losing acreage. The applicant is increasing the ability to use the land in a way that is being encouraged to be used in the R/A district.**

The vote was called on the amendment: Davenport – Yes; Fales – Yes; McKeon – Yes; Oot – Yes; Riendeau – Yes

The motion to the amendment passed unanimously.

The vote was called on the motion to accept the application:  
Davenport – Yes; Fales – No; McKeon – Yes; Oot – Yes; Riendeau - No  
The motion passed by majority vote.

**Deborah Metivier** requests a Variance from Article II Section 203.6b (B) the zoning ordinance to permit the construction of a 384 sq. ft. finished addition to replace the current open deck and a 98 sq. ft. screened in porch on back of house. The property is located at 818 Route 63, Spofford, NH 03462 (Map 5A Lot A3) Spofford Lake District.  
(This application was deferred from the meeting of September 13, 2016.)

Present: Deborah Metivier and Christopher Wamser

A variance had been granted on December 1, 2006 to add a deck but the applicant did not make the change to the property. Wamser noted that this request is to allow the existing deck to be made into year round use. Wamser noted that the existing house is approximately 670 sq. ft., with a deck of 384 sq. ft. The request is to create more living space to the house by removing the existing deck and replace it with an enclosed deck. The existing footprint of the house and the deck is currently within the front and side setbacks of the property. There is no request to increase the footprint, but to take the existing footprint and build on it. The house is approximately 1,100 sq. ft. The existing property sits lower than street level along Route 63. The house sit relatively back from the shore of the lake and the house is not easily visible from the lake. Wamser noted that there is little to no visual impact from the lake. Metivier will be using local builders for the project, if it is approved.

Metivier would like to build a small screened in porch on the back of the house to allow some outside sitting area to view the lake. The current screened in porch is attached to the existing deck going down toward the lake with a large stairway. The current staircase and the screened porch will be removed and there will be no impact on an increase in size of property coverage. Wamser stated that there is a shallow well and he noted that they will need to have access to it. Metivier stated that she has not upgraded the septic system since she has owned the property. There is a holding tank. She noted that the house is a year round. Wamser stated that the house is approximately 100 ft. from the lake. Wamser noted that the roof peak would be 2-1/2 ft. taller than the existing roof line. Section 5 (on their drawing) indicates the addition of the peak. He also stated that the replacement stairs from the back of the house (lakeside) will have fewer steps because they will be parallel to the house. The new deck will be on the lakeside.

The house is within the 50 ft. front setback. Only one foot will be outside the front setback for the proposed 98 sq. ft. addition. The dimensions of the screened in porch is 7x14 ft.

*Fales moved to close the meeting to the public. Davenport seconded the motion, which passed unanimously.*

Oot noted that he would like to look at the property to see how this variance would affect the abutter's properties.

*Fales moved to have a site visit at Deborah Metivier's property on November 5, 2016 at 9:00 a.m. McKeon seconded the motion. The motion passed unanimously.*

*Fales moved to amend the motion to continue the meeting on site for the Metivier variance on November 5, 2016 at 9:00 a.m. Oot seconded the motion. The motion on the amendment passed unanimously.*

**Larry & Kathleen Robbins** requests a Variance from Article II Section 203.6b of the zoning ordinance to permit the placement of a 12 kw (2.5 sq. ft.) generator within the east side setback, 5 ft. from the house and approx. 14 ft. from the property line. This is an additional second propane tank adjacent to existing tank. This property is located at 18 Namaschaug Landing, Spofford, NH 03462 (Map 5G Lot B5) Spofford Lake District.

Present: Larry & Kathleen Robbins

Riendeau announced that Christopher Oot is an abutter to the applicants and he will not be voting on this application. The Robbins agreed to have their application heard with four seated board members.

Larry Robbins noted that the lot is very narrow with 21 ft. on one side from the house to the lot line and 20 ft. on the other side from the house to the lot line. If the generator is put on the front or lake side of the property it would be closer to the neighbors. It would be an eye sour to the neighbors on the north side. The other utilities are on the east side of the house in the setback, where there is already a propane tank and a gas line. Robbins would like to install a 2-1/2 ft. sq. cement pad for the 2-1/2 ft. sq. generator.

Norman VanCor, Select board representative noted that the selectmen have instructed the code enforcement officer to be more diligent on the placement of the propane tanks. Letters are being mailed to property owners for the noncompliance propane tanks and generators. Steps are being taken for those property owners who do not comply with the setbacks.

The applicant did not know what the impermeable coverage is at his property.

*Fales moved to close the meeting to the public. McKeon seconded the motion, which passed unanimously.*

*Fales moved to continue the meeting at the site on November 5, 2016 for the Robbins application of the propane tank in the side setback. The meeting will follow the Metivier site visit.*

*McKeon seconded the motion, which passed unanimously.*

**Mark Lanoue** requests a Variance from Article II Section 208.2 of the zoning ordinance to permit outside cleaning of vehicles. The property is located at 1763 Route 9, Spofford, NH 03462 (Map 10A Lot A5) Office/Retail Space/Service District.

Present: Mark Lanoue

The letter was reviewed from abutters Jeanne and Gordon Fuller with their objection to the use of the outdoor cleaning of vehicles.

Lanoue researched the amount of decibels that was created by the use of his power washer and shop vac. Lanoue stated that the average gas power washer was at 45 decibels, the shop vac operates at approximately 70 decibels, an average riding lawn mower operates at 90 decibels and average traffic driving down the road creates 80 decibels. Lanoue stated that all of his equipment being used is 533 feet from the Fuller's house is approximately half the decibels as what his (Fuller) lawnmower is at.

Lanoue stated that he is willing to go with the electric power washer. Riendeau stated that the power washer that was originally discussed was a gas powered washer. One of the reasons the board considered a rehearing was to discuss a different style washer. Riendeau noted that there was some question as to the location of the washing. Lanoue replied that the washing was being done on the back corner of the west side of the building. The power washer would be positioned near the back side of the building with the actual water running would be on the west side. McKeon noted that the applicant is

currently cleaning the cars outside on the west side of the building. She noted that the applicant is not complying with what the board had granted of no outside washing of vehicles. She asked at what point that the applicant is following the restrictions that were given to him at the previous board meeting. Lanoue stated that he is complying with all the restrictions that had been asked of him. He noted that he agreed to not having the property turned over to commercial use if there weren't too many restrictions put upon him. He stated that the restriction of outside washing of vehicles is unreasonable. He noted that that would allow him to go in other directions because he would be forced to.

Oot questioned why it would not be possible to wash the cars where it would be visible to the neighbors, including the noise. Lanoue replied that it is because of the layout of the property, the layout of the building and the access of the water is right there and the faucet is on the west side of the building. Lanoue stated that he will wash the cars inside when it's 20 degrees. Fales asked if the applicant has a drainage system inside. Lanoue's response was that the water is collected and pumped out to the outside of the building to the open area.

Jeff Scott provided information to the board of NHDES regulations and requirements of disposal of waste water and an Environmental Fact Sheet of Wastewater Discharges from vehicle washing. He reminded the board that standards need to be met and permits are required from NHDES.

Riendeau noted that the cleaning of cars outside of the facility should be discussed. The initial motion for granting the variance was that there would be no outside washing or cleaning of vehicles. The board decided to look at why that should be reconsidered.

VanCor noted that the select board suggests that the ZBA not grant any further variances for this property until the owner is in compliance with the letters that are being sent to him. Riendeau noted that if an applicant comes to the ZBA, the ZBA makes the decision as to whether an application can be granted or denied. McKeon suggested that something should come in writing from either code enforcement or the select board when an application is requested where there may be issues.

*Riendeau moved to continue the Lanoue application until the next month's meeting, with the premonition that the ZBA will get legal counsel. Fales seconded the motion which passed unanimously.*

*Riendeau made a motion to move the November meeting to November 15, 2016. Davenport seconded the motion which passed unanimously.*

Riendeau noted that the regularly scheduled meeting is normally the second Tuesday of the month but this November 8 is Election Day.

### **Review Meeting Minutes**

- **July 21, 2016 Nonpublic**– Voting will be Riendeau, McKeon and Oot.

*McKeon moved accept the meeting minutes of July 21, 2016. Oot seconded the motion, which passed unanimously.*

- **August 9, 2016** – Voting will be Riendeau, Davenport, Fales and McKeon

*Fales moved accept the meeting minutes of August 9, 2016. McKeon seconded the motion, which passed unanimously.*

- **September 13, 2016** – Voting will be Davenport, Fales and Alternate Vollbehr

These meeting minutes will not be voted on because not enough board members that attended the September 13 meeting are present to vote.

- **September 20, 2016** – Voting will be Riendeau, Davenport and Fales  
*Fales moved to accept the meeting minutes of September 20, 2016. Davenport seconded the motion, which passed unanimously.*

**Other Business**

None

**ZBA Decision Postings**

*Fales moved to table the postings. McKeon seconded the motion, which passed unanimously.*

**Next Meeting Schedule – November 15, 2016**

**Adjourn:** *Fales moved to adjourn the meeting. McKeon seconded the motion, which passed unanimously.* The meeting adjourned at 11:00 p.m.

Respectfully submitted,  
Patricia Grace, Secretary

Approved

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Burt Riendeau, Chairman

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Date