

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

**MEETING MINUTES
June 12, 2018**

The Zoning Board of Adjustment met at the Chesterfield Town Offices on June 12, 2018.

Present: Kristin McKeon, Lucky Evans, John Zannotti and Alternates Eric Barron, Joe Hanzalik and Joe Parisi. Also in attendance was Selectboard Representative Jeanny Aldrich.

Chairman Kristin McKeon called the meeting to order at 7:30 p.m.

Voting on the hearings at this meeting will be McKeon, Evans, Zannotti, Barron and Hanzalik.

- **Margaret Bailey** requests a Variance from Article II Section 203.6b of the zoning ordinance to permit construction within the side setback with a reduction of non-conforming square footage within the front and rear setbacks. This parcel is located at 16 Silverdale Lane in Spofford, NH 03462 (Map 5B Lot B19) Spofford Lake District (Continued from April 10, 2018, Site visit of May 1, 2018 and May 8, 2018) The applicant's representative (Tim Sampson) requested that the application be continued to July 10, 2018.

Hanzalik moved to continue the Bailey hearing to the July 10, 2018 meeting. Evans seconded the motion.

Vote called: Evans – yes; Hanzalik – yes; Barron – no; Zannotti – yes; McKeon - yes.

Motion passed by majority vote.

- **Leslie G. Mattingly and Jennifer S. Mattingly** request a Variance from Article II Section 203.6b (A,B & C) of the zoning ordinance to permit construction within the lakefront setback, side setback and the road setback with a reduction of the nonconforming square footage and volume of the building within the setback areas. This parcel is located at 10 Silverdale Lane in Spofford, NH 03462 (Map 5B Lot B22) Spofford Lake District (Tabled from May 8, 2018)
Present: Dave Bergeron, Brickstone and Attorney Gary Kenyon
McKeon stated that this hearing is being proposed to the ZBA to determine if this application is substantially different from the prior proposal to determine if the ZBA will hear it. The prior plan was denied by the ZBA.

Bergeron stated that the existing house is 97% in the setback. The last proposal submitted in September 2017 to the ZBA was 53% in the setback and the new proposal is 22% in the setback. Evans stated that the new proposal is considerably more compliant. McKeon noted that the only thing that doesn't fit is the deck. Bergeron stated that there is about 1-1/2 ft. of the corner of the house is in the setback and the rest the noncompliant building is the deck.

Evans moved that the new proposal is significantly different from the prior proposal. Zannotti seconded the motion, which passed unanimously.

Bergeron stated that the deck will sit approximately 9 ft. within the setback. There is also about 1 ft. of the corner of the house that is within the side and rear setback line. The front of the house is about 6 ft. outside the setback making the deck the only other portion of the house within the setback. The driveway has been made smaller to reduce the impervious area

of the driveway and created a wider span in front of the lake. There will be some landscaping in front of the house to help soften just the look of the lawn. Bergeron noted that the applicant has received a State septic system approval and a Shoreland Protection permit for the current layout. The State is looking to limit up to 20% coverage and respect the 50 ft. set back by using the ordinary high water line. Bergeron noted that the current house is about 97% within the setbacks and is a two-story house. The proposal is for a two-story house being proposed with a bedroom and an ADA accessible bathroom on the first floor. The new proposal calls out for a full second floor. Zannotti noted that the drawings being presented were lacking signatures. McKeon stated that the ZBA members and the applicant to sign and date the plan being proposed at this meeting, making it the plan of record.

Bergeron noted that the new approved septic system has been approved for a four-bedroom year round use. The existing drilled well will be used. He stated that the lot coverage now is at 26.5% and the proposed lot coverage is 19.6%. The new proposal will change the setback line from the lake from 9 ft. to 40 ft. back. The two sheds will also be removed from the property. Moving the new building back 40 ft. will help decrease the runoff into the lake. Parisi asked what precautions are being taken during demolition and construction of runoff into the lake. Bergeron replied that a silt fence installed all around the property and he has documented the erosion control to maintain that silt fence. He added that there are notes in the Shoreland permit for maintaining that erosion control. Code enforcement officer /building inspector inspects the foundation, framing and wiring. McKeon noted that, if any questions arise, DES can be called upon to inspect, if necessary.

Bergeron noted that the existing house has been neglected over the years and is run down. A new house, being moved back 40 ft., will improve the view for the abutting properties because those houses are closer to the lake, which should improve the value of the surrounding properties. He stated that the driveway is approximately 46 ft. long and 12 ft. wide. It will be gravel and not paved.

Bergeron noted the square footage between the old and the new building are:

Old building footprint/house and porch:

700 sq. ft. per floor/not including deck or covered porch

New house: 1,200 sq. ft. per floor/2,400 sq. ft. for (2) floors.

There will be a small basement in the back for mechanical equipment.

Bergeron stated that there has been a survey done on the eastern part of the property line. He noted that they did not take credit for removal of the nonconforming unpermitted sheds. He stated that the applicant did not apply for a disability grant because they were for disability structures geared for outside ramps and walkways for access to the interiors and there is no hardship requirement to be able to put a ramp on the outside of a house and didn't pertain to the interior of the structure. McKeon added that that goes with the person and not the house.

Kenyon stated that the application is about as complete and comprehensive for a request like this and shows exactly what is being proposed.

There were no abutters present at this hearing.

The square footage for the last house proposed to the ZBA in September 2017 that was rejected, including the garage was 2,300 sq. ft. on the first floor, as noted by Bergeron.

The Chesterfield Conservation Commission presented a memo to the ZBA requesting clarification on how and where pervious pavers would be used in this application. Bergeron replied, if used, they would be in the walkways and infiltration from roof runoff. He noted that 4 or 5 trees will be removed to move the house back from the lake.

McKeon moved to continue this hearing to a site visit at 10 Silverdale Lane in Spofford on July 10 at 6:00 p.m. Hanzalik seconded the motion, which passed unanimously.

- **Craig and Sylvia McBeth** request a Variance from Article II Section 203.6b (B&C) of the zoning ordinance to permit the install of a propane tank within the side and lake setbacks. This parcel is located at 72 North Shore Road in Spofford, NH 03462 (Map5C Lot C6) Spofford Lake District (Continued from May 8, 2018 and Site Visit of June 12, 2018)

Present: Craig McBeth

McKeon noted that the public portion of the hearing was not closed from the May 8 hearing. Aldrich spoke on hardship for this application and asked if there was any other alternative to this application besides putting a propane tank in the setback and are there electrical options or other methods of heat deemed necessary. Is propane the only option? McKeon replied that the propane tank was to run the stove, oven and heater. It should not cost the applicant an exorbitant amount of money to attempt what they are trying to do. Aldrich noted that there are pellet stove and wood burning stoves and other options available that should be considered besides just putting something in the setback.

Zannotti moved to close the public portion of the meeting. The motion was seconded by Barron. Motion passed unanimously.

Deliberations: McKeon noted that the ZBA should take every application and property individually. This application may or may not be unreasonable to ask for. It may not be the same for other applications. The side setback is set at 20 ft. Zannotti noted that it would be difficult to place the propane tank in another location because of the amount of ledge, that would require a lot of blasting. Aldrich stated that there may be other options beside propane. McKeon stated that if the ZBA disallows the tank in the setback, does that deprive the individual a reasonable use of their land. Evans noted that by putting the tank in another location could be a safety situation and more hazardous, where the location requested is the least travelled area. McKeon noted that there must be special conditions related to the property that are subject to the variance application. Unless there are special conditions regarding a particular piece of property that caused the ordinance to result in unnecessary hardship, the variance cannot be granted. Special conditions might be where the unusual shape of the lot causes a setback requirements to eliminate any unreasonable building envelope or where all other lots enjoy the benefits sought by the applicant. If all other lots in the zoning district are similarly affected by the zoning ordinance, so that there are no special conditions affecting the lot or the applicant, the applicant is not entitled to variance relief. Parisi stated that the lake is the most valuable asset that this town has and any board in his government should do whatever is necessary to protect the lake, which is highlighted in the recently completed Master Plan.

The Board members discussed whether there is 50 ft. from the lake to the electric box on the south side of the house to put the tank but there is ledge to contend with. Zannotti noted that the applicant is applying for a variance to use the smallest possible tank, other than a gas grill size tank, which would fit into that area. The homeowner is trying to live within the spirit of

the ordinance by giving a much smaller tank, within a 1-2 ft. issue and have made a good faith effort to put it in the right spot. The difficulty in moving it to any other location is ledge, as was observed during the site visit. Zannotti stated that this is the best possible alternative and would opt to not put the tank near the electrical box, due to safety issues.

Aldrich asked if it is a hardship to have an alternative source of heat? That can be asked. She stated that there are options. Zannotti noted that the tank is not visible from the lake and it would not take away from the beauty of the lake. It does not detract from property values. McKeon stated that this property is unique because of where the ledge is and other properties neighboring this building do not have ledge right up to the building. The only place that there is not ledge is where the electrical box is located. If the Board were to grant the variance, restrictions can be placed on conditions for granting the variance. Parisi noted that the propane tank needs to be at least 10 ft. from an ignition source.

Barron moved to approve the variance. Hanzalik seconded the motion.

Barron withdrew his motion.

Zannotti moved to approve the variance. Hanzalik seconded the motion.

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 values of surrounding properties are not diminished. *Yes. It is not diminished with everything that was observed during the site visit.*
5. Literal enforcement of the ordinance would result in unnecessary hardship. *Yes. It is because*
 - (a) *The application came in for a propane tank in a specific spot. The hardship of moving it to another location is the land itself because of the ledge that's there. It's a hardship to take the tank and move it 50 ft. toward the road. The unnecessary hardship is the nature of the land being ledge.*
Restrictions: The tank is placed two feet from the corner of the house and it is properly secured for structural integrity. The size of the tank should be limited to a 60 lb. tank, or less. No trees may be removed that block the view of the tank from the lake, unless the applicant comes back to the ZBA.

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

Vote called: Motion passed unanimously.

- **Peter A. & Linda L. Remy** request a Variance from Article V Section 503.1 of the zoning ordinance to permit a two-story 10'x10' addition on a foundation at the northwest corner of an existing 4 unit apartment house to allow for an expanded kitchen on the first floor and improved bathroom facilities on the second floor. The expansion affects three separate apartments, one on the first floor and two on the second floor. This parcel is located at 9 Church Street in Spofford, NH 03462 (Map 10B Lot A010) Residential District
Present: Peter Remy

Remy stated that a portion of the foundation is failing where he would like to add a 9 ft. section to the building. The addition will include an inside partition in the kitchen. It would also add 2 bathrooms on the second floor, which do not exist now. There will be an increase of non-conforming cubic footage. The architectural drawings have not been done at this time.

The bathrooms will be 7-1/2 ft. long by 8 ft. wide each. The current bathrooms are very small and old.

McKeon noted that the ZBA looks at cubic footage increases and not just square footage of the footprint and that area is already in the setback area. The ZBA will also be looking at what roof line information will need to be provided.

Remy stated that there are 4 single bedroom apartments, each with a bathroom. There will only be 4 bathrooms when he completes his project. The stall bathrooms will be removed. The septic system will need to be inspected.

McKeon stated that this variance calls for an expansion of a nonconforming building. It was noted that there are no abutters at this hearing. The ZBA will have to determine whether the addition meets the criteria and how much the applicant is asking for.

The ZBA would like to review the Planning Board and Zoning Board meeting minutes between 1987 and 1993 on issues that pertain to this property. McKeon requested that Remy provide the ZBA with information on the cubic feet increase for this project.

McKeon moved to continue the Remy public hearing to July 10, 2018. Barron seconded the motion, which passed unanimously.

Other Business:

Rules of Procedure – 2nd Reading from May 8 Discussion

1. A deadline was discussed at the May 8 meeting for accepting incoming items on Friday before the hearing date at noon. McKeon noted that the secretary's work schedule is every other Friday and she suggested to change the deadline to noon on the Thursday before the hearing.
2. A digital copy is required of ZBA applications and any other information.
3. Start time for the meetings will be at 7:00 p.m., starting with the meeting minutes review, with the public hearings to start at 7:15 p.m.

Hanzalik moved to accept the changes made for the Rules of Procedure. Zannotti seconded the motion, which passed unanimously. (This is first vote for changes above)

Rules of Procedure – Other modifications

Under Public Hearings and Meetings – The ZBA should change opening/closing, opening/closing public input, as it appears on Page 4, under XI, vi, vii and viii, "A" and "6" is not legal, the ZBA can't ask questions after closing the public portion and questions can't direct questions to members of the public and receive answers during deliberations. The public hearing must be opened.

Zannotti moved to eliminate section XI viii. McKeon seconded the motion, which passed unanimously. (This is first vote for this change)

Training w/Attorney John Ratigan – Identify tentative dates

McKeon will contact Attorney Ratigan to schedule a training for the ZBA on July 9 at 5:00 p.m. with an alternate date of July 12.

ZBA Alternate Member to Full Member –

Joseph Hanzalik would be willing to serve as a full member to the ZBA. The Selectmen are required to vote in the members to the ZBA.

Review:

May 1, 2018 Site Visit Minutes

Zannotti moved to accept the minutes of May 1, 2018. McKeon seconded the motion, which passed unanimously.

May 8, 2018 Meeting Minutes

Zannotti moved to accept the minutes of May 8, 2018 as amended. Evans seconded the motion.

Vote called: Evans – Yes, Hanzalik – Yes, Zannotti – Yes, McKeon – Yes

The motion passed unanimously.

New Meeting Schedules – July 10, 2018

Adjourn

With no further business to conduct, the meeting was adjourned at 11:00 p.m.

Respectfully submitted,

Patricia Grace, Secretary

Approved:

Kristin McKeon, Chairman
Zoning Board of Adjustment

Date