

PO Box 175
Chesterfield, NH 03443



603-363-4624
www.nhchesterfield.com

CHESTERFIELD ZONING BOARD OF ADJUSTMENT

Thursday, February 11, 2021 AT 6:30

P.M. PUBLIC HEARINGS BEGIN:

6:45P.M. VIA ZOOM REMOTE

MEETING

MINUTES

Due to the COVID-19/Coronavirus crisis and in accordance with Governor Sununu's Emergency Order #12 pursuant to Executive Order 2020-04, this Board is authorized to meet electronically. Please note that there is no physical location to observe and listen contemporaneously to the meeting, which was authorized pursuant to the Governor's Emergency Order. However, in accordance with the Emergency Order, this is to confirm that we are:

- a) *Providing public access to the meeting by telephone, with additional access possibilities by video or other electronic means;*

We are utilizing the Zoom platform for this electronic meeting. All members of the Board have the ability to communicate contemporaneously during this meeting through the Zoom platform, and the public has access to contemporaneously listen and, if necessary, participate in this meeting through dialing the following phone # 1-646/876-9923, 1-301/715-8592 or 1-312/626-6799. Meeting ID 843 4942 4309 and passcode 836500, or the following website:

<https://us02web.zoom.us/j/84349424309>

Meeting ID: 843 4942 4309

Passcode: 836500

- b) *Providing public notice of the necessary information for accessing the meeting;*

We previously gave notice to the public of how to access the meeting using Zoom, and instructions are provided on the Town of Chesterfield website at: <https://chesterfield.nh.gov/>.

- c) *Providing a mechanism for the public to alert the public body during the meeting if there are problems with access; If anybody has a problem, please text 603/398-6712 or email at: kmckeonzba@gmail.com*

- d) *Adjourning the meeting if the public is unable to access the meeting.*

In the event the public is unable to access the meeting, we will adjourn the meeting and have it rescheduled at that time.

Please note that all votes that are taken during this meeting shall be done by Roll Call vote.

Chairwoman Kristen McKeon called the meeting to order at 6:31PM. Also attending were Vice-Chair Joe Hanzalik, John Zannotti, Lucky Evans, Joe Brodbine, Selectboard representative Gary Winn, and ZBA secretary Jim Barey.

INTRODUCTION OF BOARD MEMBERS AND SELECTBOARD REPRESENTATIVE TO THE ZBA

ACCEPTANCE OF MINUTES – 01/14/2021

Joe Hanzalik moved to accept the minutes from 01/14/2021 as amended. The motion was seconded

by John Zannotti and passed unanimously by roll call vote.

McKeon recused herself as an abutter for the first hearing.

McKeon passed Zoom host responsibilities to Hanzalik as Vice-Chair.

APPLICATION 1: Marilyn E. George & Steve Hellus-Jim Phippard (agent) requesting variance from **Article II, Section 203.6 Spofford Lake District, part 203.6b Setbacks, Part C Lake Setback** of the zoning ordinance to permit construction of a single-family residence 41 feet from the lake where 50 feet is required. The new residence will replace an existing nonconforming residence in the same location. A second existing residence and an existing garage will be removed. The properties are located at 14 Tyler Road, Spofford NH 03462 (Tax Map 5M-A006), and 16 Tyler Road, Spofford NH 03462 (Tax Map 5M-A005).

Zannotti noted that the applicants should be given the choice of continuing until the next meeting as there were not currently five board members present. Phippard stated he would be glad to sign a waiver allowing the hearing to continue with less than five voting members.

Phippard presented the application for combining two adjacent tracts of land which will make the overall lot more conforming at .52 acres.

Phippard stated the applicant proposed to tear down all existing buildings except a gazebo and replace with a single-family home covering 9.9% of the lot and becoming more conforming.

Phippard noted that they will be maintaining the current 25-foot height. Phippard stated the applicant is proposing no increase in volume; it will remain 34,343 cubic feet. Phippard stated that these plans will reduce the lot coverage from 50% down to 28.5% which will be much more conforming. Phippard states it is a tremendous decrease in lot coverage, allowing for much less runoff and more controlled runoff.

Phippard continued, stating that the applicants are intending to replace current buildings with a new structure which will still be within 41 feet of the lake and no closer. The applicants plan to increase the setback from the sides of the new structure to 20 feet, meeting those setback requirements.

Phippard stated that Steve Hellus met with Steve Dumont who approved of the plans from an emergency response perspective.

Phippard explained that the new garage would have a deck built on top of it but that should not

be considered residential.

The proposed house is planned as a three-bedroom house.

Phippard stated the house design is conventional for New England and should not be out of place with the character of the area.

Phippard noted that this house design should not be considered a “McMansion” and the family has been involved in caring for the lake for three generations.

Phippard noted that the exhibited drawings were on a 20 scale and then blown up to a 10 scale and asked that the board not become confused when viewing the scale between one drawing and the next.

Phippard reiterated that this house would look “normal” for this area and not out of character.

Phippard stated that an infiltration system has been installed to address water quality and stormwater runoff.

Phippard noted that this request is not contrary to the public interest. Phippard stated the applicants plan on removing sand and gravel and replacing with loam and seed which will provide great improvements. Phippard continued, stating that the first floor will be at the same elevation of the first floor of the proposed house to maintain use of the brick patio. Not changing view of the lake from adjacent properties.

Phippard stated that the variance will not be contrary to the spirit and intent of the ordinance.

This area will not change the view as the proposed house will be built in the same spot as the current buildings. Phippard stated this plan allows for more conformance and reduce impermeable surfaces and permeable coverage. The new septic system is now 200 feet from the lake.

Phippard stated these plans allow for substantial justice as the new house will be completely up to code, instead of a 130-year-old cottage which would not pass inspection. Phippard stated that the applicants installed an artisan well and updated the septic system. Phippard noted that the applicants will be reducing the septic load on the property by reducing bedrooms.

Phippard stated that these plans do not affect the town of Chesterfield in any way; thereby upholding the social justice.

Phippard noted that these plans should not affect abutting property values.

Phippard stated that this property is oddly shaped, noting that he had never seen a property shaped like this before. Phippard also stated that the applicants have been diligent in creating a proposal that would work the best for this lot and the strict requirements on the lake.

Phippard stated that the board should thank the applicants for constructing this plan as it is obviously more conforming and more in compliance with the Zoning Ordinance. Phippard noted that Katie Sutherland who designed the plans was available this evening for questions.

Zannotti questioned whether this was a Zoning board or Planning board decision to combine the two lots. Phippard responded that this would be a voluntary merger and all towns in New Hampshire have a standard form where a landowner can combine two properties that are adjacent provided, they are in identical ownership. Phippard continued, stating that the voluntary merger form would be submitted to the Chesterfield Planning Board and if approved would move along to the Registry of Deeds.

Brodline agreed with Phippard’s explanation on the voluntary merger procedure. Brodline asked about the existing patio and whether it would remain or would it be replaced in the same location. Phippard stated this would be the same existing patio with as little disturbance as possible.

Zannotti asked of Sutherland about a big open space on the second floor and whether it was a

bedroom, walk-in closet, or empty space. Sutherland responded that was a home office. Phippard stated there was no closet in that room and that would not comply under the building code as a bedroom.

Evans asked about water runoff from the roof. Phippard stated there is a gable in this structure to direct water as well as a catch basin and infiltration area. Zannotti asked about runoff onto the deck on top of the garage. Sutherland stated they are planning a gutter system around the roof eaves. Zannotti asked about the pitch of the roof. Sutherland explained there is a light pitch about 1 to 12 and any water or snow would slowly come to either side and into a gutter system.

Zannotti stated if this is a 1:12 pitch the board would need to make approval as necessary.

Phippard asked if this were the case, would a new application need to be completed or would the current one suffice. Phippard asked if the residential structure restriction applied to the proposed two-car garage or if it only applied to the sleeping area. Hanzalik noted that he would need to research these questions more thoroughly. Hanzalik asked Barey if he would investigate Phippard's questions.

Hanzalik opened the meeting to public comment.

John McKeon attended, stating he is representing the Spofford Lake Family Recreation "Beach Club" abutting the applicants. McKeon stated the beach club had some concerns and questions for the applicants and for the board. JMcKeon stated Phippard did well in presenting the application. JMcKeon asked how the existing non-compliant buildings were constructed in the first place. JMcKeon suggested the board investigate how the lot got to 50% coverage. JMcKeon stated on a previous application the board required previous variance applications, of which he saw none for this application. JMcKeon noted that just because the buildings are there does not make them automatically compliant.

JMcKeon noted another concern is the drainage and how things will change on the property.

JMcKeon continued, stating there is a very small catch basin currently between the two properties which is conveyed directly into the lake with no filter and was installed without a permit. JMcKeon stated he would like to see a plan that shows exactly where runoff will be deposited and treated. JMcKeon also noted that the board should not view this property as more or less unique than any other property around the lake.

McKeon stated concerns regarding the setback on the Southern border being 20 feet and is not compliant.

JMcKeon noted some vegetation proposed to the North and he would like to know what that vegetation is as the applicants had previously planted undesirable Japanese knotweed.

Pam Walton asked about the basement plan adding 595 cubic feet, which seems small to her.

Sutherland responded it will be a small basement with just enough room for some mechanical equipment. Walton asked about any strategy for taking out a ledge or boulder while excavating for the basement and whether a sump pump would be installed. Sutherland said those details are available right now and she might suggest to the applicant to reconsider a different area for the mechanical equipment to avoid blasting or hydrorock cutting in that area. Walton asked if Sutherland could answer questions about the sump pump at this time. Sutherland responded that she would investigate further and follow up later. Phippard shared a plan exhibiting the finished floor level at an elevation of 723 feet. Phippard continued, noting that lake elevation is at approximately 715 feet so the plans are a couple feet higher than lake level. Phippard stated if the applicants decide to install a sump pump, he will suggest that they have it pump out through to the South through the infiltration system. Walton stated lake level cannot be 715 as it is normally 716'10" in the summer. Phippard stated that would still be seven feet below the floor plan.

Phippard stated he would like to respond to JMckeon's questions as well as correct some statement he made. Phippard noted the catch basin mentioned on the North side of the property was installed by Hellus to handle runoff primarily from the Beach Club property. Phippard noted this basin has a 20-foot perforated pipe wrapped in fabric and buried in crushed stone that allows for the first treatment of runoff and then back onto Beach Club property. Phippard stated he assumes from JMckeon's comments that no further treatment is done before depositing in the lake.

Phippard stated in response to the vegetation questions that the plants shown are a row of arborvitae that the applicants would like to add to the property for a privacy screen. Phippard clarified that these plants are not Japanese Knotweed, which was planted and removed from the property two generations back.

Phippard addressed the non-conformity questions by stating that it became non-conforming from the town changing the Zoning Ordinance. Phippard continued, stating that the existing cottage has been present for 130 years and the guest cottage used to be the horse barn and is older than 100 years.

Phippard stated JMckeon is not trying to accuse, but his comments imply that the applicants made improvements without being properly permitted. Phippard stated the applicants have done anything but this as they have cooperated with outside agencies extensively including NHDES. Phippard continued, stating that the Town of Chesterfield should be using these plans as an example for all lake property owners to build and design. Phippard stated he resents the neighbor's implications that the applicants did not "try to do it right when they did do it right. More so than any I've worked for around Spofford Lake." Phippard stated, "...this is an example of what the board should want and if the board cannot find a way to approve this, then shame on you because I do not know what else to do." Phippard continued, stating that he hoped the board recognized how good this plan is.

JMcKeon commented that Phippard was correct, there were no accusations being made but through research, he could not find answers to the questions he had asked and wanted it to be on public record. Phippard stated to JMckeon that as an abutter, he may feel free to contact him with any questions.

The board took a five-minute break.

Hanzalik noted that allowing comment from Kristin McKeon may be a conflict of interest under the RSA's and under Section VII. Winn noted that his take on the Conflict-of-Interest policy is that an individual on any board cannot take any official actions that would benefit them or that they have a direct interest in. Winn continued, stating that in KMcKeon's recusal, she is speaking as an individual and not taking active part in the decision and so would have every right to speak understanding that she has no say in the final decision.

KMcKeon referenced information given on a variance on South Shore Road, the second floor up was never allowed to be used as a deck and only allowed to be used as a manner of egress.

KMcKeon stated there are several areas that may or may not hold interest to the board noting that several areas on the property are being represented as less impervious. KMcKeon continued stating one such area is the original driveway as presented to the board, which was graveled without any permit. KMcKeon stated the applicant is showing roughly 200 square feet of driveway that will be taken out, however that was never the driveway and there has always been access to the property through Tyler Road. KMcKeon stated that until three or four years ago

there was no gravel there, it was not impervious and almost never used. KMcKeon noted that she cannot find on any map where all the coverage the applicants have are included on the .1 acres. KMcKeon continued, stating she also cannot find the lot line. KMcKeon stated she would encourage a site visit as well as photos included in the application. KMcKeon continued, stating that the applicants have done a great job with drainage but wanted to correct that the beach club did not have the current drainage put on their property, it was put there by the applicant incorrectly. KMcKeon stated drainage would continue to be a problem and she believes that is important to look at.

Zannotti stated it is appropriate that the board perform a site visit.

John Zannotti moved that the board continue the hearing to a site visit and if possible, the applicant flag out the areas depicted on the proposed plan on the property. The motion was seconded by Lucky Evans and passed by majority vote. (Y: Evans, Zannotti, Hanzalik) (N: Brodbine)

The board discussed meeting dates for the site visit. The hearing will be continued to Wednesday February 17, 2021 at 11AM.

Phippard asked exactly what the board would like mapped out. Hanzalik asked to see the new structure, as well as the new driveway. Zannotti agreed with Hanzalik.

Hanzalik moved the hosting responsibilities back to KMcKeon.

APPLICATION FOR EQUITABLE WAIVER: Kim & Marina Perrin requesting an equitable waiver for a variance granted in 2016 following an updated survey. The property is located at 438 North Shore Road, Spofford, NH 03462 (Map 5H Lot B3).

Kim Perrin attended and presented the application for Equitable Waiver. Perrin stated that in 2016 the applicants moved to the property and wanted to construct a shelter for their vehicles. Perrin noted that they were told by their architect that it could be fitted on the South side of the property bordering the Samson property, but they would need a variance. Perrin continued, stating that the variance was granted and the applicant's believed they had a 7-8-foot buffer to the Samson line. Perrin stated that construction of the carport was completed.

Perrin noted that in 2020 the abutter requested that a survey be done. Perrin stated that because of the survey, the property pin was off by 29 feet. The new boundary cuts through a corner of the carport. Perrin stated they consulted a lawyer who suggested a lot line adjustment. Perrin stated the neighbor was not amenable to the lot line adjustment.

Perrin stated that they did not want to tear down the current structure and they are looking for an in-kind waiver that allows them to cut through the concrete of the carport and turn the two-car into a 1.6 car carport. Perrin stated that they understand this is an encroachment. McKeon asked if the Samson's were the same owners at the time of the original variance and if they had questioned any of the construction at the time. Perrin stated that is correct and Samson had not made any objections in 2016. McKeon asked what made the Perrin's decide to do a survey. Perrin noted they were getting the survey done to get the proper easement for a circular driveway through Samson's property.

McKeon clarified that the Perrin's were asking for equitable waiver to adjust the car port that is currently there.

Zannotti stated the document dated 09/28/2006 shows a pie shape configuration and it appears

that no one had suggested there was an issue.

McKeon asked because the original abutter made no objections and everything was done in good faith, she is not sure if Perrin needs to take the offending corner off.

Zannotti asked about several drawings showing a shed and wondered if it was still there. Perrin explained it was no longer there. McKeon asked how long the shed had been there. Perrin stated the applicants did not know the exact timeline.

Zannotti asked if the Samson lease were on the table. Perrin stated that was definitely not a preferred option.

Brodbine asked how much space would be between the carport and the property line once the corner was cut. Perrin noted they were hoping for two feet. McKeon stated the board could grant an equitable waiver up to the property line.

McKeon noted that an equitable waiver must meet four requirements.

Zannotti asked how the board knew the overlap was not in the Perrin's favor. Zannotti asked if the applicant is comfortable that he did lose 29 feet. Perrin noted he was not comfortable with the situation, but he would not like to be tied up in a lengthy court case with his neighbor.

McKeon asked if Samson (or surveyor) had found the pin. Perrin stated due to the constant construction the pin could not be found.

McKeon stated before a decision was made, she would like to consult with counsel on the procedure for an equitable waiver.

Evans stated this is a convoluted case and suggested consulting counsel as well.

Lucky Evans moved to obtain a legal consultation on this case. The motion was seconded by John Zannotti.

Discussion: Brodbine stated the applicant should let the board know what they would prefer to happen. Evans stated this would bring up too many unknowns and legal counsel would be able to guide the board more efficiently. Zannotti asked if the abutter were noticed of the public hearing and suggested that the abutter may not be as concerned with the equitable waiver and reiterated that counsel should be consulted. Zannotti continued, stating that there may be a clause proving the applicant does not need an equitable waiver and the carport may stand as is. McKeon stated she believes granting an equitable waiver allows the carport to stand anyway. Evans stated there may be other answers that supersede the equitable waiver. The motion passed unanimously by roll call vote.

McKeon stated this case would be continued to the next meeting on March 11, 2021 and be first on the agenda. McKeon stated she would have the legal information back to the board in the intervening time.

John Koopmann stated there was no opportunity for public comment on the last case.

Koopmann stated he would like to caution the Zoning Board that this variance granted in 2016 stood out to him. Koopmann stated he was amazed at the amount of confusion in the numbers that were presented. Koopmann continued, stating that the current members in 2016 were on calculators trying to figure out square footage and there was a great deal of uncertainty.

Koopmann would like to be sure that the minutes and plans from 2016 were disseminated among the current board. McKeon answered that from those minutes there were only three members and two lines of discussion.

OTHER BUSINESS

Amendments to ZBA Application

McKeon presented her edits to the application. Brodbine asked if this would be the application for variances and waivers. McKeon responded that is correct.

Joe Hanzalik moved to accept the approved edits to the ZBA application as well as the Rules and Procedures. The motion was seconded by John Zannotti and passed unanimously by roll call vote.

Include Joe Brodbine and Casey Schnackenberg as voting members of the ZBA.

Winn and Barey opened discussion on moving an alternate on the Zoning Board to a full member. Winn asked the board if they had any input on potential members. Brodbine stated at the time he was accepted to the board, Joe Parisi was attempting to become a full member and he would not be remiss if Parisi became a full member before him.

McKeon noted that Jon McKeon had made suggestions on swapping alternates with the Planning Board. McKeon noted this could cause potential conflicts of interest but legally the State does not have any problems with the situation. McKeon continued, stating that she would be comfortable with Parisi being on the Planning Board or Zoning Board but not a full member of both. Hanzalik noted that he believes it is a conflict of interest for an individual to be a full voting member on both boards and there may be other individuals in town who may want to run. Winn stated that the Board of Selectmen may have three possible applicants. Zannotti cautioned from an NHMA perspective, that the board be careful in having individuals be voting members on both Planning and Zoning.

Joe Hanzalik moved to adjourn the meeting. The motion was seconded by John Zannotti and passed unanimously by roll call vote.

Next Meeting Schedule – George/Hellus Site Visit February 17, 2021

Adjourn no later than 10:00 pm unless board votes to continue meet

Respectfully submitted,

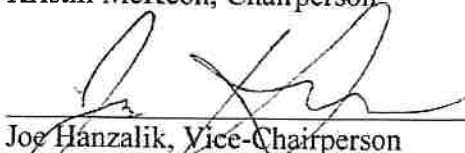
Jim Barey
Zoning Board of Adjustment Secretary
Approved by:



Kristin McKeon, Chairperson

3/17/21

Date



Joe Hanzalik, Vice-Chairperson

3/16/2021

Date