



CHESTERFIELD ZONING BOARD OF ADJUSTMENT

Thursday, March 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/88997772353>

Meeting ID: 889 9777 2353

Passcode: 654633

- 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.

Chairman Kristen McKeon called the meeting to order at 6:30PM. Also attending were Vice-Chair Joe Hanzalik, John Zannotti, Lucky Evans, Joe Brodbine, Gary Winn, and Jim Barey.

INTRODUCTION OF BOARD MEMBERS AND SELECTBOARD REPRESENTATIVE TO THE ZBA

ACCEPTANCE OF MINUTES – 02/11/2021

Site Visits- George/Hellus Site Visit Minutes 02/17/2021

John Zannotti moved to accept the 02/11/2021 Site Visit minutes as amended. The motion was seconded by Joe Brodbine and passed unanimously by roll call vote.

Joe Brodbine moved to accept the 02/11/2021 meeting minutes as amended. The motion was seconded by John Zannotti and passed unanimously by roll call vote.

McKeon stated due to not having a quorum at 6:30 she would like to move the Perrin's case up first. McKeon asked to continue this hearing to April 8th, 2021.

Application for Equitable Waiver: Kim & Marina Perrin-continuation from February 11th, 2021 requesting an equitable waiver for a variance granted in 2016 following and updated survey. The property is located at 438 North Shore Road, Spofford, NH 03462 (Map 5H Lot B3).

John Zannotti moved to continue the Perrin application to the scheduled ZBA meeting on April 8th. The motion was seconded by Joe Hanzalik.

Discussion: Zannotti asked if the board would be confident in answering the Perrin's application by the next meeting. McKeon stated yes there will be an answer by the next meeting.

The motion passed unanimously by roll call vote.

McKeon passed Chair responsibilities to Joe Hanzalik as she is recusing herself from the George/Hellus case.

Hanzalik seated Brodbine and Schackenberg as voting members for this meeting.

Continuations

Application: Marilyn E. George & Steve Hellus-continuation from January 14th, February 11th, and February 17th, 2021 with 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).

Hanzalik opened discussion, stating that the board left off with attending a site visit and the hearing is still open to public comment. Phippard shared his screen to exhibit the requested photos from the property in the summer as well as the amended drainage plan. Phippard noted that these photos were taken by Steve Hellus as evidence of the work that was done, looking at the area adjacent to the Beach club property. Phippard described the installation of a catch-basin to catch runoff from the parking area running down the George/Hellus property and the Beach club property. Phippard noted that these photos were taken in May of 2011. Phippard noted that testimony from the last meeting stated that runoff was draining directly into the lake and that is not true. Phippard stated that the infiltration area is there and still intact.

Phippard stated that in 2012 George and Hellus applied for permits to build a retaining wall on the lake; there is now a patio there with crushed stone as an infiltration area. Phippard noted that these plans were designed by a professional engineer and approved by NHDES. Phippard exhibited the depth of crushed stone and the construction fabric put in place, noting the sediment containment barrier in the water as required by DES. Phippard stated this is a tremendous example and everyone developing on Spofford Lake should be doing the same thing.

Phippard stated this drainage plan was built correctly and there is no evidence of erosion even after nine years; this is well done and is a good example of what the board wants to see.

Phippard stated that the applicants had moved what was a parking space on south side of garage up to a paved parking area, reducing the impermeable coverage once again; originally 50% impermeable coverage and now 28.1% by moving this parking area. Phippard noted the property is much more in conformity and much more in compliance with the Zoning ordinance.

Phippard asked about flat roof over the attached garage being allowed. Hanzalik stated he had spoken with the Code Enforcement Officer and that interpretation of the code is correct.

Zannotti stated he was confused as to where was the garage was in relation to the catch basin.

Phippard showed where on the drainage system by screen sharing. Zannotti asked if the garage was already on that site. Phippard noted it is to the left of where the garage is today, not inside the footprint of the garage. Hanzalik noted that snow had been cleared out at the site visit. Phippard showed this area on the existing plan.

Zannotti asked, regarding the far right of the drainage plan going up the hill, whether water would drain to the beach club or the applicant's property. Phippard responded that area is a leach field with a flat area at the top; portions will flow down to the driveway and other portions come down to the two-foot retaining wall and the area between the two properties. Phippard stated that area sits next to the second cottage and beneath it, contributing to the installation of the catch basin on the George property. Zannotti asked if the two-foot-high retaining wall is new. Phippard responded portions of it will be extended once the guest cottage is removed and that area will use that to store snow and will drain in the direction across the driveway and into the larger infiltration system.

Zannotti asked if that would be an improvement, to move water away from the Beach Club.

Phippard stated yes, that will move all the water to the South to the larger catch basin. Phippard noted that from beach club perspective it is an improvement. It is not an undue burden on the George/Hellus property.

Zannotti asked, regarding photos from 2011 before piping was installed, where does this water exit into the lake. Phippard stated it does not enter into the lake, that was a misrepresentation; any runoff is infiltrated into the ground.

Hanzalik opened the discussion to public comment.

John McKeon stated he had asked, for all those things that were done, were there any permits applied for. JMcKeon continued, stating that Phippard keeps highlighting DES permits, but looking through files that JMcKeon is able to see, there do not seem to be enough permits for what was done: the gravel on the right of way, the extension of the retaining wall, and no permit for the

retaining wall period.

Phippard stated he does not think JMcKeon will find permits for the buildings as they are 100 yrs old or older and permits were not issued by the town at that time. Phippard continued, stating that since George/Hellus have owned the property, they have done nothing but reduce lot coverage. Phippard stated he is not sure what the issue is since the applicants are bringing the property into more compliance.

JMcKeon asked about gravel for the Right of Way, stating that was done when the septic system was put in. JMcKeon continued, stating he understood about the age of the house but the garage was installed in a time frame where there would have been permits.

Kristin McKeon stated she was on the board at the time of the drainage installation and the board never granted or approved it. KMcKeon continued, stating she keeps hearing about great things with the drainage but before the septic was put in, runoff drained naturally through the woods down the hill. KMcKeon noted that a berm was placed at the beach club side of the septic, so all the water pooled on their parking lot and was not allowed to drain naturally. KMcKeon stated the beach club is lower and the water drains from the applicant's property to the beach club. KMcKeon wanted to note that is an easement that was never a driveway and was never graveled until the septic went in; at that time, the applicants raised the level of the easement and forced water to pool into the beach club parking lot. KMcKeon stated she thinks the applicants can put the whole thing out of the setbacks.

Zannotti asked if there were any documentation that the Spofford fire chief had no problem with access to that area. Hanzalik stated the board has not seen any of that documentation. Zannotti stated as he looks at the 50-foot setback from lake (high water mark), he cannot see how far the 50 feet goes. Phippard responded that 716 is the high-water level for Spofford lake. Zannotti asked where that is documented. Phippard responded that NHDES that applicants used for permit applications. JZ would question that number as 717 should be a more realistic number. Hanzalik noted the ZBA should not investigate into that, and the board should follow DES guidelines.

Zannotti asked what would prevent applicants from moving the house to obtain the 50-foot setback. Phippard stated he spoke to clients about that 6 months ago, and they do not want to because it affects their views of the lake, even just by nine feet. Phippard continued, stating that there is vegetation on both sides that would partially obstruct their views. Historically the house has been there about 130 years and to move it further back is essentially changing the character of that site. This board as he has been awaked to, does not approve of changing character around the lake, another reason to leave it where it is and to build it in place. Phippard continued, stating that the applicants spent a lot of money designing and improving these plans.

Brodbine stated if the house was moved back, the house design would need to change as it would impinge on the beach club side setback. Brodbine stated the board had discussed enough and he does not want to drag it out further.

Joe Brodbine moved to approve the variance to allow the redesign of this property to be done within the existing 41 feet from the lake. The motion was seconded by Lucky Evans.

Discussion: Zannotti stated a 50-foot setback is achievable with the understanding of the side setback to be within the 20 feet, although it is not acceptable to the applicants. Hanzalik noted that the applicants are making great strides regardless of permitting, they are still reducing structures and driveway surfaces, doing their best to restore the land to as natural a state as possible as well as reducing the load of the septic system by taking a rental unit out. Zannotti asked if Brodbine would amend the motion to include the exact plan for record (dated March 5th of 2001).

Joe Brodbine moved to amend his motion to include the plans dated March 5th of 2021. The motion

was seconded by Lucky Evans and passed unanimously by roll call vote.

Casey Schnackenberg moved to close the public portion. The motion was seconded by Joe Brodbine and passed unanimously by roll call vote.

The motion in its entirety now reads Joe Brodbine moved to approve the variance to allow the redesign of this property to be done within the existing 41 feet from the lake based on the presented plans dated March 5th of 2001.

The motion passed by majority roll call vote. (Y: Brodbine, Evans, Hanzalik, Schnackenberg)(N: Zannotti)

Hanzalik moved chair responsibilities to McKeon.

McKeon seated Schnackenberg as a full member and clarified that alternates may participate in discussion but will not be allowed to vote.

New Applications

Eliza S. Bergeson is requesting a dimensional variance under Article V: Non-Conformities, subsection 503.1 – Expansion of non-conforming parts of buildings or structures to permit an 8’x10’ utility room to a property zoned for rural/agricultural use. The property is located at 143 Winchester Road, Chesterfield NH 03443. (Tax Map 16C, Lot 17)

McKeon asked Bergeson to present her application. Bergeson stated she is recently moved to Chesterfield and is requesting to build a small utility room. Bergeson stated she purchased the property in November of 2020. The current house is 74 years old and was built long before current zoning ordinances were in place. Bergeson stated the property is zoned for Rural/Agriculture; under the current ordinance it is non-conforming. The 30-foot setback is the crucial challenge. The house cannot be rebuilt any further back on the property. Bergeson stated she replaced the septic system and had to install it in the back yard. The footprint is 560 square feet and has a foot and half high crawl space which cannot accommodate household utilities. Bergeson stated she would like this proposed utility area to include a furnace, water purification system, laundry, and pressure tank. Bergeson noted that it would be built in the setback, and she cannot move into the house until utilities are in place and up to code. Bergeson stated that granting this variance would allow her to move forward with moving in.

Bergeson asked if there were any questions from the board. McKeon asked her to share the plot plan on the screen. Bergeson showed where the addition would be and the placement of the road. Bergeson stated this is currently a mud patch for the septic system and the front door will be moved. Bergeson stated out back is a beaver pond and most of the back part is wetlands. Bergeson continued, stating that her engineer, Ron Bell, lined things up so the septic could be installed. Bergeson stated that pipes were freezing in the house and everything has to be re-worked including the connection with the well.

McKeon asked if the lot was made up of two pieces. Bergeson replied it is two pieces, but she cannot figure out what the two pieces are. McKeon asked if the total is what is shown. Bergeson responded yes; her plans exhibited the total .6 acres. McKeon asked if the addition would house the electrical panel. Bergeson stated that is correct. McKeon noted there are not a lot of places to put this utility room. McKeon stated that the house would not meet the minimum of square footage even with the addition as the proposed area is 680 square feet and the minimum is 750 square feet.

Zannotti asked what the height is of the addition and what the slope of the roof is. Bergeson responded the slope of roof is following the same slope on the porch although she is not sure what percentage. Zannotti stated if this variance is approved and it is less than a 3:12 slope, the board would want to include that special exception in the approval. McKeon stated in looking at it, she is not sure how Bergeson could conform with a legally pitched roof. Bergeson noted the windows which are the second egress and limits where it can go. McKeon stated the roof pitch should be mentioned in the approval.

McKeon asked if the roof pitches down and back. Bergeson answered it is an optical illusion.

Hanzalik stated that per his professional career, the drawings look to be a 3:12 pitch.

McKeon noted everything is in the setback and the property is very limited.

McKeon asked if the property is unique from others and because of the date of the house, it is definitely unique. Hanzalik and Zannotti agreed with McKeon.

McKeon asked if there would be a cellar. Bergeson responded there will be a crawl space installed for water and septic.

McKeon opened discussion up to the public.

Joe Hanzalik moved to close the public portion. The motion was seconded by John Zannotti and passed unanimously by roll call vote.

McKeon stated this request does not conflict with the spirit of the ordinance, noting that the addition will almost bring the property up to standards for square footage. McKeon continued, stating that the third criteria is upheld, Hanzalik agreed. McKeon noted the fourth criteria is upheld as well as literal enforcement of the ordinance results in unnecessary hardship.

McKeon noted that one thing to remember is to be as specific as possible including referring to the specific plan and to state in the motion where the addition is going.

Lucky Evans moved to allow the addition as presented based on the five Zoning Board criteria and the plans submitted to the ZBA with a date of 02/12/2021. The motion was seconded by Joe Hanzalik.

Discussion: Zannotti stated that an addition should be included that there is likely a 3:12 pitch to the roof and will need special exception for approval. McKeon stated the board could state as the same pitch.

Lucky Evans moved to amend the motion to state the addition will have the same pitch as the roof it is being added to. The motion was seconded by Joe Hanzalik and passed unanimously by roll call vote.

The motion in its entirety reads Lucky Evans moved to allow the addition as presented to include the same pitch of the roof as the rest of the structure, based on the five Zoning Board criteria and the plans submitted to the ZBA with a date of 02/12/2021.

The motion passed unanimously by roll call vote.

McKeon noted any abutters, the Zoning Board, Planning Board, or Board of Selectmen may appeal this decision within 30 days.

The board took a 5 minute break.

Alex Winn is requesting a dimensional variance under Article V: Non-conforming buildings and Structures, subsection 503.1 – Expansion of non-conforming parts of buildings or structures to permit the addition of a master bedroom, bathroom, and living room. The property is located at 65 Brook Street West Chesterfield, NH 03466. (Tax Map 13, Block E, Lot 5)

McKeon asked Winn to present his application. Alex and Sarah Winn attended the meeting. Winn noted this is a 1,050 square foot house and they are trying to gain more useability of the house. The intent is to expand out the back in the general footprint of what the house currently is. Winn stated the house was built in 1950 and was a 25 by 25-foot camp in the late 60's which put him into the property line. Winn stated if he stays straight back, 144 feet which will be non-conforming. The way the interior is set up, this is the best approach.

McKeon asked if this was one story or two. Winn stated there is an apartment above the garage. McKeon asked if there was a cellar. Winn stated there is a full basement but the ceilings are not a full eight feet high.

McKeon asked if the property were taxed as one lot. Winn responded somewhere along the way there must have been a quitclaim deed to make it all one lot.

McKeon stated there is only 90 feet of frontage unless all three lots are merged. Winn stated that is correct.

McKeon asked how the garage was built because it would have been in the setback if there were two separate lots. Winn stated he is not sure and the zoning is confusing. Winn stated the previous owner pulled a variance in 1997. McKeon stated those variances are on the index cards and are notoriously inaccurate. Winn stated Alissa Thompson went through and could not find anything. McKeon confirmed as far as the board knows, this is the only addition anyone has wanted to put on.

McKeon verified that the roof will tie into what is there currently. Winn noted there is a room intended to be a 3 season room but has never been finished. That would come off and that has a 2:12 pitch flat roof. Wants to bring the front up enough to center over the center of the house, put a beam in the attic to carry the center load from removing walls. Then carry a 4:12 out the back over the new addition. McKeon asked if the back piece was coming off. Winn noted the porch would be removed and will be replaced with a livable structure. Intention is a 4 foot crawl space underneath to save expense.

McKeon asked if the house comes five or seven feet from the lot line. Winn responded the front is 8.3 and the back is 7.9.

McKeon asked how close the Borgeson's house was. Winn responded there is an orchard and driveway between the them. Winn noted the abutter is on board because ultimately it will give them more privacy.

McKeon asked if there were mostly woods behind the house. Winn confirmed that is true, about four acres of woods.

Zannotti asked McKeon if there were any designs of what is happening. Winn stated he included a packet of 14 different renditions and angles of the house to give the board an idea but there are no architectural drawings yet as he wanted to get the variance approved before expending more funds on the next step.

McKeon asked about the height. Winn stated rough measurement is something from the ground to the peak of the house when finished. Winn responded that it will be raised by about six inches.

Brodgbine stated if this is a 4:12 pitch and the addition is 12 feet wide, it will be four feet above the top of the wall.

McKeon calculated roughly 1,440 cubic feet in the setback.

McKeon asked if any of the trees between the Winn's and the Borgeson's were on the Winn's property. Winn answered no.

McKeon asked of the board if there were special conditions that make this property unique. Zannotti stated he does not believe so. McKeon noted the house cannot be moved because it was built into the setbacks and could not be moved per the ordinance. Zannotti agreed and stated the property is not unique as it was built before the ordinance took effect.

Zannotti asked if the septic was installed behind the house. Winn answered that is correct, about eight feet from the back of the addition.

Evans asked how steep the grade is in the back. Winn responded that there would be approximately eight feet of rise over 25 to 30 feet; one section towards the garage is more than the rest, and shallower towards the septic system.

McKeon asked if the board wanted to see the property in a site visit. Zannotti stated he does not feel it is necessary since you can view everything from the road.

McKeon stated she is hesitant to decide since there is no plan, only a drawing and if a motion is made, the board will have to be very specific. Zannotti stated the board could move the proposal if they had dimensions to place conditions on, noting that having a better print that is signed with dimensions would be better. Zannotti stated he does not see much problem except there needs to be more definition. McKeon asked if the applicant could provide a blow-up with dimensions, signed and dated. Zannotti stated that would suffice. Winn stated there was trouble having dimensions show up on the picture. Evans stated it would be more accurate with dimensions. McKeon asked the board if the applicant put the dimensions and measurements on the current plans, would that suffice. Hanzalik and Evans agreed that would be acceptable.

McKeon stated the variance goes with the property and there is consideration to whomever owns the property next.

Hanzalik stated he would like to see the dimensions the applicant plans on using and the elevation of the house as well as the breakdown of the bathroom, living room, and bedroom spaces signed by Winn.

Zannotti asked to see what is current and what is being proposed on the same document. Winn stated he understands what the board is looking for.

Kristin McKeon moved to continue this hearing to April 8th, 2021 and that the applicant bring back the requested information. The motion was seconded by Lucky Evans and passed unanimously by roll call vote.

Other Business

Amendments to ZBA application- Requiring date and signature for drawings and plans; checklist requiring signature and seal for licensed surveyor.

Evans stated that information has to be accurate, and that it does not have to be a professional drawing but should be signed and dated and sufficient for the case. McKeon clarified that what they are saying by the plan, the property plan be signed by a surveyor, and the board is not asking that this part of an application be signed by a professional. Evans stated it depends on the project. Hanzalik noted that as long as someone does a drawing that is pertinent to the scope of the project, their signature and date would suffice. McKeon disagreed, saying that there should be a signed survey plan. Hanzalik asked if they were asking the applicant to have the most current survey or is the application asking that a new survey be done. McKeon stated there is nothing saying that the applicants needed a brand-new survey done. Evans stated if it were not incumbent to the case, then it should not be required.

McKeon stated that the checklist would remain as it is and if the applicant has a question then

Barey could explain what the board is looking for.

Winn asked about discussing Joy Street. McKeon stated not sure if she can make a break out room, she will be emailing legal paperwork out and it is confidential and not allowed to be discussed otherwise.


Next Meeting Schedule – April 08, 2021

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

John Zannotti moved to adjourn at 10:08PM. The motion was seconded by Lucky Evans and passed unanimously by roll call vote.

Respectfully submitted,

Jim Barey
Zoning Board of Adjustment Secretary
Approved by:



Kristin McKeon, Chairperson

5/6/21

Date



Joe Hanzalik, Vice-Chair

5/22/21

Date