



CHESTERFIELD ZONING BOARD OF ADJUSTMENT

THURSDAY, MAY 13, 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 868 7862 9780 and passcode 921927, or the following website:

<https://us02web.zoom.us/j/86878629780>

Meeting ID: 868 7862 9780

Passcode: 921927

- 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.

Kristen McKeon opened the meeting at 6:30PM. Also attending were Joe Hanzalik, John Zannotti, Lucky Evans, Joe Brodbine, Casey Schnackenberg, Gary Winn, and Jim Barey.

McKeon seated Brodbine as a full member for this meeting.

Introduction of Board Members & Selectboard Representative to ZBA

Review: meeting minutes 04/26/2021

John Zannotti moved to approve the 04/26/2021 meeting minutes as amended. The motion was seconded by Joe Hanzalik and passed unanimously by roll call vote.

KMcKeon passed chair responsibilities to Hanzalik as she is recusing herself for the request for rehearing, noting that this is a non-public portion of the hearing among the Zoning Board.

Requests for Rehearing

Request for rehearing from an abutter on an application heard at the March 11th, 2021 ZBA meeting for **Marilyn George** who requested and was granted a 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 stated that Schnackenberg would be seated as a voting member for this request.

Hanzalik opened discussion among the board on the request for rehearing. Brodbine stated that he recalled meeting the abutter's requests, noting that many of those concerns were not directly related to what was requested in the variance. Brodbine continued, stating he does not find any grounds for re-hearing.

Zannotti stated he read through the request, noting that the abutter mentioned several historical concerns that do not address the current variance. Zannotti stated one issue he noticed was drainage which he believes the Zoning Board should investigate. Zannotti continued, stating that there are issues that should have been discussed further and a re-hearing would be fair.

Evans noted that a septic issue would have to go before the State of New Hampshire, and he does not feel a re-hearing on this is necessary. Evans continued, stating that all his questions regarding drainage were answered.

Schnackenberg stated he has no issues with re-hearing the case.

John Zannotti moved to re-hear the request on the George property. The motion was seconded by Casey Schnackenberg and passed by majority vote. (Y: Zannotti, Schnackenberg, Hanzalik)(N: Brodbine, Evans)

Hanzalik asked Barey to schedule the re-hearing for the next scheduled meeting.

Hanzalik passed chair responsibilities to KMcKeon.

KMcKeon returned Schnackenberg to the alternate position, noting that he may discuss but not vote while seated as such. KMcKeon stated that for the first continuation of the Alex Winn application Brodbine would be seated and Schnackenberg would switch voting responsibilities for the Perrin case.

Continuations

Continuation from April 26th, 2021: **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)

KMcKeon stated the public portion of this hearing is still open and the Zoning Board had asked Winn to provide further drawings as well as having those drawings signed and dated.

Winn presented an overview of his proposed plans for his residence.

KMcKeon asked if the roofline would only go up about a foot. Winn responded that is correct, his intention is to bring the peak of the roof up higher to create the back portion of the house without a stair step.

Brodbine asked Winn if he meant one continuous roofline, not a 0-pitch flat roof. Winn stated that bringing the peak up will allow him to maintain a 4:12 pitch. Winn noted the front roof will remain just shy of 6:12.

Zannotti verified that the ZBA had received a letter from the affected abutter stating they had no concerns with any of Winn's proposed plans.

Hanzalik stated that he was prepared to make a motion.

There were no public comments.

KMcKeon asked if the board were comfortable checking in on the Five Zoning criteria.

Joe Hanzalik moved to approve the application for Alex Winn 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 based on the five criterium submitted in the application as read and the most recent plan dated and signed by Alex Winn. The motion was seconded by Joe Brodbine.

Discussion: KMcKeon stated this application must meet the five criteria.

John Zannotti moved to amend the motion to include the date of 04/26/2021. The motion to amend was seconded by Joe Hanzalik and passed unanimously by roll call vote.

The motion in its entirety now reads: Joe Hanzalik moved to approve the application for Alex Winn 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, based on the five criterium submitted in the application as read and the most recent plan dated 04/26/2021, and signed by Alex Winn.

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

KMcKeon stated that the application meets the first two of the five criteria, as she believes the

ordinance was not intended so that applicants could not have a full two-bedroom house. Zannotti responded that Hanzalik's motion referred to the five criteria as written. Hanzalik confirmed that statement is correct. KMcKeon asked if all members were familiar with the five criteria as Winn wrote it, because the board should not vote on something that all members had not read. All members confirmed that is correct.

The motion passed unanimously by roll call vote.

KMcKeon noted that Winn had a 30-day period in which someone could appeal this decision.

Continuation from April 26th 2021: **Application for Equitable Waiver: Kim & Marina Perrin**

are 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).

KMcKeon stated that Schnackenberg would be seated as a voting member and Brodbine will sit as an alternate.

Doug Green opened discussion as representative for Kim and Marina Perrin. Green gave a short background on the property that had been purchased and substantially improved by the Perrin's. Green noted that the Perrin's came before the Zoning Board in 2016 to request a variance to build a garage on their property. The 2016 variance was granted. The two-car carport was constructed after extensive cost to the Perrin's. The Perrin's wanted their property surveyed as they were using a circular driveway that they shared with the Samson's (abutters to the South). Green explained the Perrin's hired Ross Huntley to survey the property, which found an encroachment onto the Samson's property. The Perrin's lost approximately 29 feet of frontage on North Shore Rd as a result of the survey. Green continued, explaining that when the property was purchased, the Perrin's had received a previous survey and they believed everything to be fine until the new survey was completed. The Perrin's approached their neighbors the Samson's with multiple solutions but an agreement could not be reached. In January 2021 they applied for an Equitable Waiver, requiring that all elements under that statute be met. Green stated that all of these elements have been met.

Green stated the first element is that the first violation was not discovered by the owner's or former owner's until after the structure had been built. It was not until the Perrin's had their own property surveyed that the issue was discovered. Green stated that the variance was noticed to the abutter's including the Samson's back in 2016 with no objections.

Green stated the second element is that the violation is not the result of ignorance of the law or failure to inquire, misrepresentation, or bad faith.

Green stated the third element is similar to the one for a variance, there will not be a public or private nuisance by granting this equitable waiver. Nor will there be any diminution of the property values. Green continued, stating there was a letter submitted by the Samson's attorney noting that the Samson's property value will be diminished. Green stated that no one on Barn Road can see the Perrin's garage from the road. Kim Perrin shared his screen to exhibit this perspective. Green noted the original property pin that exhibited the boundary line, stating that subsequently both the Samson's and the Perrin's performed excavation which allowed for an increase in property values. Green further exhibited the two points where the property line was assumed to be, compared to where the Huntley survey proved it to be.

Green noted that one does not have to be an appraiser to realize all the work that the Perrin's have done has improved the property values throughout the neighborhood.

Green stated the fourth component is the Perrin's wish to remove the portion of the carport from encroaching on the property line so that it sits within one foot of the side boundary line. The reasoning for this includes the Perrin's removing a drainage pipe which also encroaches on the

Samson's property and allow them to install a drainpipe parallel to the building line of the carport. Green continued, stating that the fourth element under the statute is whether the cost of the past improvements that were made in good faith, outweigh the cost of the public benefit to be gained by removing the carport. Green added that if that were required, it would be very expensive, and the Perrin's would be without a garage. Green stated if the carport were to be moved to three feet back as the Samson's requested, they would not be able to fit two cars within.

Green stated that the Perrin's realize this is an encroachment and they wish to fix the problem.

KMcKeon asked about a survey done by the Roundtree's (previous owners from the Samson's) showing both boundary lines and noting an overlap. KMcKeon stated that there were notes stating, "...in the future the two parties should probably create a lot line adjustment." KMcKeon asked if it is written in stone that the 28 feet of frontage is in fact the Samson's or is this still in question.

Green responded that his understanding is that the Huntley survey established the Perrin's had lost 29 feet of their frontage. Green noted that the Perrin's were not aware that there was a 2006 survey when they purchased the property.

Green stated that although it will be expensive for the Perrin's to remove their carport from encroaching, they wish to repair the situation and not encroach on the Samson's.

KMcKeon stated she assumes that both parties believed the original line was correct as everyone had access to the survey completed by the Roundtree's. Green stated there was never any issue brought to the Perrin's within their deed.

KMcKeon asked if it is assumed, now, that the Perrin's were on the Samson property back in 2016. Green confirmed that is correct.

Green stated he appreciates the board's indulgence in hearing this case.

Evans stated he took a look at the property, as far as lot lines go, and they seem to be extremely fluid, and he would hope the parties could come to a reasonable accommodation.

KMcKeon explained the procedure for public input, emphasizing that the public should address all questions to the chairperson of the Zoning Board during the hearing.

Laura Carroll attended, representing the Samson's (abutter's), opening discussion on the survey in 2006 that clearly indicates that the Samson's property is the superior property. The 2006 survey was submitted by the Perrin's. Carroll continued, stating to be clear and as explained in the April 6th, 2021 letter, in 2016 the Samson's did not oppose the Perrin's variance because the Samson's were told the carport would be built within the 20-foot setback and would be 10 feet from the boundary line. Carroll continued, stating that it should not be viewed by the Zoning board that there was any kind of dissent to the encroachment.

Carroll stated the Samson's are willing to agree based on the terms stated in the letter that the setback be three feet so there is a buffer between the property line and any buildings. Carroll stated the Samson's are glad to hear the plans to move the drainage pipe as well; currently the pipe discharges water coming out of the hill onto the Samson property which could be problematic in the future.

KMcKeon asked if this was property thought to be owned by the Perrin's until 2020. Carroll stated that her understanding is there have been issues leading up to this, including location of the driveway; the Samson's did not know exactly where the boundary line was until the Huntley survey. Carroll continued, stating that one thing that will need to be remedied is the driveway pavement to be adjusted, which will make sense if the carport is shifted.

Carroll noted that one drawing completed by Dan Scott exhibits the 2006 survey to design, in fact his plans show the boundary lines that Huntley later identified as the border showing the encroachment. Carroll noted that this was not something the Samson's had seen in 2016, and the current Zoning board should have paid more attention.

Scott Samson stated they did not know about this equitable waiver until after the fact and did not

see the plans until after the fact. SSamson continued, looking back on the 2016 Zoning board minutes approving the application, Kim Perrin stated they would stay eight to 10 feet from the Samson property. The plans submitted show both borders. The Perrin's knew about this in 2016 and they submitted the application saying they were not aware of this.

Cathy Samson stated that the Perrin's submitted this application while the Samson's were on vacation. SSamson stated he spoke with Ranger Curran who stated both properties would be degraded in value. SSamson stated it needs to be clearly delineated that the Samson's are ok with cutting the building back to the Perrin's property. SSamson continued, stating the Perrin's knew back in 2016 that the carport would be on Samson property and it was constructed anyway. CSamson stated that they wanted to settle this peaceably and that it was the Zoning Board's decision to decide where the setback is.

Evans asked SSamson how far back the deed search went, referencing that the lines are straight forward and in line with a birch tree. SSamson responded that the birch tree is gone, and the line is the line as per the deed, and everyone really needs to go by that document. Evans responded that at some point there was a divergence.

KMcKeon stated, regarding the survey done for the Roundtree's, showing the 10-foot white birch tree right along the original line and not along the line that is now being used. KMcKeon continued, stating she does not see where the Perrin's acted in bad faith if they were using that birch tree. SSamson stated the birch tree and frontage on Spofford Lake has nothing to do with it, the case is all about the property lines. SSamson continued, stating if the Zoning board would look at the 2016 application, they would see both lines with no recognition of the birch tree, showing the line clearly goes through carport that was proposed. KMcKeon stated that whether the line is right or not, claiming the Perrin's had encroached on the Samson's purposefully is a large allegation.

Carroll noted, in response to Evans, that the 2006 survey shows that the Samson's contend the true border which goes across in a straight line and the overlapped part is the part that slopes down and makes it look like a stranger shape. Carroll continued, stating she does not think the Zoning Board has the ability to adjudicate where the boundary should be between the two deeds. Carroll stated the older deed is the superior deed and she does not believe the Zoning Board should get hung up on where the birch tree is. Carroll continued, stating that in terms of what this board can do, it is not a matter of the board to change where the boundaries are, it would need to go to court to satisfy that. Carroll stated that there is a resolution to the problem if the carport could be cut down, so it is no longer encroaching on the Samson's property. KMcKeon stated the Zoning Board is not trying to adjudicate anything but to accuse someone of purposefully encroaching is a heavy claim.

KMcKeon stated that one of the four criteria for equitable waiver is whether it was an honest mistake, also noting that the Perrin's constructed the carport in good faith and it was probably the luck of the draw that the encroachment occurred. Carroll responded that when Samson's learned of this issue, they were willing to do some kind of lease so the Perrin's could have their garage, but it would preserve the property boundary. Carroll continued, stating the Samson's understood that the Perrin's wanted to get this done before the year end and when the Samson's went away for the month of February 2021, the Perrin's filed the application with no notice to the Samson's. McKeon clarified that was correct, the Samson's lack of notice was an error on the Zoning Board's side. Green stated there is nothing underhanded, no bad faith, nothing hidden, no obfuscation on behalf of the Perrin's. Green continued, stating both Carroll and the Samson's stated that they did not know where the boundary line was until the Huntley survey was completed. Green stated the Perrin's spent thousands of dollars to find out they built on their neighbors' property and it was only after they spent the money that this was discovered. Green continued, stating that what the Perrin's are asking for is to be treated fairly. Green stated the Perrin's are proposing movement of the drainpipe, as well as any incidentals on the Samson's property to be removed back to one foot

from the property line. Green also stated that with the Samson's permission, the Perrin's would plant some similar shrubbery along the property line. Green continued, stating the Perrin's are willing to do several things to resolve the issue. Green agreed with KMcKeon regarding the overlap and questions about where the boundary lines actually are. Green stated the Perrin's are accepting Huntley survey and are taking considerable expense to take construction back beyond the property line.

Brodhine stated he believes the only thing the Zoning Board should decide is whether the equitable waiver is done in good faith. Both parties seem to be willing to agree that the Huntley survey line is agreed upon, the whole debate should be between the one foot and three-foot area proposed by both parties.

KMcKeon stated if this meets the criteria for an equitable waiver then the Zoning Board can leave the carport where it is.

Zannotti stated that in 2006 a certified surveyor noted where the boundaries are. The 2016 activity does not show any licensed surveyor's approval. The survey done in 2016 stated legal counsel should be brought in to resolve. Zannotti stated he does not see where the Zoning board would make a decision on where the boundary is. KMcKeon responded that the biggest thing to decide is whether the Perrin's did this knowingly or not.

Zannotti stated in the Dan Scott design without surveyor input, the design stated the Perrin's owned that 27 feet in question. KMcKeon responded that it sounds like everyone believed the carport was on Perrin property until 2020.

SSamson stated the Samson's did not know exactly where the boundary was but if the Zoning board looks back on the 2016 Zoning board meeting minutes, Kim Perrin stated this would be 8 to 10 feet from the property boundary and that is not what happened. Whether it is one foot or three feet from the line is up to the Zoning board to decide, not the applicants or the abutters. SSamson continued, stating the Samson's simply do not want the building on the property. KMcKeon asked up until the latest survey, did the Samson's believe it was on their property. SSamson responded he had always believed it to be on their property. SSamson continued, stating they had worked to draw up a lease agreement because they did not want to sell the small area that was encroached upon. SSamson stated that there is no other direction to go, the garage or carport is on Samson land. It is unfortunate the way it happened but it would be great to get straightened out. CSamson stated that they cannot sell their property in the future with this property dispute.

Evans asked if the Samson's would consider selling to the Perrin's. CSamson responded that there is a good reason why that is not an option: only because if the property were to be separated in the future, they would not make enough money to separate the barn and the orchard from the house, noting that the Samson's are not trying to be malicious with that answer.

KMcKeon stated that looking at the minutes of the application from 2016, she does not see any input from any abutters and there was no appeal for re-hearing after the variance was granted so she does not know how to assume that the abutters thought it was on their property in the first place. SSamson stated that was correct but Kim Perrin is quoted stating the building would be eight to 10 feet off the property line. KMcKeon continued stating the Perrin's were operating off a different survey than the Samson's were at that time.

Carroll stated for clarification, it looks to her that what was submitted by the Perrin's was not any kind of survey, it was a plan for the proposed garage. There is no competing survey showing the property line is different than what the Huntley survey found, noting that she does not want to go down a red herring path. Carroll continued, stating that it sounds like as Green said, they could reach a resolution with the Perrin's proposal to pare back the building. Carroll continued, stating the Samson's are fine with that plan.

Jeff Scott stated he is in favor of the one foot plan proposed by the Perrin's.

Barbara Girs asked, in 2016, were abutters given notice of this hearing and allowed to do their own survey, noting that it is up to abutters to do their own due diligence. KMcKeon responded that all abutters are notified, and all documents were available for public perusal as well as a 30-day period to appeal any Zoning Board decisions.

The board agreed that they had all enough pertinent information.

Carroll stated that she does not believe the Perrin's are proposing to let the carport stay as it is encroaching; that is not the request before the board. Carroll continued, stating she heard a few comments suggesting that this is a possible outcome, and she does not believe the Zoning Board has the ability to make that decision since both parties agree it is encroaching; the issue before the board is whether they will approve the new proposed setback which the Perrin's have set as one foot from the boundary line.

Green reiterated that the Perrin's were willing to accommodate and fix a problem that no one knew about.

John Zannotti moved to close the public portion of the hearing. The motion was seconded by Kristin McKeon and passed unanimously by roll call vote.

KMcKeon noted that all board members were aware of the requirements for an equitable waiver as well as advice from legal counsel.

Brodbine stated that the parties had reached an acceptable agreement and it would be a disservice to not allow the one-foot setback.

Zannotti clarified if Brodbine's suggestion were to move forward, the Perrin's would need to run parallel to the boundary line. Zannotti stated the cutback would be the most agreeable solution. Zannotti continued, stating he finds it unnerving that the Perrin's have to go through this because surveyors could not agree, but most of the licensed surveys state the Samson's own the offending property. KMcKeon responded that if the Zoning Board believes everyone is agreeable why make it more complicated. The Zoning Board do have the ability to allow the owners of the carport to remain where it is if the application meets all the requirements for an equitable waiver. KMcKeon continued, stating she does not see any reason to deny this accommodation. Zannotti responded that would be telling the Samson's that they are allowing the Perrin's to take part of their property. McKeon disagreed, saying that there is previous case law that allows her statement to stand, but again the applicants are willing to incur extensive costs to accommodate.

Evans stated that everyone would like to see resolution in this.

KMcKeon read from the original application for an Equitable Waiver that they applicants would like the carport to remain where it stands, but they are now stating they will move it a foot off the property line. KMcKeon asked if she is assuming that the members are in favor of granting the waiver with the caveat that the carport is moved a foot off the property line. Evans responded that would keep it simple. Zannotti stated he agrees with granting the waiver as long as that condition is included. Hanzalik agreed with the rest of the board.

McKeon stated they must go through the Equitable Waiver criteria.

KMcKeon asked if the board agreed the violation was not noticed. The board agreed. KMcKeon moved to B in the first criteria. KMcKeon stated the Perrin's went by the architect, who for whatever reason used a plan that was incorrect, according to their measurements they were off the lot line and found out later they were in error. The board agreed that the application meets this criteria.

KMcKeon noted the third Criteria, stating that certainly moving the carport back onto the Perrin's property eliminates interference with future uses. Evans stated as long as there is no contest, this will hold. Zannotti stated that for section C in the criteria, granting the application will diminish

property values and so the criteria are not met. If the carport is allowed to stay on encroached property, the Samson's property value will diminish from the verbatim reading of the equitable waiver. Zannotti suggested to include that to prevent decrease of property value the carport needs to reside one foot interior to the Perrin's property. McKeon responded with the suggestion to also include that it is not outweighed by the public good, but the verbiage can be included as the carport will be moved one foot off the property line, it will meet criteria C and D because the Perrin's are putting a lot of money into moving it. Evans stated overall, the value is insignificant in this aspect if it is agreeable to both parties and is settled. Evans continued, stating that locating the carport within a foot of the boundary, wherever that is, should preserve the property value.

John Zannotti moved that the Zoning Board approve the equitable waiver based on the carport being positioned one foot interior to the Perrin's property line as identified in the Huntley survey, 1 of 2020. The motion was seconded by Joe Hanzalik.

Discussion: KMcKeon asked if noting the drainpipe and pavement should be included in the motion. Hanzalik clarified the word "interior" refers to one foot off the property line. KMcKeon stated the motion should 'include anything else incidental to the carport'. Zannotti agreed, anything incidental encroaching on the Samson's property should be removed.

John Zannotti moved to amend the motion to include 'any incidentals that go along with the Perrin's carport should be moved off the property.' The motion to amend was seconded by Kristin McKeon and passed unanimously by roll call vote.

The motion in its entirety now reads: John Zannotti moved that the Zoning Board approve the equitable waiver based on the carport being positioned one foot interior to the Perrin's property line as identified in the Huntely survey, 1 of 2020 along with any incidentals that go along with the carport should be moved off encroaching property.

The motion passed unanimously by roll call vote.

New Applications

KMcKeon noted for the two new applicants on the agenda, there is the chance their application will not be heard until next month as the board does not meet beyond 10PM.

Application: Michael S & Joan H Bernbach Revocable Living Trust with Fieldstone Land Consultants/Christopher Guida representing, are requesting a variance from **Article V Non-Conformities, Section 503 Non-Conforming Buildings & Structures, part 503.1 Expansion** of the zoning ordinance to permit the restoration of a portion of a three-bedroom dwelling. The property is located at 168 North Shore Road Spofford, NH 03462 (Tax Map 5D Lots B031 & B032).

Chris Guida attended and opened discussion on the application, stating he is working with the Bernbach's to allow for renovation and expansion of an existing and non-conforming dwelling on a non-conforming lot. The home was built in 1946 and is in need of renovations to the foundation as well as the rest of the structure. The Bernbach's are looking to include a second story on a portion of the house. The existing residence is 32x20 and 14x18 as exhibited by shared screen. Guida stated they would secure the state shoreland permits for the impact to the soil around the foundation. The Proposed expansion will be within the same footprint, with no increase in impervious area. Guida noted that they also have a septic approval this year through Subservice

Systems Approval.

Guida included photos of the current buildings and where the proposed renovations would take place, noting the Zoning Board may want to perform a site visit.

Guida continued, exhibiting the plot plan on shared screen. Guida stated that obviously this is a small non-conforming lot although the applicants are proposing to stay within the current footprint. Guida noted that the updated septic meets state standards, currently three bedrooms and will remain three bedrooms so there will be no overloading of sewage.

Guida showed the existing part of the structure which will remain the same and the proposed renovations including the second story.

Guida stated that the applicants are looking for a variance because nothing can be done on this lot or to this building without some type of variance to the ordinance.

Guida noted that the building is just over 200 feet away from the lake and there are trees, so no view from the road will be impinged by the addition.

Guida continued, stating the renovations are proposed in the same footprint, and are not proposing any horizontal expansion or increase.

Guida noted that substantial justice will be served to allow the homeowner to conduct renovations and modest expansion to maintain usefulness of the building.

Guida stated the surrounding property values would not be diminished as renovations would improve and increase surrounding property values.

Guida continued, stating as far as hardship, the lot has inherent hardship since it was constructed prior to the Zoning ordinance in 1926.

KMcKeon asked where 1926 came from, since her plans show the two lots as being vacant in 1961. Guida responded that information came from the tax card at the bottom of the first page.

KMcKeon noted that there are discrepancies between the Avitar tax card and the cards Guida has.

KMcKeon noted that there are two lots being referenced, and they have not been merged. Guida stated that was correct and there is a deeded Right of Way that goes down lot 31, with a small camp on the abutting lot (30).

KMcKeon asked if it was still a camp. Guida stated that is correct but it is a year-round structure as far as heat and electricity. KMcKeon stated there is a huge increase in cubic footage in the setbacks. Guida stated he is unsure and will follow up with the architect for that square footage.

For right now the square footage would be 892 square feet and then an additional 892 square feet on the second story, doubling the cubic footage of that portion of the building.

KMcKeon seated Schackenberg as a voting member for this hearing.

Zannotti stated he would like to perform a site visit and asked if there is intent to merge the properties. Guida responded not that he knows of since it has been existing the way it is and proposing to keep within the same footprint. KMcKeon stated a merger can be done by the Town if the buildings are done in such a way that they appear to be using the two properties as one.

Evans, Schnackenberg, Zannotti, Brodbine, and McKeon noted they would like to do a site visit.

Hanzalik stated it is not necessary for him as he walks by it every day.

The board decided to continue the hearing to a site visit on May 20th at 11AM at 168 North Shore Road Spofford, NH 03462.

Application: Walter & Patricia Lewandowski are requesting a variance from **Article II Use Districts, Section 203 Residential District, Subsection 203.5 Setback & Yard Requirements** of the zoning ordinance to permit construction of a garage within the allowable setback of twenty feet. The property is located at 4 Zinn Road Spofford NH, 03462 (Tax Map 18A Lots B004 & B005.5).

Walter and Patricia Lewandowski attended to present the variance to allow the construction of a garage. WLewandowski stated they are asking to move the proposed building closer to the property

line to avoid a rock ledge.

KMcKeon asked about the two separate lots, the one with proposed construction is a landlocked lot which is an issue. KMcKeon asked if there were any thought to merging the lots. WLewandowski responded that he does not have any issue with it. KMcKeon stated according to the state, applicants may not construct buildings on a landlocked lot, no matter the ownership.

WLewandowski asked how he should proceed. KMcKeon responded that they may continue as is and the Zoning Board could approve it with the condition that the lots will be merged, or they may merge the lots and go before the Zoning Board again.

WLewandowski asked if the variance could be approved pending the lot merger. KMcKeon stated that was a definite possibility and it would save the applicants withdrawing from the Zoning Board, applying to the Planning Board, and returning to the Zoning Board. Brodbine stated voluntary mergers were very simple from a Planning Board point of view and suggested talking to the Planning Board secretary.

Kevin Hayes, an abutter, stated that if construction does not encroach on their property line, they have no issues with the variance.

KMcKeon asked if the current house was outside the setbacks. Lewandowski confirmed that is correct.

McKeon asked many feet the garage would be off the Western line. WLewandowski responded the garage is angled to be squared to the house and at its closest point will be six feet from the property line.

KMcKeon asked where the ledge started. WLewandowski responded that right under the South 81 line there is a large outcropping of ledge and then trending towards the gap in the stone wall is another protrusion of ledge.

KMcKeon asked if the septic were behind the house. WLewandowski stated it is in the front.

Zannotti asked what the distance is from the back of the garage to the stone wall property line.

WLewandowski responded 20 feet or greater.

Brodbine asked if this drawing is dated. McKeon confirmed it is 04/20/2021.

Brodbine asked if the abutter's property to the West is wooded. WLewandowski responded yes; it is wooded on three sides.

Brodbine and Zannotti stated they do not feel the need to conduct a site visit.

KMcKeon opened the hearing to the public for input with no response.

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

KMcKeon reminded the Zoning Board to consider the five criteria in making a decision.

KMcKeon asked if the first and second criteria were met. The board responded that they were.

KMcKeon asked if the application met the third variance criteria. The board agreed it does meet that criteria.

KMcKeon asked about the surrounding properties values. The board responded that property values would not diminish should this variance be granted.

KMcKeon asked about hardship. Zannotti noted the special conditions due to the amount of ledge restricting placement of the garage.

John Zannotti moved that the Zoning Board approved the Lewandowski application dated 04/20/2021 with the condition that the lots are merged prior to constructing the garage. The motion was seconded by Joe Hanzalik.

*Discussion: Zannotti suggested including, "As designated by expanded area."
Kristin McKeon moved to amend the original motion to include, "based on the expanded area drawing dated 04/20/2021, labeled expanded area with setback number of six feet written." The motion to amend was seconded by John Zannotti and passed unanimously by roll call vote.*

*The motion in its entirety now reads: John Zannotti moved that the Zoning Board approve the Lewandowski application dated 04/20/2021 with the condition that the lots are merged prior to constructing the garage based on the expanded area drawing dated 04/20/2021, labeled expanded area with setback number of six feet written.
The motion passed unanimously by roll call vote.*

KMcKeon stated the decision will be written up but there may be an appeal within 30 days.

Other Business

Next Meeting Schedule – Site visit Bernbach May 20, 2021


Scheduled Meeting-June 10, 2021

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

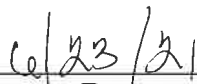
Lucky Evans moved to adjourn at 10:17PM. The motion was seconded by Joe Hanzalik and passed unanimously by roll call vote.

Respectfully submitted,

Jim Barey
Secretary to the Zoning Board of Adjustment
Approved by:



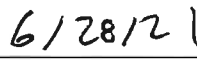
Kristin McKeon, Chairperson



Date



Joe Hanzalik, Vice Chairperson



Date