

2. Spirit of the Ordinance is observed: The structure would not be lived in, is entirely on the property, does not affect the privacy of abutters, and is similar in location to an existing shed on the neighbor's property and is within the setback to Mr. Marshall's property line.

VARIANCE: MARSHALL continued:

3. Substantial Justice: The topography and physical layout of the usable space of the property is such that this location does not diminish the use of the yard, does not block any abutters access of view.

4. Does not diminish the value of surrounding properties: The shed will be new construction, does not diminish abutter views or use of their property. Would provide space to store items that otherwise may be stored within view or outside the building.

5.A Unnecessary Hardship:

I. No fair and substantial relationship exists between the general public purposes and the specific application: The sloping topography of the property, the location of the house being so close to both sides of the boundary as well as the shape dictate this location as the only viable spot.

II. The use is reasonable because: The direct abutter has a shed within the setback located nearby, it will be hidden from sight of abutters and only secondary use for storage of seasonal items.

5.B Hardship due to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance of the ordinance, and a variance is necessary to enable reasonable use: The shape of the property, coupled with the sloping topography, as well as the house location, trees, bushes, and plantings, existing hardscaping (horseshoe pit and retaining wall) prevent it from any other location.

Mr. Denton was surprised that the shed could not be located anywhere else on the property. Mr. Marshall pointed out the location of the house, a wet area that develops every Spring, the drop-off, and the trees/shrubs/etc.

With no other questions, the Acting Chair asked for public comments. None were expressed so he closed the public portion of the hearing and called the Board to deliberate.

The Board determined to address the criteria as a whole. Mr. Denton mentioned the most difficult criteria was hardship which, in this case, is the location of the horseshoe pit, etc. The abutter most affected is in favor. Ms. Bohmiller and Ms. Dolloff agreed.

L. Denton made a MOTION, second by L. Bohmiller, to APPROVE THE VARIANCE AS PRESENTED. The motion CARRIED. The Chair signed the Notice of Decision (NOD) and stated that there is a 30-day appeal period from today.

17SE02 SPECIAL EXCEPTION: STEPHEN & COLLEEN COLE/BRUCE & MATTHEW BARNARD/JAMES SHOKAL

The secretary read the application, abutters notified, where the hearing was noticed, and stated that no telephone calls or written responses were received and there were no Dept. Head comments.

The Board looked over the application. A. Dolloff made a MOTION, second by L. Denton, to ACCEPT THE MOTION AS COMPLETE. The motion CARRIED.

Mr. Barnard explained that the present cottage will be raised and a new one shall be built. The new cottage will be a bit larger and taller but no homes will be affected. Mr. Denton questioned the elevations as he wanted to see what the house would look like though elevation were given. Mr. Shokal

SPECIAL EXCEPTION: COLE continued:

presented a set of the house plans. Mr. Barnard continued by stating that the property will remain residential. Neighboring properties have second stories and the Coles wish to do the same.

The criteria was gone through.

1. Special Exception per IV.4.12.C3a
2. The site is the appropriate location and of adequate size for the use: The existing home has been used as a residence for 20 years. No abutting views would be affected.
3. The use will not adversely affect the character of the area: The use will remain residential in a residential neighborhood.
4. No nuisance or serious hazard to vehicles or pedestrians: The residence will not be used any differently than at present.
5. No excessive or undue burden to be placed on the town services or facilities: There will be no change.
6. No significant effect on public health, safety, and general welfare of the neighborhood: The use is the same. The town will gain additional revenue for new construction. A new septic system will be installed. No views will be impacted by the increased height.

L. Bohmiller made a MOTION, second by L. Denton, to APPROVE THE SPECIAL EXCEPTION. The motion CARRIED and the NOD was signed. The applicant was told of the 30-day appeal time.

17VAR02 HEIDI WARING/J. P. MORRISON JR.

The secretary read the application, the abutters notified, where the hearing was noticed, and stated that no telephone calls or written statements were received nor any Dept. Head comments. Mr. LaFlamme read the notice by Ms. Waring naming Mr. Morrison to represent her.

Mr. Denton asked what setback is being violated and Mr. Morrison pointed it out. Mr. Morrison added that North Main St. used to be the old Turnpike and there are trees in the Town right-of-way with space before you get to Ms. Warings' boundary line. Ms. Bohmiller pointed out that the project had not been filled in on the application. Mr. Morrison wrote this in at this time. Ms. Dolloff asked if this will be within 5' of the boundary line. Mr. Morrison stated that it will but will hardly be seen.

L. Denton made a MOTION, second by A. Dolloff, to ACCEPT THE APPLICATION AS COMPLETE. The motion CARRIED.

The criteria was then addressed:

1. Contrary to public interest: The garage will not impede traffic or town maintenance operations.
 2. Spirit of the Ordinance: Will not affect the privacy of abutters. Trees will remain as a buffer.
 3. Substantial Justice: The septic system is at the other end of the house. This is the best access.
 4. Values of surrounding properties will not be diminished: This will be similar to properties in the area.
 5. Unnecessary Hardship
- A.I No fair and substantial relationship exists between the general public purposes and the specific application: No better location because of the driveway access and the house lay-out. The septic system location will not impede traffic or snow removal.

VARIANCE, WARING continued:

A.II. Propose use is reasonable: There are other garages in the setbacks in the neighborhood. This will be a like use. It will keep vehicles and other items under cover and out of sight.

B. Special conditions of the property that distinguish it from others in the area and the property cannot be reasonably used in strict conformance of the ordinance. A variance is necessary to enable reasonable use: The septic is in the way of the other end of the house. The existing driveway access is on this side.

Mr. Denton asked if this is to be a 2-car garage and was told that it is. Mr. Morrison added that this layout is the best use of the property. Having a breezeway gets it away from the house. He then pointed out the location of the septic.

There were no public comments when Mr. LaFlamme asked for them. He then closed the hearing to public comment and the Board began deliberations. They determined to address the criteria together.

Mr. Denton felt that this is a reasonable use based on hardship. Ms. Dolloff asked if there are any other buildings on the property. Ms. Waring answered that there is a barn for animals, not a car. It is located further back behind the house.

L. Denton made a MOTION, second by L. Bohmiller, to APPROVE THE VARIANCE AS PRESENTED. The motion CARRIED and the NOD was signed with the announcement of the 30-day appeal time.

17VAR04, VARIANCE: DONALD & MARGARET DUBA

The secretary read the application, abutters list, where it was noticed, and stated that there were no telephone calls, written statements, or Dept. Head comments received. Mr. LaFlamme read the Narrative included in the application.

Mr. Denton asked if this is a roof to the retaining wall to make a carport. Mr. Duba stated that it is. He continued by saying that Ken Braley is doing the work. He has excavated and done a drainage ditch with stones in it. The existing barn roof drainage comes down into the area on its side of the wall. Mr. Braley suggested putting up the carport roof so as to direct it to the ditch. Mr. Denton stated that you are not to drain water onto a neighbors' property. Mr. Duba answered that Mr. Braley has tied the ditch to the neighbors' culvert. Before, the neighbors' run-off went to Mr. Duba's property. Mr. Denton asked why he didn't place a gutter along the barn roof. Mr. Duba stated that Mr. Braley felt that a gutter would not hold and they decided to do the ditch.

A. Dolloff made a MOTION, second by L. Bohmiller, to ACCEPT THE APPLICATION AS COMPLETE. The motion CARRIED.

The criteria was gone through.

1. Contrary to public interest: The location is at the back of the property abutting wooded space. It does not block any abutter views.

2. Spirit of the Ordinance: the retaining wall does not intrude on the abutters' property nor its use. A variance would allow the construction to come within 10' of the property that was initially set up as a buffer between this property and the abutting Newfound Meadows.

VARIANCE, DUBA continued:

3. Substantial Justice: The retaining wall preserves the property by handling drainage that had been a problem. Adding a roof provides additional protection by running the barn water to the ditch instead of accumulating on the barn side of the wall.

4. Values to surrounding properties would not be diminished: There would be no negative affect on the values as it abuts wooded space and is not visible to any but 75 Prospect St. which is owned by Mr. Duba's company.

5. Unnecessary Hardship:

A.I. No fair and substantial relationship exists between the general public purposes of the ordinance and the specific application of the provision to the property: There is no alternative location for this project. It is designed to rectify an existing problem with drainage.

A.II. Reasonable because: It solves a continual problem with drainage and adds addition covered and out-of-the-way storage.

B. Special conditions of the property that distinguish it from other properties in the area and the property cannot be reasonably used in strict conformance with the ordinance. A variance is necessary to enable reasonable use: The drainage issue cannot be resolved without this variance.

The Board determined to look at this as a whole issue.

Mr. LaFlamme called for public comment. There were none so he closed the public portion of the hearing and went into deliberations.

Ms. Bohmiller stated that this variance would relieve the water problems. Mr. Denton stated that he understands the retaining wall but was confused about the carport. Mr. Duba explained that the retaining wall & ditch resolved the problem of water coming down the hill. They had to lift the barn up as it was sinking and they were afraid that it would pull the attached house with it. They put a foundation under the barn and added the wall and ditch. This resolved that problem but created another which was the water coming off the roof of the barn. It would now collect on the wrong side of the wall. Mr. LaFlamme added that covering the area with a roof would carry the water to the ditch. Mr. Duba added that, in the Spring, they had water run-off like a river. This project will neither harm or improve anything on the neighbors' property. Mr. Denton asked if they built the barn and Mr. Duba answered that the barn was there when they bought the property. Mr. Denton acknowledged that the property has created the hardship. Mr. Duba stated that it wasn't a problem until Newfound Meadows went in.

A. Dolloff made a MOTION, second by L. Bohmiller, to APPROVE THE VARIANCE AS PRESENTED. The motion CARRIED. The NOD was signed and the applicant was reminded of the 30-day appeal time.

COMMUNICATIONS: None.

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ZBA Meeting
9/5/17

NEXT MEETING: The next meeting will be held on Tuesday, October 3, 2017 at 6:00p.m. We may have a possible Variance. Applicants have until Sept. 8th to apply.

With no other business before the Board, A. Dolloff made a motion, second by L. Bohmiller, to adjourn at 7:39 p.m.

Respectfully submitted,
Jan Laferriere,
Land Use Admin. Assistant