

BRISTOL
ZONING BOARD OF ADJUSTMENT
December 4, 2018

APPROVED: As read.
See minutes of 2/5/19

AGENDA: 18SE08, CONTINUED SPECIAL EXCEPTION: HARRY McLAREY, 26 Pine St., #217-080
 18SE09, CONTINUED SPECIAL EXCEPTION: SEAN & PATRICIA LANNON, 12 O'Brien
 Road, #111-007
 18VAR04, VARIANCE: J. P. JR. & ELIZABETH MORRISON, 26 Meadow Lane, #223-086
 MOTION FOR REHEARING: TURNER COTTAGES LLC, Batten Road, #103-032

ATTENDING: Alan DeStefano (Chairman), Richard LaFlamme (Vice Chairman), Lorraine Bohmiller,
 Larry Denton, Ashley Dolloff, Melody Mansur

ABSENT: -----

OTHER: Christina Goodwin (Land Use Manager), Tyler Simonds (Planner), applicants and public

The meeting opened at 6:00p.m.

MINUTES OF OCTOBER 16, 2018:

R. LaFlamme made a motion, second by L. Bohmiller, to approve the minutes as read. The motion carried.

18SE08, CONTINUED SPECIAL EXCEPTION: HARRY McLAREY/KEN BRALEY (Representative)

The Board looked at what has been added since the last meeting. Mr. Denton asked if what is shown on the picture is the elevation and was told that it is. Mr. Denton then asked if they were taking down the old cottage. Mr. Braley stated that this is correct and they are replacing with a new one on the other side of the driveway. Mr. Denton noted that the elevations are usually shown on a scale drawing. A discussion followed as to whether or not this would be acceptable as shown.

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

Mr. Braley explained that they will demo the present building. They will put in a new building on the other side of the driveway. The septic system will be where the old cottage is now. The new building will be 18' tall compared to the present building which is 15'. As the new location rises some, Mr. Braley intends to drop the grade a little bit (about a foot). Some of the old trees have been removed and the new building will now comply with all setbacks.

The criteria for a Special Exception was looked at, beginning with #2:

2. Appropriate location and adequate size for the use: They are replacing a 2-bedroom with a 2-bedroom.

McLAREY SPECIAL EXCEPTION continued:

#3. Will not adversely affect the character of the area: They are replacing old with new, it will upgrade the area.

#4. No nuisance or serious hazard to vehicles or pedestrians: It is on a private, dead end road.

#5. Use will not place excessive or undue burden on Town services or facilities: It is on a privately maintained road and the use will remain the same.

#6. No significant effect resulting from such use upon the public health, safety, and general welfare of the neighborhood: It is a private road and the house will be moved out of the setbacks. They have received proper septic approval and have followed the town requirements.

Mr. Denton asked if the road is only big enough for 1 vehicle. Mr. Braley pointed out the road and added that by moving the new building out of the setbacks, it will be an improvement.

Mr. DeStefano asked for anyone to speak in opposition and there were none. He then asked for any in favor and there were none. He then closed the public hearing.

Mr. DeStefano gave a brief summary . The Board went over the points as presented:

#2. They agreed and added that this is an improvement. L. Denton made a motion, second by L. Bohmiller, that #2 had been met and the motion carried.

#3. It was felt that this will be a better location. L. Denton made a motion, second by L. Bohmiller, that #3 had been met. The motion carried.

#4. It was noted that the new cottage will be moving away from the road. R. LaFlamme made a motion, second by L. Denton, that #4 had been met. The motion carried.

#5. All agreed on this one with no comments. R. LaFlamme made a motion, second by L. Bohmiller, that #5 had been met.

#6. Mr. Denton mentioned that the new log cabin is the one with the least amount of feet added to the elevation. L. Denton made a motion, second by L. Bohmiller, that #6 had been met.

L. Denton made a MOTION, second by L. Bohmiller, to APPROVE THE SPECIAL EXCEPTION FOR HARRY McLAREY. The motion CARRIED and the Notice of Decision was signed.

**18SE09 CONTINUED SPECIAL EXCEPTION: SEAN & PATRICIA LANNON/MATT BARNARD
(Representative)**

The Board looked over the new material. R. LaFlamme made a motion, second by A. Dolloff, to ACCEPT THE APPLICATION AS COMPLETE. The motion CARRIED.

Mr. Barnard stated that they are making this more conforming by squaring off the house. There are 2 ridgelines and a higher grade for some of it. The smaller section will go up 7.4' and the other will go up 3 ½'. If they get approved here, they will then apply for the Shoreland permit. Where this is located, they don't even see the Lake so they will not be taking anything away from the neighbors. The area is all residential. The Lannons wish to move here permanently.

LANNON SPECIAL EXCEPTION continued:

The criteria was gone over:

#2. Appropriate location and of adequate size for the use: They are demolishing a seasonal home to build a year-round home. It will be in the same footprint, will be more conforming and remain a residential property.

#3. Will not adversely affect the character of the area: The year-round residence will improve the area. Nothing else will change.

#4. No nuisance or serious hazard to vehicles or pedestrians: Everything remains the same. The only change will be to the driveway to the garage. There is no driveway depicted now. It will be defined with the new build. Mr. Lannon wants to ask his neighbors if they will help to hot top the access that they all use.

#5. No excessive or undue burden on Town services or facilities: Doesn't now so won't later.

#6. No significant effect upon the public health, safety, and general welfare of the neighborhood: Has not, and will not, change since they bought there 19 years ago. Mr. Lannon added that it will be going from a 3 bedroom to a 2 bedroom.

Mr. DeStefano asked for public comment, for and against and received none. He closed the public portion of the hearing. He gave a brief summary.

The criteria was discussed:

#2. They are making it more conforming. R. LaFlamme made a motion, second by A. Dolloff, that #2 has been met.

#3. The Board agreed to this. L. Denton made a motion, second by R. LaFlamme, that #3 has been met.

#4. No comments were made. R. LaFlamme made a motion, second by L. Bohmiller, that #4 has been met.

#5. Only changing from seasonal to year-round. R. LaFlamme made a motion, second by L. Bohmiller, that #5 has been met.

#6. The ridgeline will be a little higher. L. Denton made a motion, second by L. Bohmiller, that #6 has been met.

Mr. Denton asked the reason for the height difference and Mr. Lannon said that they wish to put the garage underneath (it is only about 5' there now).

R. LaFlamme made a MOTION, second by A. Dolloff, to APPROVE THE SPECIAL EXCEPTION FOR SEAN AND PATRICIA LANNON. The motion CARRIED.

18VAR04, VARIANCE: J. P. JR. & ELIZABETH MORRISON

Ms. Laferriere read the application, where the case was advertised, the list of those notified and stated that there were no phone calls or Dept. Head comments and one written correspondence was received.

Mr. DeStefano read the correspondence submitted by an abutter giving their approval. The Board looked over the submission. Mr. DeStefano stated that there are 3 issues here: In the Pemi-Overlay, they have less than 200' of frontage, and they have less than 2 acres. The third is for a mobile home.

MORRISON VARIANCE continued:

L. Denton made a motion, R. LaFlamme gave the second, that the application is complete. The motion carried.

Mrs. Morrison stated that the cottage that was there was built in the 1900's with 2' x 4' construction and no insulation. It's present condition was a health hazard so they got a demo permit and removed it. They have a mobile home that they would like to replace the cottage with. Next door there is a mobile home now. They also want to build a garage for storage. The place was not in compliance when they purchased it. It is all okay except for the Pemi-Overlay.

She continued to say that the mobile home is 14' x 56', 2 bedrooms, and will have the same impact. Utilities and the driveway will remain the same. Ms. Morrison added that the old cottage back had dry rot and couldn't be saved. The mobile home will increase the value of the property. There will only be 10% coverage usage. It would be put on a slab as the cottage was.

The criteria was gone over:

#1. Not contrary to public interest: This is a double lot. There is a trailer and garage located just before this lot. There is a commercial business right across the street, as well as behind it. The two structures will be an improvement. They had to tear down the old cottage and want to improve the property. They have spoken to neighbors Peter Easley and Charlie Poole who are fine with it. They have heard nothing back from the corporations. Ms. Morrison added that they have no frontage on the river and do not understand why they are in the Pemi-Overlay. They have looked into re-building and it would be almost \$200,000.

Mr. Destefano asked about site work and about the possibility of a small ranch. He felt that an 800 sq. ft. ranch is about \$98,000. Ms. Morrison answered that the footprint would make it higher and Mr. Morrison stated that Jim Shokal quoted \$150,000. It would only sell for \$90,000. There is a mobile home right next to it.

Mr. Destefano mentioned that the Board cannot consider finances and they have to consider that mobile homes are not allowed in that District. Ms. Bohmiller asked if they had considered a modular and was told that they had. The previous building was 32' x 30'. Mr. DeStefano would prefer a better investment for value. Mr. Denton asked who manages the Pemi-Overlay. Mr. DeStefano stated that it is there to keep protection of the river. They will lose their grandfathering unless they build in the footprint.

Mr. DeStefano asked for comments for or against and received none. He closed the public portion of the hearing.

MORRISON VARIANCE continued:

The criteria was gone over:

#1. Mr. Denton stated that they are tearing down and improving. L. Denton made a motion, second by L. Bohmiller, that criteria #1 has been met. The motion carried.

#2. Mr. Denton felt that it meets the spirit of the ordinance by improving. Ms. Dolloff asked when it was purchased and was told in 2010 or 2011. Mr. DeStefano mentioned that across the street is a mobile park. L. Denton made a motion, second by R. LaFlamme, that criteria #2 has been met. The motion carried.

#3. Mr. DeStefano reminded the Board that they need to ask if it does give justice and substantial relief to the Ordinance. Mr. Denton felt that it would and added that they are seeking a variance. A. Dolloff made a motion, second by R. LaFlamme, that criteria #3 has been met.

#4. Mr. DeStefano stated that this means being good stewards of the Ordinance and Mr. Denton felt that they are by the improvements. L. Denton made a motion, second by L. Bohmiller, that criteria #4 has been met.

#5. Mr. DeStefano stated that the Board cannot base their decision on financial. Mr. Denton was concerned about setting a precedence for mobile homes in other places though he realizes there is one next door. Mr. DeStefano stated that they could build a similar size house. He feels that we need to know if, when the lot was purchase, if the ordinance as it now stands was in place.

L. Denton made a motion, second by L. Bohmiller, that criteria 5A1 has been met. The motion carried.

5Aii. L. Denton stated that it does not change the usage. Mr. DeStefano felt that the component is the sticky part --- the mobile home. Mr. Denton felt that it is a reasonable request for that property. L. Denton made a motion, second by L. Bohmiller, that criteria 5All has been met. The motion carried.

5B. Mr. DeStefano stated that there are 3 components: the lot size. Mr. Denton stated that this was already there.

Mr. DeStefano brought up the second: Pemi-Overlay setback. Ms. Bohmiller and Mr. Denton both felt this was okay.

Mr. DeStefano stated that the 3rd is the mobile home and added that we cannot consider that they have it already as that is financial. A discussion followed as the Board was having difficulty with this part. It was felt that they did not know when that ruling was put in place. They would like that information. If it didn't exist when the Morrison's purchased the property, it would be a hardship (criteria #5). It was decided that the Board would like a continuance so that this could be researched.

Ms. Goodwin explained to the Board that their next scheduled meeting is 1/1/19 which is a holiday. She suggested that they meet the following Tuesday instead.

R. LaFlamme made a motion, second by L. Denton, to schedule the next ZBA meeting on January 8, 2019. The motion carried.

R. LaFlamme made a MOTION, second by L. Bohmiller, to CONTINUE THE VARIANCE FOR J. P. JR. AND ELIZABETH MORRISON TO JANUARY 8, 2019. The motion CARRIED.

MOTION FOR REHEARING: TURNER COTTAGES LLC

Mr. DeStefano stepped down as the Planning Board Chairman is his wife and this has to do with a Planning Board decision. Ms. Mansur will fill in.

R. LaFlamme made a MOTION, second by L. Denton, to GO INTO A NON-PUBLIC MEETING TO GO OVER THE ADVICE FROM OUR ATTORNEY. L. Bohmiller – yes, R. LaFlamme – yes, M. Mansur – yes, A. Dolloff – yes, L. Denton – yes. Ms. Goodwin will take those minutes.

The ZBA returned at 8:00 p.m. L. Denton made a MOTION, second by L. Bohmiller, TO COME OUT OF NON-PUBLIC. L. Bohmiller – yes, R. LaFlamme – yes, M. Mansur – yes, A. Dolloff – yes, L. Denton – yes.

L. Denton made a MOTION, second by L. Bohmiller, to SEAL THE NON-PUBLIC MINUTES. The motion CARRIED.

It was announced that Mr. DeStefano observed and listened in on the non-public meeting but did not participate.

Mr. Denton stated that the ZBA feels that they did not make an error. Both facility and greenhouse/forestry were modified to commercial where boat storage does not state that. Commercial is listed in many places throughout the Zoning Ordinance, so the Board does not feel there is any ambiguity after reviewing the information previously provided at the hearings. As to the enforcement, Mr. Denton felt that this is not a function of the ZBA.

Ms. Goodwin asked that the Board further discuss the motion and the process. Ms. Bohmiller stated that enforcement is up to the Select Board, not the ZBA. As it stands, the only way to have boat storage anywhere in Town is either by Special Exception in the Lake District or Variance in all other districts.

L. Denton made a MOTION, second by L. Bohmiller, to DENY THE MOTION FOR REHEARING FOR TURNER COTTAGES LLC. The motion CARRIED.

Ms. Goodwin explained that the next step for Turner's is either to go to court regarding the Zoning Board's decision or to the Select Board regarding the enforcement concern. She also advised that she can answer any questions that Turners may have and they can call or stop by the office.

CORRESPONDENCE: -----

OTHER: Ms. Goodwin mentioned the FEMA meeting to be held on 12/11/18 in Holderness for anyone interested.

Mr. DeStefano commended the Board for their diligent work on the Turner case and thanked the town office for all of their help.

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Planning Board Minutes
12/4/18

NEXT MEETING: Our next meeting will be on Jan. 8, 2019 at 6:00pm. We shall have the Morrison continuance and have a Variance for Arthur Cestaro, as well.

With no other business, R. LaFlamme made a motion, second by A. Dolloff, to adjourn at 8:15pm.

Respectfully submitted,
Jan Laferriere, Land Use Admin. Assistant