

BRISTOL
ZONING BOARD OF ADJUSTMENT
November 7, 2017

APPROVED:
12/5/17 __jrl_____

AGENDA: CONTINUED 17SE03 SPECIAL EXCEPTION: RAY PARKHURST for WOODLAND REALTY TRUST, JOSEPH & CONSTANCE CUNEO, 167 W. Shore Rd., #3, #108-038
17VAR05 VARIANCE: JOHN J. & LINDA O'BRIEN, 1 O'Brien Rd., #108-038 – **withdrawn**
17VAR06 VARIANCE: GARY WILSON, 43 Swiss View Drive, #111-080 & -082
17VAR07 VARIANCE: SCOTT LIBBY FOR GERALD H. W. BRADFORD JR., Shore Drive, #111-037

ATTENDING: Alan DeStefano (Chairman), Richard LaFlamme (Vice Chairman), Larry Denton, Ashley Dolloff

ABSENT: Lorraine Bohmiller (excused)

OTHER: Liz Kelly (Planner), Public

The meeting opened at 6:01p.m. Ms. Bohmiller has been excused so Mr. DeStefano explained that the applicants have the choice of asking for a continuation to have a full board or to continue their case tonight.

MINUTES OF OCTOBER 3, 2017:

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

CONTINUED 17SE03, SPECIAL EXCEPTION: RAY PARKHURST for WOODLAND REALTY TRUST/JOSEPH & CONSTANCE CUNEO: Applicant had not arrived yet so the Chair moved to the next case until later.

17VAR05 VARIANCE: JOHN J. & LINDA O'BRIEN: Mr. DeStefano explained that the applicant has chosen to withdraw as they have a survey that shows that they will not be in the setback.

17VAR06 VARIANCE: GARY WILSON, 43 Swiss View Drive, #111-080 & -082

Ms. Laferriere read the application, abutters notified, where the hearing was noticed and stated that there was 1 telephone call and no written correspondence received.

L. Denton made a MOTION, second by R. LaFlamme, TO ACCEPT THE APPLICATION AS COMPLETE. The motion CARRIED.

Mr. Wilson stated that he would like to build a garage. He owns both lots which are very hilly and have a lot of ledge. He is asking to build in the only flat space available. The garage would be just 5' from the right-of-way (ROW) but 25' from the boundary line on the other lot that he owns. There is a ROW that runs through that other lot. The Board tried to determine the ROW setback requirements. Ms. Kelly

WILSON VARIANCE continued:

read the definition of a ROW and the definition of a street. Mr. Wilson clarified that his house is on lot #082 and the ROW is on #080. The Board determined that they should hear this case.

Mr. Wilson went over his narrative in which he explained that there is ledge on one side of where he wishes to build the garage and the boundary line on the other. He then addressed the criteria for a Variance:

1. Not contrary to the Ordinance – The garage will not block the access to or view of the abutting property. It will not encroach on the ROW that passes through the adjoining property. The ROW is only used by one land owner a few times a year and he allows the Bridgewater Mountain Snowmobile Club to use the ROW. Mr. Wilson feels that it will help property values. The ROW is not maintained and doesn't impact anyone and it can be improved.
2. Spirit of the Ordinance is Observed – It will not adversely affect surrounding property values. Mr. Wilson maintains the ROW prior to his house for his access. The garage would not encroach on any ability to improve the ROW. His septic is in the only other flat area of his property.
3. Substantial Justice – No other buildable area on the property. Their house is built into the hill. The flat space is used for a septic system, vehicle parking, and continuance of the ROW. The planned garage will be pushed in as close to the ledge and as far from the ROW as possible. It will allow storage of their vehicles and other equipment, out of the elements and in a secure building. The Swiss View Condominiums are 5' from this ROW which has set a precedence. Mr. DeStefano explained that the Swiss Village Condos pre-existed zoning.
4. Values of surrounding properties' values – no views will be blocked. Mr. Wilson proposes to build a solid foundation with metal roof that will be aesthetically pleasing. It will not block the access ROW.
5. Hardship – no harm to anyone. The location is generally private. It will give a secure place to store their personal property. As property owners, they should be able to use their property in any manner they see fit as long as there is no impact to the environment, their neighbors, or the general public. There is a ROW that exists to allow abutting land owners access to their property and the topography is such that this is the only available location to build. The ROW is part of the hardship.

Mr. Denton asked Mr. Wilson to explain the photos presented, which he did. Mr. DeStefano asked how the ROW is a hardship. Mr. Wilson stated that they allow folks to use it for snowmobiling use. Mr. DeStefano said that, by allowing passage, he has created that hardship.

At this time, Mr. DeStefano asked for comments in favor and there were none. He then asked for any against. Bruce Beaurivage asked when the property was purchased and when the club was allowed to pass through. Mr. Wilson answered that he purchased the property in Oct. 2009 and the club was allowed passage before he purchased it.

With no other comments from the public, Mr. DeStefano closed the public portion of the hearing.

WILSON VARIANCE continued:

R. LaFlamme made a MOTION to GRANT THE VARIANCE. There was no second given as the Board wished to deliberate first. Mr. Denton agreed with Mr. LaFlamme but wanted input and added that there is some hardship due to the topography.

The Board went over the criteria:

1. A. Dolloff made a MOTION, second by R. LaFlamme, to APPROVE CRITERIA 1 AS HAVING BEEN MET. There was no discussion and the motion CARRIED.
2. R. LaFlamme made a MOTION, second by A. Dolloff, to APPROVE CRITERIA 2 AS HAVING BEEN MET. Mr. Denton felt that the ROW was not much of an issue. The motion CARRIED.
3. L. Denton made a MOTION, second by R. LaFlamme, to APPROVE CRITERIA 3 AS HAVING BEEN MET. Mr. Denton stated that he feels this predated zoning to give access by the ROW. The motion CARRIED.
4. L. Denton made a MOTION, second by R. LaFlamme, to APPROVE CRITERIA 4 AS HAVING BEEN MET. There was no discussion and the motion CARRIED.
5. L. Denton made a MOTION, second by R. LaFlamme, to APPROVE CRITERIA 5 AS HAVING BEEN MET. Mr. Denton stated that this is due to the land. Mr. DeStefano thought that the hardship is self-imposed when he bought it. Mr. Denton said that he could build a 10' garage but that would be impractical. When you purchase a property, you don't always envision the use you may want later. He felt that this is the best area to build and where it will encroach the least. The motion CARRIED, 3 for, 1 opposed.

R. LaFlamme made a MOTION, second by L. Denton, to GRANT THE VARIANCE FOR GARY WILSON. Mr. DeStefano asked for a CONDITION: APPROVED CONDITION SUBJECT TO THE RIGHT-OF-WAY DESCRIPTION IN THE DEED. He stated that this is to be certain that the garage does not infringe on the ROW. The Board agreed and the motion CARRIED with the CONDITION ADDED. Mr. DeStefano explained the 30-day time for a possible appeal.

As Mr. Libby had not arrived and Mr. Parkhurst had, the Parkhurst hearing was brought up next.

CONTINUED 17SE03 RAY PARKHURST, 167 West Shore Rd., Unit #3, #108-038

Mr. DeStefano reminded everyone that this is for a Special Exception for height. Mr. Parkhurst stated that he called the O'Hara's and asked about their plan and septic system. He did not get a response. There is 75' from the brook to where they wish to build their house. There are 6 hemlocks by cottage #2 and a spruce that is 30' high. Mr. Parkhurst talked to the Cuneo's (who own the hearing property) and they are willing to cut the trees down to give the O'Hara's a view. He feels that the building wouldn't encroach their view. Mr. DeStefano said that he checked out the properties and agrees. Mr. Denton asked about the present sighting and Mr. O'Hara answered that the brown cottage was raised somehow. R. Parkhurst stated that the brown cottage is higher than what they plan to re-build. Mr. O'Hara added that they will be putting up a ranch and added that Mr. Cuneo has cut 11 of the O'Hara's trees. Mr. DeStefano stated that, at the last meeting, he looked at the situation and suggested that the two parties work together for a solution. Mr. O'Hara said that he has a 12' drive that is 3 ½' away from the house. He feels that Mr. Cuneo has blocked the drainage and water spreads on his driveway. Mr. DeStefano stated that the drainage is a DES issue. As to the boundary or trees, that is a civil case. Mrs.

PARKHURST SPECIAL EXCEPTION continued:

O'Hara asked what is in the little shed and Mr. DeStefano mentioned a bicycle and canoe. Mrs. O'Hara stated that the shed was built by Mr. Cuneo and is on their property. Mr. Denton asked if the building in question (for the hearing) is #3 and was told that it is. Mr. DeStefano added that he looked and feels that pushing the building forward would put it further into the O'Hara's view.

R. LaFlamme made a MOTION to DENY THE SPECIAL EXCEPTION. There was no second. The criteria were looked at:

1. APPROPRIATE SIZE AND LOCATION – It is an existing cottage with no problems except for its condition. It is to be a residential structure in a residential neighborhood. L. Denton made a MOTION, second by R. LaFlamme, to AGREE THAT THIS CRITERIA WAS MET. There was no discussion and the motion CARRIED.
2. WOULD NOT ADVERSELY AFFECT THE CHARACTER OF THE AREA – It would complement the area with the same use and be more attractive. L. Denton made a MOTION, second by A. Dolloff, to AGREE THAT THIS CRITERIA HAS BEEN MET. Mr. Denton stated that it wouldn't affect the character of the area and others have 2-story cottages. Mr. DeStefano thought that those are pre-dated. The motion CARRIED.
3. NO NUISANCE OR SERIOUS HAZARD TO VEHICLES OR PEDESTRIANS – It will be built in the same footprint as the original and existing parking is adequate. L. Denton made a MOTION, second by A. Dolloff, to AGREE THAT THIS CRITERIA HAS BEEN MET. The vote CARRIED, 2 for, 1 opposed.
4. WILL NOT PLACE EXCESSIVE OR UNDUE BURDEN ON TOWN SERVICES AOR FACILITIES – It shall have the same number of bedrooms and bathrooms, will use less electricity, water, fuel, and be less of a fire hazard. L. Denton made a MOTION, second by R. LaFlamme, to AGREE THAT THIS CRITERIA HAS BEEN MET. The motion CARRIED.
5. NO SIGNIFICANT EFFECT RESULTING FROM SUCH USE UPON THE PUBLIC HEALTH, SAFETY AND GENERAL WELFARE OF THE NEIGHBORHOOD – It will be replacing what is already there with no change of use. The rooms will be larger with better egress and a safer kitchen and bath area. R. LaFlamme made a MOTION, second by L. Denton, to AGREE THAT THIS CRITERIA HAS NOT BEEN MET. Mr. Denton stated that he has a problem with this one. The motion CARRIED.

R. LaFlamme made a MOTION, second by L. Denton, TO DENY THE SPECIAL EXCEPTION FOR RAY PARKHURST. The motion CARRIED, 4 for denial. Mr. DeStefano stated that the applicant has 30 days to appeal if he wishes.

17VAR07 SCOTT LIBBY/GERALD H. W. BRADFORDE JR., Shore Drive, #111-037

Ms. Laferriere read the application, list of abutters notified, where the hearing was advertised and stated that there were no telephone calls or written messages received.

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

Mr. Libby stated that they started about a year ago to enlarge the bathroom. They received a permit (which now will need to be renewed) but thought that a screened porch addition going across the back of the house would be nice. It is not going the full length of the house.

LIBBY VARIANCE continued:

Mr. DeStefano asked if the shed will stay and was told that it would. The criteria were addressed:

1. Contrary to public interest – The addition will be on the back of the house off the public ways and not blocking a view.
2. Spirit of the Ordinance – The original bathroom is very small and a screened porch would give privacy and the only place to create the space. Mr. Denton mentioned that a front addition would be in the setback and Mr. DeStefano stated that they have town water and need a 15' setback all around.
3. Substantial Justice – It would add comfort to the home as well as a peaceful place to sit off the road frontage. They are also doing over the septic which they have a permit for, as well.
4. Values of surrounding properties would not be diminished – Not blocking any views and everyone else has similar renovations and add-ons. It is a tight-knit seasonal community where all are packed in.
5. Hardship – It is not like it is a real hardship. The bathroom is so small and it is a good time to do the septic. They wanted a screen porch and asked what would happen if they went 2' shorter. Mr. DeStefano stated that there is only a very small space not in the setback that can be used.

Mr. DeStefano asked for any comments in favor and there were none. He asked for any opposed. Bruce Beurivage was there to represent abutter Mary Labrie. He stated that last year Mr. Bradford cut down a tree that hung over and it cost \$600. To clean their roof. There is another tree that hangs over their cottage. When the fence was installed, certain areas were to be cut out for egress areas. The one for the bedroom has been shut and needs to be opened. Mr. DeStefano and Mr. Denton explained that this is not in their purview. Mr. Beurivage stated that they would be in favor of the project if Mr. Bradford would meet their conditions: cut down the tree and open the fence window. Mr. DeStefano stated that, if the fence is the issue, the ZBA has no jurisdiction. They need to come to the town about any violation or it is a civil issue. Mr. Libby stated that the tree would be a DES issue. Mr. Beurivage is not against the project. Mr. Libby added that the other abutter is amenable.

Mr. DeStefano closed the public portion of the hearing and the Board addressed the criteria:

1. A. Dolloff made a MOTION, second by R. LaFlamme, to APPROVE CRITERIA #1 AS BEING MET. Mr. Denton stated that the cottages are too close to do much. The motion CARRIED.
2. L. Denton made a MOTION, second by A. Dolloff, to APPROVE CRITERIA #2 AS BEING MET. Mr. Denton this part would be to be able to use the lot. The motion CARRIED.
3. R. LaFlamme made a MOTION, second by A. Dolloff, to APPROVE CRITERIA #3 AS BEING MET. Mr. DeStefano thought that when the subdivision went in, they never intended to have these setbacks. The motion CARRIED.
4. A. Dolloff made a MOTION, second by R. LaFlamme, to APPROVE CRITERIA #4 AS BEING MET. Mr. Denton stated that the value is in the Lake. The motion CARRIED.
5. R. LaFlamme made a MOTION, second by L. Denton, to DENY CRITERIA #5 AS NOT BEING MET. Mr. Denton stated that the property may not have been like this when it was purchased; possibly without the present setbacks. Mr. DeStefano said that we have on record that the applicant admitted that this does not meet hardship. Mr. Libby stated that he did not understand hardship. That there is no other exit except in front and this would give them a second exit. Mr. DeStefano had a concern that it sounded like the application was for the bathroom. Mr. Denton stated that windows can be considered an access. Mr. DeStefano added that they could just put in a door.

-6-
ZBA Minutes
11/7/17

LIBBY VARIANCE continued:

R. LaFlamme made a MOTION, second by L. Denton, to DENY THE VARIANCE FOR SCOTT LIBBY/GERALD H. W. BRADFORD JR. The motion CARRIED. Mr. DeStefano explained that there is a 30-day appeal period. Mr. Libby asked about doing the bathroom and he was told to check with Christina Goodwin at the Town Office about a renewal.

The Board held a short discussion on hardship. With no other business before the Board, R. LaFlamme made a motion, second by A. Dolloff, to adjourn at 8:15 p.m.

Respectfully submitted,
Jan Laferriere,
Land Use Adm. Ass't.