

**ZONING BOARD OF ADJUSTMENT**

**MINUTES**

April 6, 2021

**APPROVED:** 5/5/21

**AGENDA:** 21VAR01 - VARIANCE: BONNIE & DONALD GRIMES, 109 Akerman Rd., #203-028  
21VAR02 - VARIANCE: STEPHEN COLE, 181 Holiday Hills Dr, #110-026  
21SPX02 - SPECIAL EXCEPTION: THE MAYHEW PROGRAM, 6 Olde Lane Rd,  
#104-134

**ATTENDING:** Alan DeStefano (Chair via Zoom), Richard LaFlamme (Vice Chair), Lorraine Bohmiller, Larry Denton, Melody Mansur (via Zoom)

**ABSENT:** Ashley Dolloff (alternate), Jackie Elliott (alternate)

**OTHER:** Christina Goodwin (Land Use Manager), Applicants & public

Mr. DeStefano stated that the Governor's Emergency Orders allow for meetings to be held both in-person and electronically due to the pandemic. Members of the Board and public are attending in-person, via video or via telephone conference. The meeting opened at 6:00 pm by roll call vote 5-0 with a quorum.

**MINUTES OF MARCH 2, 2021:**

R. LaFlamme made a motion, second by M. Mansur, to approve the minutes as written. The motion carried by roll call vote 5-0.

**VARIANCE: BONNIE AND DONALD GRIMES (via Zoom), 109 Akerman Rd, #203-028**

Ms. Goodwin read the application to replace an existing mobile home with a larger modular home, the abutters notified, where the hearing was advertised, and stated that there were no written responses or Department Head comments received.

L. Denton made a MOTION, second by L. Bohmiller, to ACCEPT THE APPLICATION AS COMPLETE. The motion CARRIED by roll call vote 3-2.

Mr. Grimes explained that they wish to replace the existing mobile home, done in 1978. It is 14 ft x 64 ft. The new modular is manufactured at 26.8 ft x 68 ft. It will infringe on two sides due to the location of the septic, utility pole, and well. There will only be 17.4 ft from the boundaries on those two (2) sides.

Ms. Mansur asked the distance from the well and septic. Mr. Grimes stated that it is 5 ft from the septic and 12 ft from the street on the left. Ms. Mansur asked for the reasoning of the size and was told it is to accommodate family. Mr. Denton asked if the current mobile home meets the setbacks and Mr. Grimes said it does some as it is 4 ft shorter. Mr. DeStefano asked where the well and utility pole are located, and this was shown on the plan. He added that he is talking with the Department of Environment Services (DES) on the septic plan. They will be increasing from three (3) bedrooms, 1 ½ baths, to four (4) bedrooms. Mr. Denton asked if there is a reason, the owner selected 68 feet and was told to accommodate the 4<sup>th</sup> bedroom. Mr. DeStefano felt that there are multiple sizes that

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#### **GRIMES VARIANCE continued:**

would be compliant. Mr. Grimes stated that this is the size needed for the 4-bedroom plan. Ms. Bohmiller asked, if they went smaller, would they be able to have four (4) bedrooms and was told no and they need the 4<sup>th</sup> bedroom to accommodate their family. He added that, in the summer, they have an RV and tow in another RV for family. The neighbors have been fine with this, but they would like to make it better. They get the RV's dumped at the town facility. With no further questions from the Board, the criteria were addressed.

1. Not contrary to public interest: It will increase the appeal and property value.
2. Spirit of the Ordinance: The entire family could enjoy it.
3. Substantial Justice: It will allow for adequate use and improve the value.
4. Value of surrounding properties not diminished: It will increase the value and therefore, increase the surrounding value.
5. Unnecessary Hardship:
  - AI. No substantial relationship between public and application of the provision to the property: Nothing relative exists, it continues the current use.
  - AIL. Reasonable use: They are limited by the location of the septic and well.
  - B. Special conditions of the property: The 17.4 feet is less with 2.55 feet difference and is restricted by the location of the well and septic.

Ms. Mansur asked if they have already purchased the modular home and was told that it is pending the approval of this variance. Mr. DeStefano noted that the need of a new septic plan may require a new location the mobile home.

Mr. DeStefano opened the public portion of the hearing and asked for comments in support of the plan. There were none.

He then asked for comments opposed to the plan.

Kelly Benton (via Zoom with her Mom, Helen, who heads the Trust) is an abutter on lot #14. She stated that she loves the beautification of the neighborhood and asked if they will be moving the well. She was told that they will not. She then asked if the owner would move the septic when they get the approval, and it was explained that it will depend on the approval of the Variance and if they have to relocate. She then asked if this means that they will no longer have the RV's and was given an affirmative. She then asked where their cars will park and was told on the opposite side from her where they park now. The RVs are parked on the side closest to her lot and encroach into the easement. When asked if Ms. Benton was for or against the plan, she stated that she is against it, as there is not enough information, for her to support.

Brian Twohig, abutter off Akerman Rd, had concerns about the well and septic. He recently had a new septic plan done and feels it may be a problem for the property owners. Taking away the RV's is okay.

Darren Hasenjaeger (via Zoom) is an abutter off Country Club Road. He said that the footage is less than allowed and the well is within 100 feet of the septic. He felt that they have lots of options not

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#### **GRIMES VARIANCE continued:**

to encroach on the setbacks. He mentioned that the Board asked for other options and / or make the house smaller. He is all for beautification of the neighborhood.

Mr. Grimes stated that he is only looking to upgrade and accommodate his family. The well encroached the front of his property but is well out of the setback. Mr. DeStefano asked if it is a dug or drilled well and Mr. Grimes answered that it is dug. It was mentioned again that it needs to be 100 feet from the septic, and it was felt that the owner should contract with a registered engineer for a more certified plan. Ms. Bohmiller stated that the Board cannot approve this if the septic has to be relocated. Mr. LaFlamme agreed.

Mr. DeStefano stated that the site plan is not appropriately designed. He added that a dug well is easier to move. He then closed the public portion of the hearing. Mr. Denton felt that the criteria should be addressed one at a time and all members of the Board agreed.

1. L. Denton made a MOTION, second by L. Bohmiller, that criteria #1 HAS BEEN MET. The motion CARRIED by roll call vote 5-0.
2. L. Bohmiller made a MOTION, second by R. LaFlamme, that criteria #2 HAS BEEN MET. The motion CARRIED by roll call vote 4-1.
3. L. Bohmiller made a MOTION, second by M. Mansur, that criteria #3 HAS BEEN MET. The motion CARRIED by roll call vote 4-1.
4. L. Bohmiller made a MOTION to APPROVE criteria #4. There was no second. Ms. Mansur stated that we have no way of knowing and Mr. Denton added that building to the setback would increase the problem. No further motion was given, and no vote taken.
5. AI. R. LaFlamme made a MOTION, second by L. Denton, to DENY criteria #5AI. Mr. Denton stated that they are already in the setback and want more. That is not the Spirit of the Ordinance. Ms. Mansur felt that it could be remedied by something different or in a different way. The motion CARRIED by roll call vote 5-0 and criteria #5AI was denied.  
All. R. LaFlamme made a MOTION, second by L. Bohmiller, to DENY criteria #5All. Mr. LaFlamme felt that there should have been better planning. The motion CARRIED by roll call vote 5-0 and criteria #5All was denied.  
B. M. Mansur made a MOTION, second by L. Bohmiller, to DENY criteria #5B. Ms. Mansur felt that we do not know how this will end up and Mr. DeStefano agreed. The motion CARRIED by roll call vote 5-0 and criteria #5B was denied.

R. LaFlamme made a MOTION, second by L. Bohmiller, to DEENY THE VARIANCE FOR BONNIE AND DONALD GRIMES. The motion CARRIED by roll call vote 5-0. Mr. DeStefano advised that there is a 30-day right of appeal.

#### **VARIANCE: STEPHEN COLE, 181 Holiday Hills Dr, #110-026**

Ms. Goodwin read the application to replace a tent-type storage structure with a wood-frame structure that encroaches on the side setback, the list of abutters notified, the advertisements, and stated that there were no written comments or Department Head comments received.

R. LaFlamme made a MOTION, second by L. Bohmiller, to ACCEPT THE APPLICATION AS COMPLETE. At this point Ms. Bohmiller recused herself as she is a neighbor. There were no alternates available

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#### **COLE VARIANCE continued**

to step in so Mr. DeStefano asked the applicant if he wished to continue with a short Board or move the case to another meeting with a full Board. The applicant wished to continue with the short Board tonight. The motion CARRIED by roll call vote 4-0.

Mr. Cole explained that he now has a temporary shelter and wants a permanent one. He feels that he has no other place to put the shed. The backyard has a leach field and a buried propane tank, which were pointed out on the plan. Mr. Cole put up the tent structure approximately three (3) years ago.

Mr. DeStefano asked about the quadrant space north of the garage and was told that this is where he parks his snowmobile and boat trailers and that the shed would not meet setbacks in that location either. He stores his tools and lawnmower in the shed. Ms. Mansur asked about the size and Mr. Cole answered that he needs a 10 ft x 14 ft to store everything. Mr. DeStefano asked about the middle of the property and was told that this is his access to the backyard. Mr. Denton suggested that it could be lined up with the garage. That appeared to be a problem, as well, as it would block the access to the backyard in most areas. The Board reviewed the criteria.

1. Not contrary to public interest: Abutters approve the plan, and the shed would not be seen from the road.
2. Spirit of the Ordinance: It will be an improvement to go from temporary to a permanent structure and increase the value of the area.
3. Substantial Justice: There is no other location that is outside the setbacks.
4. Values of surrounding properties not diminished: The wood structure will match the other structures on the property.
5. Unnecessary Hardship:
  - AI. No substantial relationship between public and the application of the provision to the property: There is no other location that meets the setback.
  - AIL. Reasonable use: It meets the lot coverage.
  - B. Special conditions of the property: It is a reasonable use to store equipment.

Mr. DeStefano suggested putting the shed sideways in front of the buried tank. Mr. Cole answered that they would not be able to drive their snowmobiles around it and he does not think it would fit. Mr. DeStefano explained that there is 13 feet shown between the deck and the leach field, which is closer than the propane tank. Mr. Cole stated that the deck is about 4 feet higher than the ground where the propane tank is located and that the ground there slopes downward.

With no other questions from the Board, Mr. DeStefano called for public input in support of the plan. There was none. He then called for any input in opposition to the plan. There was none. He closed the public portion of the hearing and the Board went through the criteria.

1. L. Denton made a MOTION, second by R. LaFlamme, to APPROVE criteria #1. The motion CARRIED by roll call vote 4-0.
2. L. Denton made a MOTION, second by R. LaFlamme, to APPROVE criteria #2. The motion CARRIED by roll call vote 3-1.

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#### **COLE VARIANCE continued:**

3. L. Denton made a MOTION, second by M. Mansur, to APPROVE criteria #3. Mr. DeStefano reminded the Board that they have denied sheds in setbacks in this area before. Ms. Bohmiller stated that the property is so full, she cannot see where they can put it. Ms. Mansur stated that it will be in the same location as where they have the temporary one now. The motion FAILED by roll call vote 2-2.

4. L. Denton made a MOTION, second by M/ Mansur, to APPROVE criteria #4. Mr. DeStefano asked if it can be seen by any neighbor and was told that it can on two (2) sides. The motion CARRIED by a roll call vote 3-0-1 abstention.

5AI. L. Denton made a MOTION, second by M. Mansur, to APPROVE criteria #5AI. The motion CARRIED by roll call vote 4-0.

5AII. L. Denton made a MOTION, second by M. Mansur, to APPROVE criteria #5AII. The motion CARRIED by roll call vote 3-1.

5B. L. Denton made a MOTION, second by M. Mansur, to APPROVE criteria #5B. Mr. Denton stated that the property is full and there is no other place for it. The motion CARRIED by roll call vote 3-1.

R. LaFlamme made a MOTION, second by L. Denton, to DENY THE VARIANCE FOR STEPHEN COLE AS IT DID NOT MEET CRITERIA #3. The motion CARRIED by roll call vote 4-0. Mr. DeStefano explained that this is the problem when there is not a full Board. A tie vote cannot be broken and is automatically a denial. He then announced the 30-day right to appeal.

#### **SPECIAL EXCEPTION: THE MAYHEW PROGRAM, 6 Olde Lane Rd, #104-134**

Jay Buckley, Project Manager and Jim Nute, Director were in attendance to represent the case.

Ms. Goodwin read the application to increase the building height from 18 feet to 26 feet, the abutters notified, the advertisement, and stated that there were no comments received from the public nor from Department Heads.

Mr. Buckley presented new plans and Ms. Goodwin scanned them to put up on the screen for those not in attendance. Mr. Denton questioned the present versus new height depiction. This was pointed out on the plans.

R. LaFlamme made a MOTION, second by L. Denton, to APPROVE THE APPLICATION AS COMPLETE. The motion CARRIED by roll call vote 5-0.

Mr. Buckley stated that Mayhew owns this lakefront property. The house was built in 1925 and is tired. They wish to demolish it and build a typical lakefront cottage. It will be winterized for staff to stay over and Mr. Nute has spoken with the neighbors.

Mr. Denton asked if the height is to have a second floor and he was told that they want two (2) bedrooms up there. Mr. Buckley believes that they are to be 9-foot ceilings. Mr. Denton added, the pitch is for snow and was told yes. Ms. Mansur asked about view and Mr. Buckley said that it is wide open to the lake. She asked about the abutter behind and was told there are trees to the left and right. Mr. Nute added that they can hardly see now.

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#### **MAYHEW SPECIAL EXCEPTION continued:**

The criteria were addressed beginning with #2:

2. Appropriate location and size: It is to be in the same footprint as it has been since 1925.
3. Will not adversely affect the character of the area: It is not obstructing neighbors and will be more attractive.
4. No nuisance or hazard to vehicles or pedestrians: There is no change of the building footprint or drive locations.
5. Will not place undue burden on town services or facilities: Nothing is changing.
6. No effect on public health, safety, and general welfare of the neighborhood: No change to use; just higher.

Mr. DeStefano asked if they have gone to the Department of Environmental Services (DES) and Mr. Buckley stated yes, both for septic and for Shoreland Protection.

Mr. DeStefano asked for comments in favor of the plan. Denice Feltz (abutter, on Zoom) said that she has spoken with Mr. Nute. It sounds like it will not impact her that much as she is behind this property. She is in favor.

Mr. DeStefano asked if it would be more favorable if they turned the building and was told no. Ms. Goodwin explained that if they change from the existing footprint, they will lose their grandfathering.

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

L. Denton made a MOTION to VOTE THE CRITERIA IN ONE MOTION, second by R. LaFlamme. The motion CARRIED by roll call vote 5-0.

R. LaFlamme made a MOTION, second by M. Mansur, to APPROVE THE SPECIAL EXCEPTION FOR THE MAYHEW PROGRAM. The motion CARRIED by a roll call vote 5-0.

**COMMUNICATIONS:** None.

#### **ELECTION OF OFFICERS:**

R. LaFlamme nominated Alan DeStefano for Chair and A. DeStefano nominated Richard LaFlamme for Vice Chair. L. Denton seconded both motions. There were no other nominations. The motions CARRIED by roll call vote 5-0.

#### **UNFINISHED BUSINESS:**

Ms. Goodwin stated that the lot coverage maximum has been updated. Ms. Mansur asked if this is approved for paving. Ms. Goodwin answered that permits are not required for residential although those folks should talk with Land Use to check their lot coverage.

Ms. Goodwin will bring in the by-laws for next meeting.

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#### **UNFINISHED BUSINESS continued**

Mr. LaFlamme brought up an issue for the Board to think about: we are getting stuck with these shed issues. It is getting harder and harder to make decisions, but we need to look at them all in the same way as it sets precedence. Mr. DeStefano agreed. Ms. Bohmiller added that, previously in that same neighborhood, two (2) people had put sheds in the setback and came in when there was a complaint and they had to move them. Neither had applied for a permit. She mentioned that a lot of other sheds in this neighborhood are on the property line. Tonight's applicant at least did come for a permit. Mr. DeStefano stated that this is why you need a 5-member Board to break a tie. He agreed that, at least this applicant applied. Ms. Mansur felt that it is okay if they have no other room. She was not positive that there was room, in this case. Mr. DeStefano and Ms. Goodwin felt that the owner can come for a re-hearing if he has a substantial change or can show that there was some matter not addressed correctly in the meeting. Mr. DeStefano stated that we do re-hearings as that is in the best interest of the town. He still thinks that if the applicant turned the shed sideways, he could do it. Ms. Goodwin mentioned that they might not be able to get to the propane tank then.

Ms. Goodwin stated that the meeting room has been double-booked for July 6<sup>th</sup>, and if there are no applications submitted by June 18, we will need to cancel that night. The Select Board have a meeting the same night. Ms. Mansur stated that she will be on vacation for that meeting.

Ms. Goodwin reminded the Board members that there was a webinar meeting on Zoning Boards coming up. She has registered Alan D., Richard L., and Lorraine B. If anyone wishes to attend in person, they can come to the meeting room. Also, on May 15<sup>th</sup> from 9:00 – 12:00 is the Annual Conference and Lorraine B., Richard L. and Alan D. are signed up for that.

**NEXT MEETING:** The next meeting is scheduled for May 4 at 6:00pm. We have no hearings yet, but applicants have until April 16 to apply.

With no other business, R. LaFlamme made a motion to adjourn at 8:08pm, second by L. Bohmiller. The motion CARRIED by roll call vote 5-0.

Respectfully submitted,  
Jan Laferriere,  
Land Use Associate