

## ZONING BOARD OF ADJUSTMENT

### MINUTES

July 11, 2023

**APPROVED:** August 1, 2023

**AGENDA:** 23VAR06 - Goodrum - #219-028 – 179 Ten Mile Brook Road  
23VAR07 - Barnard/Faro - #111-010 -146 Shore Drive  
23SPX08 - Barnard/Faro - #111-010 - 146 Shore Drive

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

**OTHER:** **Staff:** Joanne Bailey (Land Use Manager), Donna Sullivan (Land Use Administrative Assistant) **Applicants & Public:** Jeff Goodrum, Brent Dunn, Matt Barnard, and Andrew Litz

Chairman Alan DeStefano called the meeting to order at 6:00 pm with a quorum present in the room.

#### MINUTES:

The Board reviewed the minutes of June 6, 2022. Ms. Bohmiller motioned to approve the minutes as written. Mr. LaFlamme seconded. The motion carried 5-0-0.

#### NEW BUSINESS:

#### CASES:

##### 23VAR06 – Goodrum - #219-028 -179 Ten Mile Book Road

Ms. Sullivan read the variance application into the record to allow the applicant to build an accessory structure that is 9 feet higher than the 20 feet allowed per Article 4, Section 4.0 of the Zoning Ordinance. She noted that 6 abutters were notified and read the names for the record. She indicated that there was one (1) written response received from abutters, Brent and Jessica Dunn. Departments were notified and there were no comments received from the department heads.

Chair DeStefano reviewed the process for the hearing on this case. The Board reviewed the application materials submitted and its checklist to determine if the application was complete. Ms. Mansur stated she did not see photos of the area where the structure was to be erected. She also asked about detailed drawings for the structure. The drawings submitted were referenced. Ms. Mansur indicated she only saw truss specifications and no pictures.

After some discussion of materials submitted, Mr. Denton motioned to accept the application as complete. Ms. Bohmiller seconded. More discussion followed about the missing photos and detailed plans for the structure with Chair DeStefano asking the Board what more they would like to see to complete this application. Mr. LaFlamme talked about being consistent with requirements of photos or architectural drawings to better show the Board the project for review and decisions. Chair DeStefano asked for the vote. The motion for accepting the application as complete failed with a vote 2-3-0.

Additional discussion followed about the required elements necessary for the Board to act on an application. Mr. Goodrum addressed the Chair and asked if he could speak and indicated he had some pictures with him. Chair DeStefano asked the applicant if what he had was part of their package and if not, he would need to forward to Land Use for later review. Mr. Dunn asked to speak about the status of construction activity on the property. Chair DeStefano stated that with the vote of the application not being complete, no public comment or discussion would be entertained. Mr. Dunn was counseled about the application and public hearing process and was told that should the applicant re-submit his application

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#### 23VAR06 – Goodrum - #219-028 -179 Ten Mile Book Road - continued

with appropriate items to complete the application, he would have an opportunity to speak. Another vote was taken. Mr. LaFlamme motioned to deny the application as it was incomplete. Ms. Mansur seconded. The motion to deny carried 3-2-0. Mr. Denton addressed the Chair and indicated that he felt that what they had before them was sufficient to make a decision and Chair DeStefano stated that the vote had been taken and if the Applicant wished to come back to the Board in August to present the missing items, he could do so.

#### 23VAR07 - Barnard-Faro - #111-010 - 146 Shore Drive

Ms. Sullivan read application #23VAR07 into the record. The applicant was applying for a Variance to allow replacement of a house with a new one that will be closer to the property line setback of 15 feet required by Article 3 Section 3.3 (F) of the Zoning Ordinance. She noted notifications to abutters, advertising and postings were done as required. She read the names of abutters that were notified. There were no phone calls or written responses received. Department Heads were notified and there was only one (1) comment received from the Water Department asking the applicant to contact them to shut off the water service before demolition.

The Board reviewed the application materials and checklist to determine if the application was complete. Ms. Mansur motioned to accept the application as complete. Ms. Bohmiller seconded. The motion carried 5-0-0.

Chair DeStefano asked the applicant's agent, Matt Barnard to present the application. Mr. Barnard described the plans to demolish an existing cottage and rebuild a new cottage with a deck and a new septic system on the lot. He stated that the applicant has already received Shoreland and Septic approvals from the State. The intention is to site a similar building to adjacent buildings at similar setbacks. The variance is necessary to locate the new building within the sideline setbacks on the side next to the Big Catch. Mr. Denton asked if there was a way to make this less non-conforming. Mr. Barnard explained that the existing neighboring cottages are all very close together, so the difficulty was to look at all the boundary lines and make the best choice to meet the needs of the applicant with the new leach field, setbacks, and other considerations for location. He explained that it cannot be made less non-conforming due to neighboring property dwellings and trees. Mr. Barnard stated the use does not change. The Silver Shores Association approved the project.

Mr. Denton asked about the dimensions of extension for the new construction and deck and Mr. Barnard responded that the setback issue would be at most within 3.3 feet of setbacks at the halfway point of the proposed building and in some areas less because of the angle would meet setbacks. Discussion followed about reducing the width of the dwelling to meet setbacks, but Mr. Barnard explained that this would be an issue for room sizes in the dwelling. Ms. Bohmiller asked for confirmation that the dwelling will be extended in length from 32 feet to 40 feet. She asked if more rooms were being added to the house. Mr. Barnard stated by going up, there may be more rooms, but the septic is a State approved 2-bedroom system design.

With no more questions from the Board, Chair DeStefano asked Mr. Barnard to read the applicant responses to the Application Criteria. Following the reading of criteria responses, Chair DeStefano asked Mr. Barnard if the new dwelling was placed exactly in the place of the existing dwelling, would the

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property conform to the setbacks. Mr. Barnard explained that even if it was on same footprint, it would be non-conforming. He added that in looking at conforming with Shoreland and the new septic design it was necessary to place the new dwelling as planned.

Chair DeStefano asked if there was anyone from the public that wished to speak in favor of the application. Hearing no response, he asked if anyone wished to speak against that application. Hearing no public comment, he asked the Board if they had any further comments or questions. Mr. Denton asked Mr. Barnard to delineate the exact area where the deck would be located on the building with relation to the setbacks. Mr. Barnard noted this in the plans.

With no other questions from the Board or public, Chair DeStefano closed the public hearing portion of the meeting.

The Board moved on to deliberation and decision on the criteria. Chair DeStefano read the criteria questions line by line and asked for a motion and reason for each.

**#1** - Mr. LaFlamme motioned that the applicant **met** criterion #1 because the use is still residential and new dwelling remains similar to abutting properties. Ms. Bohmiller seconded. The motion carried 5-0-0.

**#2** - Mr. Denton motioned that the applicant **met** criterion #2 because the property will continue to be used similarly as before. Mr. LaFlamme seconded. The motion carried 5-0-0.

**#3** - Ms. Bohmiller motioned that the applicant **met** criterion #3 because there are limitations with boundaries of abutting properties and the applicant has proposed best option for the dwelling. Mr. LaFlamme seconded. The motion carried 5-0-0.

**#4** - Ms. Mansur motioned that the applicant **met** criterion 4, because the new construction plans will not diminish property values. Mr. Denton seconded. The motion carried 5-0-0.

**#5 A1** - Mr. Denton motioned that the applicant **met** criterion #5 A1 because the applicant is very limited by the small lot and abutting property boundary lines at present and the new plans will be in keeping with other similar properties in the Silver Shores Community. Ms. Mansur seconded. The motion carried 5-0-0.

**#5 A2** - Mr. LaFlamme motioned that the applicant **met** criterion #5 A2 because the use remains the same and the applicant is limited by existing sideline setbacks. Ms. Bohmiller seconded. The motion carried 5-0-0.

**#5 B** - Ms. Mansur motioned that the applicant **met** criteria 5 B because the current sideline setbacks of this property and abutting properties limit the options for the applicant. Mr. LaFlamme seconded. The motion carried 5-0-0.

Mr. Laflamme motioned to approve Variance #23VAR07. Ms. Bohmiller seconded. The motion carried 5-0-0.

The Variance was approved, and applicant was cautioned that there would be a 30-day appeal period so no money should be spent before that time period is up.

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#### 23SPX08 - Barnard-Faro - #111-010 - 146 Shore Drive

Ms. Sullivan read the application in the record requesting permission to replace a house with a new one that has a ridgeline higher than allowed. She noted notifications to abutters, advertising and postings were done as required. She read the names of abutters that were notified. There were no phone calls or written responses received. Department Heads were notified, and no comments were received.

The Board reviewed the application with the checklist to determine if the application was complete. Following review, Ms. Bohmiller motioned to accept the application as complete. Mr. LaFlamme seconded. The motion carried 5-0-0.

Mr. Barnard was asked to present the application. He explained that his clients, the Faros, were complying with all the zoning requirements of the Town with Variance, Special Use and Special Exception applications to Zoning and Planning Boards for the project. He explained the plans for demolition of the existing dwelling to erect the new dwelling and that the project was limited by water table and other issues for a creating a crawl space so the building would need to be higher than allowed.

Discussion followed with questions from the Board about elevations of crawl space and the roof with respect to abutter properties. It was determined that the height would be higher because of a raised crawl space area due to high water table and the roof would be higher than allowed but would not interfere with any views or sightlines for neighbors or abutters. The crawl space was needed for utility equipment.

Mr. Barnard was asked to read the criteria questions and responses. The Board had no further questions during this review of criteria responses.

Chair DeStefano asked if there was anyone from the public that wished to speak in favor of the application. Hearing none, he asked if anyone from the public wished to speak against the applications. Hearing none, he asked the Board if there were any further comments or questions. Hearing none, he closed the public hearing portion of this meeting.

The Board deliberated on the application with Chair DeStefano reading each of the Criteria and responses with the Board responding with motions as follows:

**#2** - Mr. Denton motioned that the applicant **met** criterion #2 because the area is residential, and the use will remain residential. Mr. LaFlamme seconded the motion. The motion carried 5-0-0.

**#3** - Mr. LaFlamme motioned that the applicant **met** criterion #3 because the new dwelling will still be in keeping with the other cottages in the area. Ms. Bohmiller seconded. The motion carried 5-0-0.

**#4** - Ms. Mansur motioned that the applicant **met** criterion #4 because there will be no nuisance created with the increased height of the dwelling. Mr. Denton seconded. The motion carried 5-0-0.

**#5** - Mr. Denton motioned that the applicant **met** criterion #5 because the proposed height is below 35 feet for fire access and there will be no increased impact to town services. Mr. LaFlamme seconded. The motion carried 5-0-0.

**#6** - Ms. Bohmiller motioned that the applicant **met** criterion #6 because the use is the same and the increase in height will not impact anyone's view. Mr. LaFlamme seconded. The motion carried 5-0-0.

Ms. Mansur motioned to approve the Special Exception # 23SPX08. Mr. Denton seconded. The motion carried 5-0-0.

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#### **COMMUNICATIONS: NONE**

#### **UNFINISHED BUSINESS:**

Chair DeStefano asked about the continued Variance hearing for Hess/Lewis. Ms. Sullivan updated the Board about the withdrawal of the Variance application #23VAR04 because at the Board's request, research was done, and historical information was found indicating no Variance was needed for this project.

#### **OTHER BUSINESS:**

Ms. Sullivan introduced Mr. Andrew Litz to the Board stating he was observing the meeting because he had an interest in serving the Town and joining the Board. Chair DeStefano welcomed him and explained the duties of the Zoning Board of Adjustment to hear requests for variances and special exceptions from the Town's Zoning Ordinance. He went on to explain the application process and requirements. Board members discussed some of the issues that they have faced with applications and other special situations that sometimes can get contentious. Chair DeStefano stated that if people follow the rules there usually are not any issues. The decision process was discussed, which included use of the checklist and the need for a complete application for a Board to do its due diligence and deliberate fairly on applications.

Mr. Litz stated that he had recently retired and moved here permanently. He wished to get involved with the Town and offer his service to the Zoning Board. He talked about his experience with security judiciary boards at St. Anselm College and worked in community relations with the Fire Chief and Police Chief in Goffstown. The Board agreed that they would appreciate having an active Alternate. More discussion followed about meeting dates, materials distribution, process and what an Alternate's responsibilities would be.

Ms. Bailey let Mr. Litz know what the next steps for appointment would be. He was invited to fill out the Volunteer for Boards and Committees form and attend a Select Board meeting to introduce himself to seek appointment.

#### **LAND USE:**

Ms. Bailey shared that after the Assessing Review of properties in town, some properties were found to have had some upgrades without any evidence found that permits or variances were granted for the work done. She stated that letters went out to those property owners asking for information about the upgrades/changes and requesting they contact the Land Use Office to rectify any permits or variances that may be needed. She stated it created a buzz on a local Facebook group page, which she responded to on behalf of the Land Use Office, and she wanted Land Use Boards to be aware of the letters and actions taken to educate the property owners and public.

Ms. Bohmiller asked if there was a new inspector yet. Ms. Bailey explained that Mike Lacasse was hired about six months ago as Health and Permit Officer and he was up to speed and doing a great job with permits.

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#### **LAND USE: continued**

Ms. Bailey continued with updates, letting the Board know that a new fee schedule was approved by the Select Board and will go into effect on September 1, 2023. She stated that the new fees are posted on the website and on the public notice board at the Land Use Office.

To help ensure that applications include all items the Board would like to have included in the application packet, Ms. Bailey stated that she and Ms. Sullivan will review items submitted and alert applicants to any additional information needed to complete an application for the specific Board.

**NEXT MEETING:** August 1, 2023

#### **ADJOURNMENT:**

With no other business before the Board, Ms. Mansur motioned to adjourn. Mr. LaFlamme seconded. The motion carried 5-0-0. The meeting adjourned at 7:44 pm.

Respectfully submitted,

Janet F. Cote  
Land Use Associate