

ZONING BOARD OF ADJUSTMENT

MINUTES

September 1, 2020

APPROVED: Approved 10/6/20

AGENDA: 20SPX02: SPECIAL EXCEPTION - Patrick Allen - 77 West Shore Rd – #110-059
20VAR06 – VARIANCE – Patrick Allen – 77 West Shore Rd – #110-059
20VAR07 – VARIANCE – Ann & Bill Plasko – 154 Country Club Rd - #203-018
ADMIN: Zoning Board Checklist, Application for Equitable Waiver of Dimensional Requirements

ATTENDING: Alan DeStefano (Chairman), Richard LaFlamme (Vice Chairman), Melody Mansur

ABSENT: Ashley Dolloff (alternate), Jackie Elliott (alternate), Lorraine Bohmiller (member), Larry Denton (member)

OTHER: Christina Goodwin (Land Use Manager), Tyler Simonds (Planner), Applicants and members of the 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 6:08 pm by roll-call vote 3-0.

Mr. DeStefano advised the applicants before the Board, that the Board is short staffed for tonight's meeting and although there is a quorum, all three (3) members would have to agree on the decision for an application or the application would be denied. Mr. DeStefano gave the applicants a choice to continue to another meeting with a full Board or continue with this meeting. All applicants chose to move forward with their cases.

MINUTES OF JULY 7, 2020:

R. Laflamme made a motion, second by M. Mansur, to approve the minutes as amended. The motion carried by roll-call vote 3-0.

20SPX02 – SPECIAL EXCEPTION – Patrick Allen – 77 West Shore Rd - #110-059

Mr. Simonds read the application, the abutters' list, where the hearing was advertised and that there were no public comments or Department Head responses.

A. DeStefano asked if the Board had any questions, regarding the application being complete. M. Mansur motioned that the application is complete, R. Laflamme second. The motion carried by roll-call vote 3-0.

Mr. Allen was asked to present his Application for Special Exception to the Board. He purchased the property at 77 West Shore Rd with the intent to improve the property as it is not salvageable. He is looking at a beautiful style home that will bring the height up to the 32 ft. A. DeStefano inquired if the height was from the average slope. Mr. Allen reported that it was from slab at the top of the driveway. A. DeStefano inquired if this is a slab foundation. Mr. Allen reported that it

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will have a foundation basement with one-bay garage underneath. M. Mansur inquired on what was behind the property. Mr. Allen reported that it is woods and a view of the Town's mapping site was shared with the Board. Mr. Allen reported that the nearest abutter is off Mount Celo to the side. Ms. Goodwin pointed out that it is approximately 600 ft from that abutter.

Mr. Allen reviewed each of the criteria of the Special Exception with the Board:

- Appropriate location and adequate size – The lot is .46 acres and allows for plenty of space, no house behind property, no obstructed views.
- Not adversely affect the character of the area – The proposed house will add value and enhance the neighborhood with a clean, modern style that compliments the area.
- No nuisance or serious hazard to vehicles or pedestrians – The proposed house will be set back from the road.
- Not place excessive or undue burden on Town services or facilities – The roof height is less than 35 ft and the proposed house will meet all building codes and have an updated septic.
- No significant effect resulting from such use on public health, safety and general welfare of the neighborhood – The proposed house will be constructed of safe and modern materials with approved permitting and in compliance with legal and State codes.

A. DeStefano inquired if the Fire Chief had been asked about the increase of height and how to protect the property as it will be a much taller structure up on the embankment. Ms. Goodwin reported that the Fire Chief did not respond, but the ladder truck can reach 65 ft. Ms. Goodwin advised that the Fire Chief provides feedback on the building process and may have additional stipulations at that time.

As there were no other questions from the Board and no members of the public to speak for or against the application, the public hearing was closed. The Board discussed reviewing the application as a whole, instead of reviewing each of the criteria individually. M. Mansur motioned to review the application as a whole, A. DeStefano second. The motion carried by roll-call vote 3-0.

R. Laflamme motioned to approve the Special Exception as presented, M. Mansur second. The motion carried by roll-call vote 3-0.

20VAR06 – VARIANCE – Patrick Allen – 77 West Shore Rd - #110-059

Mr. Simonds read the application, the abutters' list, where the hearing was advertised and that there were no public comments or Department Head responses.

M. Mansur motioned that the application is complete, R. Laflamme second. The motion carried by roll-call vote 3-0.

Mr. Allen was asked to present his application to the Board. Mr. Allen reported that one of the setback locations could not be met on the North side. The Variance was required as he could

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feasibly only move the building over four (4) feet due to the topography. This left the building six (6) ft from the boundary. A. DeStefano inquired on how far down from the existing retaining wall the structure is shifted. Mr. Allen reports approximately eight (8) ft. A. DeStefano inquired why Mr. Allen wasn't taking the structure and cutting into the hillside to push the building back and over. Mr. Allen reported that he is cutting into the slope on the west side of the property. It is currently 21 ft into the hillside and the proposal changes it to 24 ft. The concern is that the rise of the slope beyond the 3 ft could affect the structure of the retaining foundation wall.

Mr. Allen reviewed the Variance criteria with the Board.

As there were no other questions from the Board and no members of the public to speak for or against the application, the public hearing was closed.

1. Granting the Variance would not be contrary to the public interest – The proposed house is being moved over and away from an abutting cottage. R. Laflamme motioned that criteria #1 was met, M. Mansur second. The motion carried by roll-call vote 3-0.
 2. The spirit of the ordinance would be observed – The distance is increased to provide more privacy with the closest neighbor. M. Mansur motioned that criteria #2 was met, R. Laflamme second. The motion carried by roll-call vote 3-0.
 3. Granting the variance would do substantial justice – The proposed house would be more centered and proportionate to the lot and the spacing between the home and the neighbor would be increased. R. Laflamme motioned that criteria #3 was met, M. Mansur second. The motion carried by roll-call vote 3-0.
 4. The values of surrounding properties would not be diminished – The proposed house will be an improvement to the lot and enhance the neighborhood values. R. Laflamme motioned that criteria #4 was met, M. Mansur second. The motion carried by roll-call vote 3-0.
 5. A. Unnecessary Hardship
 - I. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application – Per applicant, a denial would result in an unbuildable lot as the ledge and slope would not make construction possible. M. Mansur motioned that criteria #5AI was met, R. Laflamme second. A. DeStefano commented that denial wouldn't mean the lot was unbuildable, but a smaller structure could be built. The motion carried by roll-call vote 3-0.
 - II. The proposed use is a reasonable one – Per applicant, he is acting in good faith to move the proposed house as far away as possible from the neighbor while facing the challenges of the ledge and topography. R. Laflamme motioned that criteria #5AII was met, M. Mansur second. The motion carried by roll-call vote 3-0.
- B. Unnecessary Hardship: Owing to special conditions of the property - The ledge, height of the ledge and steepness of slope poses a hardship. If denied, the feasibility of building would be in question as a massively large foundation would be installed. M. Mansur motioned that criteria #5B was met, R. Laflamme seconded. A. DeStefano pointed out that there could be a smaller structure installed and the building could be moved over and become more compliant. It was questioned that the project will meet a lot of ledge

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as proposed. A. DeStefano stated that the lot does allow for room to push the building back and thus meet the setback. He feels that there is enough land in this location to follow the Ordinance requirements. The motion failed by roll-call vote 1-2.

R. Laflamme motioned to deny the Variance application, A. DeStefano second. The motion carried by roll-call vote 3-0.

A. DeStefano advised the applicant of the 30 days to appeal and the Motion for Rehearing process.

20VAR07 – VARIANCE – Ann & Bill Plasko – 154 Country Club Rd - #203-018

Mr. Simonds read the application, the abutters' list, where the hearing was advertised and that there were no public comments or Department Head responses.

A. DeStefano inquired on a plan that shows the encroachment. Mr. Plasko showed the Board another plan and discussed the location of the building. Mr. Simonds provided the Board with larger plan copies. Ms. Goodwin displayed the mapping program for the Board to view. After further discussion about the materials presented, M. Mansur motioned that the application is complete, R. Laflamme second. The motion carried by roll-call vote 3-0.

Mr. Plasko was asked to present his Variance application to the Board. The owners purchased the home two (2) years ago and felt that it was time to build a better new year-round home. The variance is requested from the twenty-foot setbacks. The applicants have spoken to the Fire Department about demolishing the older home and upon the septic design, the owners have found that the proposed new home is within the setback. There is no need to change the driveway and the lot is a corner lot, however, it is not a perfect rectangle, which helped attribute to the non-compliance with the proposed plan. A. DeStefano inquired on why the applicant couldn't just push the home forward to make compliant. Mr. Plasko originally planned on pushing the home further back. They took into consideration the aesthetics of the neighborhood and felt that this was the best location.

Mr. Plasko reviewed the Variance criteria with the Board.

The hearing was then opened to members of the public. Mr. Benjamin Archibald spoke representing 155, 174, and 200 Country Club Road. He read a letter from 155 and 174 that supported the project and the encroachment and felt that the project added to the neighborhood. Mr. Archibald added that the house being set back helps provide room on a narrow road and improves the view of the neighbors. Mr. Archibald feels that the improvements will provide value to the neighborhood. Alicia Borges, an abutter, also spoke in favor of the project.

A. DeStefano asked for any additional questions from the Board. He inquired, when this design was being reviewed, did they consider moving the home forward to make the property in compliance with the Zoning Ordinance. Mr. Plasko stated that they did take it into consideration

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and due to the location of the septic and topography of the lot, they felt this spot was the best location. A. DeStefano inquired if the driveway cuts through the property from one side to the other. Mr. Plasko stated that it does. Having no other questions from the Board, the public hearing was closed.

1. Granting the Variance would not be contrary to the public interest – Building a new year-round home would add value to the neighborhood and the home would be aesthetically pleasing. R. Laflamme motioned that criteria #1 was met, M. Mansur second. The motion carried by roll-call vote 3-0.
 2. The spirit of the ordinance would be observed – The proposed home is compliant with the front, right and rear setbacks. The side setback would be closest to the woods between the two (2) properties. M. Mansur motioned that criteria #2 was met, R. Laflamme second. A. DeStefano commented that the project doesn't meet the spirit of the Ordinance. He didn't feel that the elevation of the property affected the location of the building. M. Mansur after further review felt that this project did not meet the spirit. The motion failed 0-3.
 3. Granting the variance would do substantial justice – Other homes in the neighborhood have been updated and the updated septic makes this location the best. M. Mansur felt that with all these items on the application, the building could be moved forward. M. Mansur motioned that criteria #3 was not met, R. Laflamme second. The motion carried by roll-call vote 3-0.
 4. The values of surrounding properties would not be diminished – The proposed house will be an improvement to the lot and enhance the neighborhood values. M. Mansur motioned that criteria #4 was met, R. Laflamme second. The motion carried by roll-call vote 3-0.
 5. A. Unnecessary Hardship
 - I. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application – The home is on private property on a private street. The side of the property needing relief is on the wooded side and is least visible to the neighborhood. M. Mansur motioned that criteria #5AI was not met, R. Laflamme second. The motion carried by roll-call vote 3-0.
 - II. The proposed use is a reasonable one – The proposed home adds value to the current neighborhood homes. R. Laflamme motioned that criteria #5AII was not met, M. Mansur second. The motion carried by roll-call vote 3-0.
 - B. Unnecessary Hardship: Owing to special conditions of the property - The home is to be built on a corner lot with established driveway and well system. The angle of the lot and staying in compliance with state rules causes a hardship. Other homes in the neighborhood are built within the 20 ft setback. R. Laflamme motioned that criteria #5B was not met, M. Mansur second. The motion carried by roll-call vote 3-0.
- R. Laflamme motioned to deny the Variance application as proposed, A. DeStefano second. The motion carried by roll-call vote 3-0.

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A. DeStefano advised the applicant of the 30 days to appeal and the Motion for Rehearing process. The Land Use Office reviewed the steps for a change of plans with the applicant.

COMMUNICATIONS: None.

ADMIN: Review of Zoning Board Checklist and Application for Equitable Waiver of Dimensional Requirements

Mr. Simonds presented the Board with recommended changes / updates to two (2) documents for the Board.

The Zoning Board Checklist was updated with formatting changes to make the document cleaner. A. DeStefano questioned the LU Office and it was recommended to use Land Use. The Board approved the form as amended.

The Equitable Waiver of Dimensional Requirements. A. DeStefano inquired on what instance this application might be used for. The Land Use Office reported that there has been one (1) application, however, they cannot advise the Board the details of this. It is a statutory requirement. A. DeStefano asked the members of the Board to review the document more and asked the Land Use Office to talk to the Town's Attorney to determine when this would be used.

OTHER:

Ms. Goodwin updated the Board regarding a case that may come before the Board, which revolved around an error by the Land Use Office on a garage that should have applied for a Special Exception. The aggrieved party is being given a chance to file an Appeal of an Administrative Decision that may come before the Board.

The Board discussed the unnecessary hardship requirement of the Variance applications and how hard it is to meet the criteria. The Board also discussed applicants understanding of short Boards and the requirement that the vote be unanimous, or the case is denied.

Ms. Goodwin reported that Kelly Lacasse has taken a promotion at her full-time job and has resigned as the Welfare Director for the Town. Ingrid Heidenreich has accepted the position.

NEXT MEETING:

The next Zoning Board meeting is scheduled for October 6, 2020 at 6:00pm.

With no other business, R. Laflamme moved to adjourn at 8:24pm, M. Mansur second. The motion carried by roll-call vote 3-0.

Respectfully submitted,
Christina Goodwin
Land Use Manager