

ZONING BOARD OF ADJUSTMENT

MINUTES

October 6, 2020

APPROVED: 11/9/20

AGENDA: VARIANCE – MARY GEBHART, 425 Hall Road, #217-132
VARIANCE – ETHAN & MELISSA MANIATIS, 24 Don Gerry Road, #108-021
VARIANCE – COLLIN TORREY, 50 Lake Street, #113-044
VARIANCE – RANDY & WENDY SMITH, 115 Hall Road, #223-059
SPECIAL EXCEPTION – MARK SULLIVAN, 979 West Shore Rd, #101-002-002
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ATTENDING: Alan DeStefano (Chairman), Richard LaFlamme (Vice Chairman), Lorraine Bohmiller, Larry Denton, Melody Mansur, Jackie Elliott (Alternate)

ABSENT: Ashley Dolloff (Alternate)

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 6:00 pm by roll-call vote 5-0.

MINUTES OF SEPTEMBER 1, 2020: L. Bohmiller made a motion to approve the September 1, 2020 minutes as written, second by R. Laflamme. The motion carried by roll-call vote, 5-0.

VARIANCE: MARY GEBHART, 425 Hall Road, #217-132

Mr. Simonds read the application, abutters notified, where the hearing was noticed, and stated that there were no telephone calls or correspondence received.

L. Denton made a motion to accept the application as complete, second by M. Mansur. The motion carried by roll-call vote 5-0.

Ms. Gebhart explained that her house is on the edge of the road and there is no place to put snow, so they have had to pay to have it removed to get their cars off the road. They bought the property 5-years ago. At the time, they thought the lot was more buildable. The Town has a culvert near the home and the water goes around in the back. They cannot block the culvert. She pointed out the natural flow and the swales in the backyard. They wish to build a garage (for a car, two (2) motorcycles and a smaller car), which will encroach on the setbacks.

The Variance application was reviewed:

1. Not contrary to public interest – It will make the property safer.
2. Spirit of the Ordinance is observed – Right now, they are forced to park in the town right-of-way.
3. Substantial Justice – A lot of the property is low and wet.

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4. Values of surrounding properties would not be diminished – It will be an improvement with the vehicles housed inside.
5. Unnecessary Hardship – The house was built in the 1890's and the road has been improved and widened since. The lot is primarily low level and the vehicles are outside on the road. There will be no fill or tree removal. It is not reasonable to expect that the swale or wetlands be filled, in order to build the garage. The garage will only be built on buildable ground. It will be further from the wet area.

Mr. DeStefano called for public input in favor of the project. Hilda Bruno, Hall Road, stated that it is a great idea. Randy Smith, Hall Road, felt that the property owners were literally putting the snow on Hall Road, so he felt that it was a reasonable request.

Mr. DeStefano called for any public input in opposition of the project. There was none and he closed the public portion of the hearing.

R. LaFlamme made a motion to determine the case with one (1) vote, second by L. Bohmiller. The motion carried by roll-call vote 5-0.

Mr. Denton mentioned that, by the aerial view, there is not much area other than this and it will get the vehicles off the road. He feels the hardship is legitimate. Ms. Bohmiller agreed. Mr. DeStefano mentioned that they are restricted due to the topography.

L. Denton made a motion to approve the Variance for Mary Gebhart, second by L. Bohmiller. The motion carried by roll-call vote 5-0. Mr. DeStefano explained the 30-day appeal time.

VARIANCE – ETHAN AND MELISSA MANIATIS

Mr. Simonds read the application, abutters notified, publication of notice, and stated that there were no phone calls or correspondence received.

R. LaFlamme made a motion to accept the application as complete, second by L. Denton. The motion carried by roll-call vote 5-0.

Mr. Maniatis stated that the house is 3 feet from the property line. He is asking permission to allow what has already been done (outdoor stairs in a setback). Their only access is on the west side of the building. These stairs allow them easier access on the downhill east side. It would make it easier for his mother-in-law who owns the home on the side with encroachment. In his hometown, stairs are not considered, so he hadn't realized it would be a problem here.

Mr. Denton asked if they could put the stairs someplace else. Mr. Maniatis stated that on the north, it would be in the setback and the ground is uneven elsewhere. He showed photos.

The Variance application was reviewed:

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1. Not contrary to public interest – It is virtually invisible to the public.
2. Spirit of the Ordinance observed – The house is already non-conforming.
3. Substantial Justice – It is a steep grade and the only home in the Association with this problem.
4. Value of surrounding property will not be diminished – It will not impede anyone.
5. Unnecessary Hardship – Due to the elevation, the family access issues, it supplies a different way to enter the property, and the only abutter affected is the family.

Mr. DeStefano called for public input in favor of the project. George & Donna Delancey both commented that they are in favor of the project.

Mr. DeStefano called for any public input in opposition of the project. There were no comments.

Ms. Bohmiller asked about the topography and if there were any pictures that showed the steepness. Mr. Maniatis pointed out the elevation. Mr. Denton asked if it is seen from the street and was shown a photo in which it is not. Ms. Goodwin inquired if there were any limitations in the Association for where the stairs could be installed. Mr. Maniatis explained that each cottage has a little area, approximately eight (8) feet around them that shows limited common use.

With no other comments or questions from the public or the Board, the public hearing was closed.

The Variance criteria was addressed by the Board:

1. Contrary to public interest - R. LaFlamme made a motion, second by L. Bohmiller, to approve criteria #1. The motion carried by roll-call vote 5-0.
2. Spirit of the Ordinance - R. LaFlamme made a motion, second by L. Bohmiller, to approve criteria #2. Mr. Denton felt that although the Association understands, he is not sure, that the spirit of the ordinance was met. Mr. DeStefano added that we cannot make a non-conforming situation more non-conforming. The roll-call vote was taken, and the motion was denied 3-2.
3. Substantial Justice – L. Denton made a motion, second by L. Bohmiller, to approve criteria #3. The motion carried by roll-call vote 5-0.
4. Values of surrounding properties – L. Bohmiller made a motion, second by R. Laflamme, to approve criteria #4. Ms. Bohmiller doesn't feel that a set of stairs is going to diminish the value. She felt it enhanced it. Mr. DeStefano stated that the in-laws own the abutting cottage now, but the Board should consider if they didn't own that property. A roll-call vote was taken, and the motion was denied 2-3.
5. Unnecessary Hardship:

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- A. I. - L. Denton made a motion, second by L. Bohmiller, to approve criteria #5a. Mr. Denton felt it was a reasonable hardship. Mr. LaFlamme questioned why it is different than criteria #4. Mr. DeStefano stated that the stairs were built in this one spot to give access to the in-laws and the property owner made comment that the stairs could be moved. A roll-call vote was taken, and the motion was denied 2-3.
- A. II. - L. Denton made a motion, second by M. Mansur, to approve #5b. Mr. Denton felt that this was a reasonable use. Ms. Bohmiller felt that it was easier to climb a set of stairs versus a hill. Ms. Mansur felt it was possible to put the stairs a few feet away. . A roll-call vote was taken, and the motion was denied 2-3.
- B. Mr. Denton felt that the Board has been relatively strict on setbacks and the Board needed to maintain a consistent message to the public regarding the set back. L. Denton motioned, R. Laflamme second, that this has not been met. The motion carried 5-0.

R. LaFlamme made a motion to deny the Variance for Ethan & Melissa Maniatis, second by M. Mansur. A roll call vote DENIED the Variance 5-0. Mr. DeStefano explained the 30-day right to appeal.

SPECIAL EXCEPTION: MARK SULLIVAN, 979 W.Shore Rd, #101-002-002

Mr. Simonds read the application, abutters list, location of notices and stated that there were no phone calls or correspondence received. This case also has a separate Variance application.

Mr. Denton inquired on the elevation photos and asked if the addition would remain below the existing ridgeline. Mr. Sullivan confirmed that that is correct.

M. Mansur made a motion to accept the Special Exception as complete, second by R. LaFlamme. The motion carried by roll-call vote 5-0.

Mr. Sullivan is looking to increase the height of his house and allow a deck to encroach on a setback. The case before the Board is regarding the increase in height. He stated that they currently have a small bedroom, so they wish to add a second floor to expand the room. Mr. Denton asked if he will change the footprint and was told that he wants to come forward a little over the existing footprint.

The Variance application was reviewed

1. Use allowed by Special Exception – To add a 2nd floor for a larger bedroom as well as an office and storage space.
2. Site is an appropriate location and of adequate size – It is both.
3. Will not adversely affect the area – It is not an extension of the footprint. It will enhance the area.

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4. No nuisance or serious hazard to vehicles or pedestrians – The expansion will stay within the current footprint.
5. No excessive or undue hardship on Town services or facilities – The project is a small expansion to the existing bedroom.
6. No significant effect on public health, safety, and general welfare of the neighborhood – project will enhance character of the neighborhood.

Mr. DeStefano called for public input in favor of the project. Peter Vannah, a neighbor to the Sullivans, stated that he is fine with the project. He said that he knows what they do is always done right. Mr. Miller, of Castle Lane, felt that what they are trying to do to the house is going to enhance the character of the neighborhood.

Mr. DeStefano called for any public input in opposition of the project. There were no comments.

Mr. Denton asked if the pictures were taken from behind the building, such as picture #2. Mr. Sullivan took pictures to show the view of anyone who might be impaired. Mr. Denton stated that extending that roof line, doesn't make it worse for anyone. Mr. Laflamme felt there were enough pictures to show that there was little impact to the neighbors. Mr. DeStefano asked if they were looking to extend the bedroom about five (5) feet and Mr. Sullivan confirmed.

With no other comments or questions from the public or the Board, the public hearing was closed.

R. LaFlamme made a motion to vote the application as one (1) vote, second by L. Denton. The motion carried by roll-call vote 5-0.

R. LaFlamme made a motion to approve the Special Exception for Mark Sullivan, second by L. Bohmiller. The motion carried by roll-call vote 5-0.

VARIANCE: MARK SULLIVAN, 979 West Shore Road, #101-002-002

Mr. Sullivan asked to continue his Variance application to the next meeting. R. LaFlamme made a motion to continue the Variance for Mark Sullivan to November 9, 2020 at 6:00pm, second by M. Mansur. The motion carried by roll-call vote 5-0.

VARIANCE – COLLIN TORREY, 50 Lake Street, #113-044

Mr. Simonds read the application, list of abutters, where the hearing was noticed and stated that there is one (1) communication from the Highway Superintendent.

L. Denton made a motion to not accept the application as complete, second by R. Laflamme. The motion carried by roll-call vote 5-0. A discussion was held indicating that the setbacks are missing

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(the case is regarding a shed in the setback) on the plan submitted. Mr. Torrey explained that the shed was already there when he bought the property. Mr. Denton pointed out that there are no property lines or setbacks shown. Mr. Torrey stated that he can't move the deck and moving the shed would put it in the middle of the yard. He cannot afford a survey as he just bought the house. The shed is 2' from the fence line. Mr. DeStefano stated that we need to know where the setback is. He asked if there might be a survey for Kelley Park possibly. Mr. Torrey needs a more complete application and the Board can help him if he needs it. He then told Mr. Torrey that he needs to come back next month (Nov. 9, 2020 at 6:00pm).

VARIANCE – RANDY & WENDY SMITH, 115 Hall Road, #223-059

Mr. Simonds read the application, abutters notified, where the case was advertised and stated that there were no phone calls or correspondence received.

R. LaFlamme made a motion to not accept the application as complete, second by L. Denton. The motion carried by roll-call vote 5-0. This case is for an accessory building to be higher than 20 feet. The Board feels that the elevation drawings are missing. The applicant objected but the Board explained that this is what they need, and the hearing was continued to Nov. 9, 2020 at 6:00pm.

Mr. DeStefano stated that the Board works for consistency though he can understand the applicant's frustration.

UNFINISHED BUSINESS: None.

OTHER: Ms. Goodwin announced that Mr. Simonds has submitted his resignation. The Board wished him luck with his future endeavors.

NEXT MEETING: The next meeting is scheduled for November 9, 2020 at 6:00pm. The cases that have been continued will be heard and there is anticipated another Variance for an accessory building height.

With no other business before the Board, L. Denton made a motion to adjourn at 8:03pm, second by R. Laflamme. The motion carried by roll-call vote 5-0.

Respectfully submitted,

Jan Laferriere

Land Use Administrative Assistant