

## ZONING BOARD OF ADJUSTMENT

Wednesday, August 30, 2006  
Belmont Corner Meeting House  
Belmont, N.H.03220

Members Present: Chairman J. Olmstead; N. Patten, P. Oberhausen and L. Couture.  
Members Absent: P. Harris (E).  
Alternates Present: J. Bennett.  
Alternates Absent: E. Hawkins(E).  
Staff: C. Daigle and E. Murphy.

The chairman opened the meeting at 7p.m. and appointment J. Bennett as a voting member. All stood for the Pledge of Allegiance.

**Abutters' Hearing – Frederick & Claudette Brezinski:** Continuation of a request for:

- A Special Exception of Article 10 A.3.d of the Zoning Ordinance to construct an addition closer (33.04') to the front property line than allowed (50') but not closer than the existing structure.
- A Variance of Article 5 Table 2 of the Zoning Ordinance to construct an addition closer (18.73') to the north side property line than allowed (25').

Property is located at 28 Morgan Road in a "R" Zone, Tax Lot 239-068, ZBA # 1106 &1206.

At least three members have viewed the site.

Mr. & Mrs. Brezinski presented the application.

Mr. Brezinski explained that the dry well is existing well and was there prior to them purchasing the property. He dug the shallow well but it is not for drinking. The lake is tested all the time and there is no problem with the lake water so there should be no problem with the well. It is 40' from the lake and is purified through the ground.

P. Oberhausen wanted to know if Mr. Brezinski had been in touch with NH DES about the well and holding tank. Mr. Brenzinski stated that he supplied a letter from Mr. Seeley White stating that the well was functioning. P. Oberhausen stated that they are adding a bedroom. Mr. Brenzinski explained that they will have only two bedrooms. They are changing the little bedroom into a sitting room so they will only have two bedrooms when they are finished. P. Oberhausen stated that the 1971 septic approval is for two bedrooms so they need DES to expand the use. The septic approval also stated that there would be no wells developed on the lot. Mr. Brezinski stated that he talked to Mr. Schofield at the State and they don't do inspections for wells. C. Daigle stated that staff suggests that they get an amendment

to the septic system approval to allow the well and dry well on the property even if it was prior to the applicant purchasing the property. She explained that the use is not expanding but the well and dry well need approval. She suggested that they contact the subsurface department at the State to remove or amend the condition that is on the septic approval. P. Oberhausen stated that the plan doesn't show where the septic holding tank is. Mr. Brezinski stated that it is between the trailer and the road. P. Oberhausen stated that there needs to be 75' between the well and septic. Mr. Brezinski used the plan to show where the holding tank is. C. Daigle stated that it is 65' from the front of the building to the well. J. Olmstead stated that the Brezinskis have to satisfy the State's regulations. Mr. Brezinski stated that he did what the Board asked and got a letter from Mr. White stating the tank is not leaking. C. Daigle stated that the State regulates waste water. Mr. Brezinski stated that he can close off the well and get water from the lake. C. Daigle stated that they are looking for approval for the dry well also. C. Daigle explained that the original letter contained the need for the applicant to get State approval for the well and dry well.

The chairman asked if anyone in the audience had any questions or comments. There being none, he closed the public hearing.

**BOARD ACTION – FREDERICK & CLAUDETTE BREZINSKI:**

**MOTION:** P. Oberhausen moved to Table that a Special Exception of Article 10 A.3.d of the Zoning Ordinance to construct an addition closer (33.04') to the front property line than allowed (50') but not closer than the existing structure. Also to Table the Variance of Article 5 Table 2 of the Zoning Ordinance to construct an addition closer (18.73') to the north side property line than allowed (25') to the September 27<sup>th</sup> meeting to allow the applicant to get NH DES approval for the well and drywell or both be closed.

The motion was seconded by N. Patten and carried. (5-0)

**Abutters' Hearing – Gerald & Anne Chaille:** Continuation of a request for a Variance of Article 10.C. of the Zoning Ordinance to construct a single family residence on a vacant lot without the required frontage. Property is located on Coons Point Road in an "RS" Zone, Tax Lot 119-059, ZBA # 1806.

C. Daigle explained that Mr. Gerald Chaille asked to Table his application.

**BOARD ACTION – GERALD & ANNE CHAILLE:**

**MOTION:** J. Olmstead moved to deny without prejudice a Variance of Article 10.C. of the Zoning Ordinance to construct a single family residence on a vacant lot without the required frontage.

The motion was seconded by P. Oberhausen and carried. (5-0)

**Abutters' Hearing – Ray Tessier:** Appeal of Decision of the Zoning Administrator made under Article 4.B.1. to operate a printing press for T-shirts as a Home Occupation. Property is located at 10 Shaker

Road in the “V” Zone, Tax Lot 124-030, ZBA # 2206.

C. Daigle explained that staff has received a letter from Mr. Tessier withdrawing his application.

**Abutters' Hearing – Michael & Melissa Pucci:** Request for:

- A Special Exception of Article 10A.3.d.of the Zoning Ordinance to construct an addition closer (33’) to the front property line than allowed (50’) but not closer than the existing building.
  - A Special Exception of Article 10A.3.d of the Zoning Ordinance to construct an addition closer (6.5’) to the north side property line than allowed (12.5’) but not closer than the existing building
- Property is located at 49 Union Road in an “RS” Zone, Tax Lot 105-005, ZBA # 2306 & 3106.

At least three members have viewed the site.

Mrs. Melissa Pucci presented the application.

Mrs. Pucci explained that they want to construct a breezeway connecting the garage to the house. The addition will not be any closer to the property lines than the existing building. C. Daigle suggested that there be an easement written with the abutter because the existing garage is over the property line. Mrs. Pucci stated that Mr. Young, the abutter, is willing to grant an easement. She is asking that instead of having the easement in place prior to the building permit being issued can the condition be that the easement be in place before the issuance of a certificate of occupancy. They would like more time to get the money for the easement but would like to start working on the breezeway. Mr. Young has told them he is willing to give them the easement. N. Patten stated that they should have the easement prior to the building permit. Mrs. Pucci stated that the breezeway will be all on her property. P. Oberhausen wanted to know what would happen if they grant the special exception to build and Mr. Young changes his mind. Mrs. Pucci wanted to know if she got a letter from Mr. Young stating that he will give them the easement would it make any difference. C. Daigle stated that it shows good intent but it is not legal. They also have to take into consideration what happens if the property is sold. Mrs. Pucci wanted to know if she could bring in the easement to the Land Use office when it is completed instead of having to come back to the Zoning Board. C. Daigle stated that the Board could make it a condition of approval.

The chairman asked if anyone in the audience had any questions or comments. There being none, he closed the public hearing.

**BOARD ACTION – MICHAEL & MELISSA PUCCI:**

**MOTION:** P. Oberhausen moved to grant a Special Exception of Article 10A.3.d.of the Zoning Ordinance to construct an addition closer (33’) to the front property line than allowed (50’) but not closer than the existing building as it meets all the criteria.

1. The use is allowed in the district
2. The Ordinance specifically allows the use when a Special Exception is granted.
3. The specific site is appropriate for the use.

4. No factual evidence is found that property values in the district will be reduced.
5. There is no valid objection from abutters based on fact.
6. No nuisance or hazard is involved.
7. Adequate and appropriate facilities will be provided.
8. There is adequate sewage disposal.
9. Structures must otherwise meet all dimensional requirements of the Ordinance.
10. No structures or additions that do not meet setback, except for those approved herein are allowed.
11. An easement or boundary line adjustment for the garage encroachment shall be obtained prior to the issuance of a building permit for the breezeway.

The motion was seconded by N. Patten and carried. (5-0)

**MOTION:** P. Oberhausen moved to grant a Special Exception of Article 10A.3.d of the Zoning Ordinance to construct an addition closer (6.5') to the north side property line than allowed (12.5') but not closer than the existing building as it meets all the criteria.

1. The use is allowed in the district
2. The Ordinance specifically allows the use when a Special Exception is granted.
3. The specific site is appropriate for the use.
4. No factual evidence is found that property values in the district will be reduced.
5. There is no valid objection from abutters based on fact.
6. No nuisance or hazard is involved.
7. Adequate and appropriate facilities will be provided.
8. There is adequate sewage disposal.
9. Structures must otherwise meet all dimensional requirements of the Ordinance.
10. No structures or additions that do not meet setback, except for those approved herein are allowed.
11. An easement or boundary line adjustment for the garage encroachment shall be obtained prior to the issuance of a building permit for the breezeway.

The motion was seconded by N. Patten and carried. (5-0)

**Abutters' Hearing – Shirley Johnson:** Request for:

- A Variance of Article 5 Table 2 of the Zoning Ordinance to replace a manufactured home closer (20.1') to the front property line than allowed (50').
- A Variance of Article 5 Table 2 of the Zoning Ordinance to replace a manufactured home closer (6.8') to the side property line than allowed (12.5').

Property is located at 25 Sleepy Hollow Lane in an "RM" Zone, Tax Lot 121-067, ZBA #2106 & 2506.

Mr. Russell Johnson presented the application.

Mr. Johnson explained that his mother purchased a thirty-five year old 12' x 60' manufactured

home and would like to replace it with a 14' x 72' new structure. It is 2' wider and 6.8' closer to the side property line than allowed. The property pins have been replaced and they agree with water department's comments concerning the disconnection and reconnection of the water.

P. Oberhausen stated that the unit is 16' longer. Mr. Johnson stated that it is 12' longer because the measurements include the tongue. P. Oberhausen stated that it is 16' more of living space because the plans says the old unit is 56'. P. Oberhausen stated that the extra length leaves only a small entrance to get to the back yard in an emergency. There will only be 6' to get around for safety. He wanted to know why they need a bigger unit. Mr. Johnson stated that the 72' units are the only ones that they have seen that has a door on the right side of the unit to access to garage. J. Olmstead stated that the plan shows the same walkway but no deck. Mr. Johnson stated there will be no deck. The entrance closest to the driveway will be the main entrance. It will be the same line up as the existing unit. J. Olmstead wanted to know if there will be a patio out back Mr. Johnson stated that the patio blocks will be removed, they serve no purpose.

The chairman asked if anyone in the audience had any questions or comments. There being none, he closed the public hearing.

P. Oberhausen stated that the length of the trailer can be a safety issue if they have to access the back yard in an emergency. L. Couture stated that it is a stockade fence and can be knocked down. She also noted the emergency personnel are good at getting to people in case of emergency. C. Daigle stated that they would not take a vehicle back there. P. Oberhausen stated that if someone had a heart attack they would have less space to get around back than they have now.

**BOARD ACTION – SHIRLEY JOHNSON:**

**MOTION:** J. Olmstead moved to grant a Variance of Article 5 Table 2 of the Zoning Ordinance to replace a manufactured home closer (20.1') to the front property line than allowed (50') as it meets all the criteria.

1. The variance will not be contrary to the public interest.
2. Denial of the Variance would result in unnecessary hardship to the owner seeking it:
  - A. An area variance is needed to enable the applicant's proposed use of the property given the special conditions of the property;
  - B. The benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance.
3. The spirit of the ordinance is observed.
4. Substantial justice will be done.
5. The variance would not diminish the value of surrounding properties.
6. All property bounds/existing footprint certified during construction as required.
7. No structures or additions that do not meet setback, except for those approved herein are allowed.

The motion was seconded by L. Couture and carried. (5-0)

**MOTION:** L. Couture moved to grant a Variance of Article 5 Table 2 of the Zoning Ordinance to replace a manufactured home closer (6.8') to the side property line than allowed (12.5') as it meets all the criteria.

1. The variance will not be contrary to the public interest.
2. Denial of the Variance would result in unnecessary hardship to the owner seeking it:
  - A. An area variance is needed to enable the applicant's proposed use of the property given the special conditions of the property;
  - B. The benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance.
3. The spirit of the ordinance is observed.
4. Substantial justice will be done.
5. The variance would not diminish the value of surrounding properties.
6. All property bounds/existing footprint certified during construction as required.
7. No structures or additions that do not meet setback, except for those approved herein are allowed

The motion was seconded by N. Patten and carried. (4-1) P. Oberhausen opposed

**Abutters' Hearing – Steven & Linda Calla:** Request for a Variance of Article 10 C. and 14 of the Zoning Ordinance to construct a single family residence on a lot without the required frontage. Property is located on Morgan Road in an “R” Zone, Tax Lot 239-037, ZBA # 2406.

Mrs. Linda Calla presented the application.

Mrs. Calla stated that they brought the property in 1987 with the stipulation that it was a buildable lot. In 2005 Morgan Road became an emergency lane so they don't have the required frontage necessary to obtain a building permit. There are 46 developed lots on Morgan Road and 6 undeveloped lots that are currently serviced by emergency personnel and equipment. There will be no environmental impact.

J. Olmstead wanted to know if they could build within the setbacks. C. Daigle stated that the lot is big enough that they should be able to meet the setbacks. Mr. Delmar Plumley and Mr. Burton Percy, abutters, stated that they have no objections. Mrs. Calla stated that they need the variance because Morgan Road is an emergency way. P. Oberhausen stated that the ordinances have changed since they first applied for a building permit. Houses along Morgan Road are built next to each other because the ordinances were different then. Today a building permit with no frontage would be denied. The building permit they applied for in 1987 is over ten years old and has expired. J. Bennett wanted to know if building permits expire. C. Daigle stated that they expire in six months if construction has not begun. P. Oberhausen stated the lot cannot be sold as buildable. C. Daigle explained it was at that time but not today. They have to look at the ordinance as it is written today. A lot of the units are too close but in this

case they can build to meet all the setbacks. She explained that the road is maintained by the Town and there are no environmental issues. This is not scattered or premature development because there are only six lots left. It is a fair balance because there are developed lots and utilities beyond this lot. She explained that the building would not have been approved before Morgan Road became an emergency lane in 2005 because in 2001 the ordinance changed the definition of frontage to “the distance along a lot line on a Class I or II State Highway or a Class V Town street or an approved private street” and Morgan Road does not meet that definition. C. Daigle stated that each lot has to be looked at on its own merits.

The chairman asked if anyone in the audience had any questions or comments. There being none, he closed the public hearing.

**BOARD ACTION – STEVEN & LINDA CALLA:**

**MOTION:** N. Patten moved to grant a Variance of Article 10 C. and 14 of the Zoning Ordinance to construct a single family residence on a lot without the required frontage as it meets all the criteria.

1. The variance will not be contrary to the public interest.
2. Denial of the Variance would result in unnecessary hardship to the owner seeking it:
  - A. An area variance is needed to enable the applicant's proposed use of the property given the special conditions of the property;
  - B. The benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance.
3. The spirit of the ordinance is observed.
4. Substantial justice will be done.
5. The variance would not diminish the value of surrounding properties.
6. Prior to the issuance of a building permit the following shall be submitted:
  - a. NH State approved septic design.
  - b. Construction shall otherwise meet all dimensional requirements.

The motion was seconded by P. Oberhausen and carried. (5-0)

**Abutters' Hearing – Abutters' Hearing – Robert St. George & Shirley Perley:** Request for:

- A Variance of Article 4 of the Wetland Ordinance to construct a single family residence closer (38.5') to the highwater mark than allowed (50').
- A Variance of Article 5 Table 2 of the Zoning Ordinance to construct a single family residence closer (8.8') to the south side line than allowed (12.5').
- A Variance of Article 5 Table 2 of the Zoning Ordinance to construct a single family residence closer (3.7') to the north side line than allowed (12.5').
- A Variance of Article 5 Table 2 of the Zoning Ordinance to construct a single family residence closer (40') to the front property line than allowed (50').
- A Variance of Article 5 Table 2 of the Zoning Ordinance to construct a shed closer (3.7') to the

north side line than allowed (12.5').

- A Variance of Article 5 Table 2 of the Zoning Ordinance to construct a shed closer (18') to the front property line than allowed (50').

Property is located at 174 Gardners Grove Road in an "RS" Zone, Tax Lot 119-025, ZBA # 0906, 2606, 2706, 2806, 2906 & 3006.

Mr. Robert St. George and Ms. Stacy Perley presented the application.

Mr. St. George stated that they purchased the property in the spring. It is located in a cove on Silver Lake. For safety reasons the existing building is uninhabitable. He spoke with DES and they did not want the structure rebuilt within 50' of the reference line similar to what was removed. It is a long narrow parcel and he tried to infringe the least on the setbacks. They are making a major improvement by constructing a 24' x 36' log home with a farmers porch.

L. Couture wanted to know if they were under water this year. Mr. St. George stated that the old structure was. That is why they are moving it back to a higher elevation. L. Couture wanted to know if the water went as far back as where the new house will be. Mr. St. George stated that it didn't go that far. There is a retaining wall there. J. Bennett wanted to know what type of foundation they will have. Mr. St. George stated that it will have sona tubes to keep the house above water if there is more flooding. They will have storage underneath the house for outdoor recreational equipment. P. Oberhausen wanted to know if the shed could be moved to the back of the property. Mr. St. George stated that DES and the Town would not allow it. J. Bennett wanted to know how much larger the new house would be. Mr. St. George stated that it is almost identical to the previous house but the deck and porch were not included in the original footprint.

P. Oberhausen stated he is concerned about the letter they received from abutters, Howard and Christine Shoop, about the lot being at a low spot and prone to flooding. The water from flooding has been diverted into the woods causing a swamp. Mr. George stated that the area in question is a 10' x 15' strip where the water collects and doesn't drain. He is willing to work with the abutters. The area needs fill and dead leaves collects in the ditch. P. Oberhausen wanted to know if this is going to be a year round home Mr. St. George stated that it is not because they have a house in Hooksett. He stated that he has talked with abutters and they are in support of the new home. He stated that two lots away from him the property has more than 80% lot coverage with a 2 stall garage that doesn't meet setbacks. Mr. St. George stated that DES approves of the plan as written.

The chairman asked if anyone in the audience had any questions or comments. There being none, he closed the public hearing.

### **BOARD ACTION – ROBERT ST. GEORGE & STACY PERLEY:**

**MOTION:** P. Oberhausen moved to grant a Variance of Article 4 of the Wetland Ordinance to construct a single family residence closer (38.5') to the highwater mark than allowed (50') as it meets all the criteria.

1. The variance will not be contrary to the public interest.
2. Denial of the Variance would result in unnecessary hardship to the owner seeking it:
  - A. An area variance is needed to enable the applicant's proposed use of the property given the special conditions of the property;
  - B. The benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance.
3. The spirit of the ordinance is observed.
4. Substantial justice will be done.
5. The variance would not diminish the value of surrounding properties.
6. All property bounds/existing footprint certified during construction as required.
7. All required floodplain/Shoreland Protection documents to be submitted.
8. No structures or additions that do not meet setback, except for those approved herein are allowed.

The motion was seconded by L. Couture and carried. (5-0)

**MOTION:** P. Oberhausen moved to grant a Variance of Article 5 Table 2 of the Zoning Ordinance to construct a single family residence closer (8.8') to the south side line than allowed (12.5') as it meets all the criteria.

1. The variance will not be contrary to the public interest.
2. Denial of the Variance would result in unnecessary hardship to the owner seeking it:
  - A. An area variance is needed to enable the applicant's proposed use of the property given the special conditions of the property;
  - B. The benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance.
3. The spirit of the ordinance is observed.
4. Substantial justice will be done.
5. The variance would not diminish the value of surrounding properties.
6. All property bounds/existing footprint certified during construction as required.
7. All required floodplain/Shoreland Protection documents to be submitted.
8. No structures or additions that do not meet setback, except for those approved herein are allowed.

The motion was seconded by N. Patten and carried. (5-0)

**MOTION:** P. Oberhausen moved to grant a Variance of Article 5 Table 2 of the Zoning Ordinance to construct a single family residence closer (3.7') to the north side line than allowed (12.5') as it meets all the criteria.

1. The variance will not be contrary to the public interest.
2. Denial of the Variance would result in unnecessary hardship to the owner seeking it:

- A. An area variance is needed to enable the applicant's proposed use of the property given the special conditions of the property;
  - B. The benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance.
3. The spirit of the ordinance is observed.
  4. Substantial justice will be done.
  5. The variance would not diminish the value of surrounding properties.
  6. All property bounds/existing footprint certified during construction as required.
  7. All required floodplain/Shoreland Protection documents to be submitted.
  8. No structures or additions that do not meet setback, except for those approved herein are allowed.

The motion was seconded by J. Bennett and carried. (5-0)

**MOTION:** P. Oberhausen moved to grant a Variance of Article 5 Table 2 of the Zoning Ordinance to construct a single family residence closer (40') to the front property line than allowed (50') as it meets all the criteria.

1. The variance will not be contrary to the public interest.
2. Denial of the Variance would result in unnecessary hardship to the owner seeking it:
  - A. An area variance is needed to enable the applicant's proposed use of the property given the special conditions of the property;
  - B. The benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance.
3. The spirit of the ordinance is observed.
4. Substantial justice will be done.
5. The variance would not diminish the value of surrounding properties.
6. All property bounds/existing footprint certified during construction as required.
7. All required floodplain/Shoreland Protection documents to be submitted.
8. No structures or additions that do not meet setback, except for those approved herein are allowed.

The motion was seconded by L. Couture and carried. (5-0)

**MOTION:** P. Oberhausen moved to grant a Variance of Article 5 Table 2 of the Zoning Ordinance to construct a shed closer (3.7') to the north side line than allowed (12.5') as it meets all the criteria.

1. The variance will not be contrary to the public interest.
2. Denial of the Variance would result in unnecessary hardship to the owner seeking it:
  - A. An area variance is needed to enable the applicant's proposed use of the property given the special conditions of the property;
  - B. The benefit sought by the applicant cannot be achieved by some other method

- reasonably feasible for the applicant to pursue, other than an area variance.
3. The spirit of the ordinance is observed.
  4. Substantial justice will be done.
  5. The variance would not diminish the value of surrounding properties.
  6. All property bounds/existing footprint certified during construction as required.
  7. All required floodplain/Shoreland Protection documents to be submitted.
  8. No structures or additions that do not meet setback, except for those approved herein are allowed.

The motion was seconded by N. Patten and carried. (5-0)

**MOTION:** P. Oberhausen moved to grant a Variance of Article 5 Table 2 of the Zoning Ordinance to construct a shed closer (18') to the front property line than allowed (50').

1. The variance will not be contrary to the public interest.
2. Denial of the Variance would result in unnecessary hardship to the owner seeking it:
  - A. An area variance is needed to enable the applicant's proposed use of the property given the special conditions of the property;
  - B. The benefit sought by the applicant cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than an area variance.
3. The spirit of the ordinance is observed.
4. Substantial justice will be done.
5. The variance would not diminish the value of surrounding properties.
6. All property bounds/existing footprint certified during construction as required.
7. All required floodplain/Shoreland Protection documents to be submitted.
8. No structures or additions that do not meet setback, except for those approved herein are allowed.

The motion was seconded by J. Bennett and carried. (5-0)

**OTHER BUSINESS:**

**BOARD'S ACTION - MINUTES:**

P. Oberhausen made a motion to approve the minutes of July 26, 2006. L. Couture seconded. Carried (4-0-1) N. Patten abstained.

**STAFF REPORT:**

**CINGULAR WIRELESS TAX LOT 217-116:**

C. Daigle explained that Cingular Wireless wants to put a cell tower up on 15 Dutile Road. They need a special exception as well as site plan approval. They are asking for a joint meeting of the Zoning Board of Adjustment and the Planning Board. It was the consensus of the Board to hold a joint meeting with the Planning Board for this application. The dates they are available are September 25<sup>th</sup>, October 16<sup>th</sup> & 23<sup>rd</sup>. C. Daigle stated that she will notify the Board when the joint meeting is scheduled.

**ADJOURNMENT:**

**MOTION:** On a motion by N. Patten, seconded by L. Couture, it was voted unanimously to adjourn at 8:39 p.m. (5-0).

Respectfully submitted,

Elaine M. Murphy