

## ZONING BOARD OF ADJUSTMENT

Wednesday, June 28, 2006  
Belmont Corner Meeting House  
Belmont, N.H.03220

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

The chairman opened the meeting at 7p.m. and appointed E. Hawkins as a voting member for tonight's meeting.

### **ABUTTERS' HEARING – FREDERICK & CLAUDETTE BREZINSKI:** 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 an "R" Zone, Tax Lot 239-068, ZBA # 1106 &1206.

At least three members have viewed the site.

Mr. Brezinski presented the application.

Mr. Brezinski stated that it is a seasonal home with little room. They want to make a bedroom into a sitting room and add on a bedroom. The sitting room will be the entrance to the bedroom.

P. Harris stated that the Land Use Technician had concerns about the septic system being regularly maintained. Mr. Brezinski stated that it is pumped every other year by Al's Septic in Laconia. L. Couture wanted to know what size the tank is. Mr. Brezinski stated it is a 1000 gallon tank. L. Couture wanted to clarify that it is a two bedroom unit and will remain a two bedroom unit. Mr. Brezinski stated that it is listed as two bedrooms but there is no door between the bedroom and living room. The existing bedroom would be turned into a sitting room and the addition will be for the bedroom. When finished there will still be only two bedrooms. J. Olmstead stated that the Land Use Technician's staff report states that there is a well on the property but the septic approval indicates that a well is not allowed. Mr. Brezinski stated that he dug a small shallow well that is used for showers but not for drinking.

Mrs. Linda Dianis, an abutter, stated that she lives next to the Brezinskis on the side they are asking for the 18.73' setback variance. She stated that there will be no diminution of property values because the proposal will improve the appearance of the property. She has been inside their unit and the bedroom is like a narrow corridor and the addition will make the bedroom more functional. Her concern is if the addition is less than the required 25' setback is there a potential impact to her septic if she has to replace it in the future. Will she be able to meet the required setbacks for her system once the addition is constructed? C. Daigle stated that she doesn't know the septic requirements but there is a 75' well radius. She stated that staff recommends having the septic system evaluated by a licensed septic designer to determine if it is still legal under the State's current regulations. A designer would be able to comment on if the extension would affect the abutting property. Mrs. Dianis stated that she thinks the proposal is great but she is concerned about the future of her septic. Mr. Brenzinski stated that the addition is not as far out as what is already there. Mrs. Dianis stated that it will take up more ground space. Mr. Brezinski stated that the septic could not go any closer because it is already on the line. P. Harris stated that the dimensional relief that they are seeking is only 6.5'.

Mr. Elson Moody wanted to know if septic tanks have to have a concrete wall around them when they are installed. Is a retaining wall required in case they leak? C. Daigle stated that a double containment system is not required. Mr. Moody stated that the State needs to have a regulation on a containment system.

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

C. Daigle stated that staff recommends the application be Tabled to the July meeting to allow the applicant to have a licensed septic designer determine if the septic system meets the State's original requirements and for the expansion. E. Hawkins wanted to know if they need to get a sample of the water. C. Daigle stated they should leave that up to the designer to determine. He will also have to determine why the State put the well restriction on the septic plan. Mr. Brezinski stated that it is a holding tank not a septic system. C. Daigle stated that it does not appear in compliance with the original design approval under State regulation and the State has to determine if an addition will be allowed. The Board also had concerns about the viability of the tank given the age of the system. P. Harris stated that as part of a special exception the applicant is required to provide adequate and appropriate sewage disposal.

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

**MOTION:** J. Olmstead moved to Table the 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 and 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 July 26<sup>th</sup> at 7 PM to allow the applicant to consult with a NH

licensed septic designer. The designer is to certify that the existing system is in compliance with the original approval, is operating correctly, is being maintained appropriately and that no additional DES approval is required for the proposed expansion. To address abutter's concerns about the expansion affecting the replacement of their septic system in the future.

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

**ABUTTERS' HEARING – HARRIET MITIGUY:** Request for a Variance of Article 5 Table 2 of the Zoning Ordinance to construct a screen porch closer (33.66') to the edge of the ROW than allowed (50'). Property is located at 35 Breck Shore Road in an "RS" Zone, Tax Lot 114-017, ZBA # 1606.

Mrs. Mitiguy presented the application.

Mrs. Mitiguy stated that this is her permanent residence for seven months a year for the past forty-eight years. She has a cement block patio and wants to use that footprint to construct a screen porch. There are a lot of wetlands in the area that attract a lot of mosquitoes. She cannot put the screen porch on any other side of the house because of the roof and the trees that are a buffer from the neighbors.

L. Couture wanted to know if it is just a screen house. Ms. Mitiguy stated that the porch will be on piers and brought up to level with the door so it will be wheelchair accessible. It will have a pitched roof.

E. Hawkins wanted to know if she tried to put it on the north end of the house. Ms. Mitiguy stated that there are big trees there that are used for barriers and she doesn't want to take them down because they are close to the neighbors. The deck on front doesn't work because of the pitch of the roof.

P. Harris wanted to know the width of the ROW. Mrs. Mitiguy stated that it is a 15' ROW.

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

**BOARD ACTION – HARRIET MITIGUY:**

**MOTION:** P. Harris moved to grant the Variance of Article 5 Table 2 of the Zoning Ordinance to construct a screen porch closer (33.66') to the edge of the ROW than allowed (50') as it meets all the criteria.

1. The variance will not be contrary to the public interest. It is a residential use similar in nature to others in the neighborhood
2. Denial of the Variance would result in unnecessary hardship to the owner seeking it.

It has adequate distance from the ROW and any other location on the property would result in destruction of trees and the environment.

- 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. The addition is small and not close to the lake.
  4. Substantial justice will be done. It allows use of the side property considering the nature of the lot.
  5. The variance would not diminish the value of surrounding properties. It is similar in nature to others in the area.
  6. All required floodplain documents to be submitted.
  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. (4-1) E. Hawkins opposed.

**ABUTTERS' HEARING – CHRISTOPHER DAHL:** Request for a Special Exception of Article 4 of the Wetland Ordinance to construct an addition closer (35.15') to the highwater mark than allowed (50') but not closer than the existing structure. Property is located at 53 Breck Shore Road in an "RS" Zone, Tax Lot 114-021, ZBA # 1706.

At least three members have viewed the site.

Mr. Ted West presented the application.

Mr. West explained that he is doing the renovation on the house. It is a 1890's cottage and the Dahls have been coming to the cottage since 1960. During the construction they are trying to keep with the original character of the cottage. The use will not change. The expansion is to make it more convenient for when they retire. They have DES approval for this proposal.

J. Olmstead wanted to know if the total square footage is 231 square feet. Mr. West stated that it includes all three parts of the renovations. P. Harris wanted to know if a septic system upgrade is required. Mr. West stated that it is on town sewer.

L. Couture wanted to know if the project was already started. Mr. West explained that the project is being done in two phases and the first phase was done last fall. He put the cottage on piers and is putting the porches back on. Phase two is what they need the special exception for.

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

P. Harris stated that he supports the Shoreland Protection Act to preserve the lake. This is a unique situation and the addition is on the front of the property not on the lake side so it will not be impacting the lake.

**BOARD ACTION – CHRISTOPHER DAHL:**

**MOTION:** P. Harris move to grant a Special Exception of Article 4 of the Wetland Ordinance to construct an addition closer (35.15') to the highwater mark than allowed (50') but not closer than the existing structure as it meets all the criteria.

1. The use is allowed in the district. It is a residential use.
2. The Ordinance specially allows the use when a Special Exception is granted.
3. The specific site is appropriate for the use. It is a residential use in a residential zone.
4. No factual evidence is found that property values in the district will be reduced. Similar in nature as it was before small addition.
5. There is no valid objection from abutters based on fact.
6. No nuisance or hazard is involved. No change of use.
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. All required floodplain documents and NH DES Shoreland Protection permits to be submitted.
11. 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)

**ABUTTERS' HEARING – GERALD & ANNE CHAILLE:** 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 the applicant has asked to table the application until the August meeting to provide the Board with more information.

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

**MOTION:** J. Olmstead moved to Table at the applicants request the Variance of Article 10.C. of the Zoning Ordinance to construct a single family residence on a vacant lot without the required frontage to August 30<sup>th</sup> at 7 PM.

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

**OTHER BUSINESS:**

**BOARD'S ACTION - MINUTES:**

N. Patten made a motion to approve the minutes of May 24, 2006. J. Olmstead seconded. Carried (4-0-1)  
E. Hawkins abstained.

**STAFF REPORT:**

1. **SAFETY DAY:**

C. Daigle explained that the town is having it employees safety day August 23<sup>rd</sup> starting at 4:00.  
Would the Board consider rescheduling their August meeting date so staff can attend?

**MOTION:** J. Olmstead moved to reschedule the August meeting to August 30<sup>th</sup> at 7 PM.

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

**ADJOURNMENT:**

**MOTION:** On a motion by N. Patten, seconded by L. Couture, it was voted unanimously to adjourn at 8:00p.m. (5-0).

Respectfully submitted,

Elaine M. Murphy