



BELMONT LAND USE OFFICE

ZONING BOARD OF ADJUSTMENT

Wednesday, October 25, 2006
Belmont Corner Meeting House
Belmont, NH 03220

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

Acting Chairman P. Harris opened the meeting at 7pm and appointed J. Bennett as a voting member for the evening.

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; and
- 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.

The chairman explained that the applicant has left the area for the winter and asked to have the matter postponed until they return next year. He recommended the application be denied without prejudice. The applicant can reapply when they are ready. In the meantime the applicant has been reminded that they will need to address the well/holding tank issue in the spring regardless of whether or not they reapply for the addition.

BOARD ACTION – FREDERICK & CLAUDETTE BREZINSKI:

MOTION: On a motion by P. Oberhausen seconded by N. Patten it was voted unanimously to deny both applications without prejudice as the applicant is not ready to proceed. (5-0)

ABUTTERS HEARING – Linda Lawrence: Requests for:

- A Variance of Article 5 Table 2 of the Zoning Ordinance to construct a porch closer (46') to the front property line than allowed (50').
- A Variance of Article 4 of the Wetlands Ordinance to construct 2 decks (upper & lower story) (45.1') to the high water mark than allowed (50').

Property is located at 172 Gardners Grove Road in an "RS" Zone, Tax Lot 119-026, ZBA #3306 & 3406.

Ms. Julie Rule was present for this application. The applicant wants to construct two decks both a little closer than allowed. They will not encroach on anyone else. Many around them have decks close to the water and their proposal keeps them back from the road. P. Oberhausen noted the house is currently under construction and asked if everything that was previously there has been removed? Ms. Rule said yes, it had been a mess but everything except for one metal shed has been removed. They're trying to make it not an eyesore. They will hook to public sewer once the building is framed. N. Patten asked if this was intended to be a permanent residence. Ms. Rule stated it would be. L. Couture asked why the additions hadn't been applied for originally. Ms. Rule noted they planned to, but it was not done due to time constraints. L. Couture confirmed that it was 5' extra on one side and 6' extra on the other? Ms. Rule agreed. L. Couture asked if the neighbors are happy with the improvement. Ms. Rule said they were. P. Oberhausen confirmed the size of the front porch being 6'x6'? Ms. Rule agreed.

The chairman asked if there were any comments or questions from the public. No abutters were present. There being no further question or comment the chairman closed the public hearing.

BOARD ACTION – Linda Lawrence:

MOTION: On a motion by P. Oberhausen, seconded by N. Patten, it was voted unanimously to grant a Variance of Article 5 Table 2 of the Zoning Ordinance to construct a porch closer (46') to the front property line than allowed (50') on the following basis:

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. Condition:

- A. No structures or additions that do not meet setback, except for those approved herein are allowed.

(5-0)

MOTION: On a motion by P. Oberhausen, seconded by N. Patten, it was voted unanimously to grant a Variance of 4 of the Wetlands Ordinance to construct 2 decks (upper & lower story) (45.1') to the high water mark than allowed (50') on the following basis:

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. Condition:
 - A. No structures or additions that do not meet setback, except for those approved herein are allowed.

(5-0)

ABUTTERS HEARING – Lucien & Pauline Tessier: Request for a Variance of Article 5 Table 2 of the Zoning Ordinance to permit a porch constructed closer (33.3') to the front property line than allowed (50'). Property is located at 11 Sawicki Lane in an "RS" Zone, Tax Lot 119-032, ZBA #3806.

Mrs. Tessier said once a railing was installed it became a safety issue when they couldn't get around the door easily when the door was opened. That is why they built it the way they did. It's now 3' x 6'. N. Patten asked if the deck was already built. Ms. Tessier confirmed it was.

P. Oberhausen noted that two written comments had been received from abutters with no opposition to the proposal. P. Harris asked if they were here because the Town found the expansion and wanted the error corrected. Ms. Tessier agreed that was the case.

The chairman asked if there were any comments or questions from the public. There being no further question or comment the chairman closed the public hearing.

P. Harris noted it was similar in nature to others in the area. One of the Board's concerns is safety, and proper egress to the house. And they are before the Board trying to rectify the issue.

BOARD ACTION –Lucien & Pauline Tessier:

MOTION: On a motion by N. Patten, seconded by P. Oberhausen, it was voted unanimously to grant a Variance of Article 5 Table 2 of the Zoning Ordinance to permit a porch constructed closer (33.3') to the front property line than allowed (50') on the following basis:

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. Conditions:
 - A. No structures or additions that do not meet setback, except for those approved herein are allowed.

(5-0)

ABUTTERS HEARING – James & Claire Parker: Request for a Variance of Article 5 Table 2 of the Zoning Ordinance to construct an addition closer (9.3') to the side property line than allowed (12.5'). Property is located at 21 Chestnut Street in an "RS" Zone, Tax Lot 113-001, ZBA #3906.

Mr. Parker was present for this application. The reason they are trying to make this addition is because the home was built as a camp and now they have retired and live here most of the year. This would cure having the washer and dryer located in a shed outside the house. They also have electric heat and they want forced hot water but do not have any utility space in the house now. The most feasible and reasonable way is to request an addition with a 3.2' variance on one side. This will give them storage, utility and vehicle space.

P. Oberhausen asked if the site was on sewer. Mr. Parker confirmed they are. P. Harris asked if the shed and portable garage will be removed. Mr. Parker noted they will be. N. Patten asked if the addition will be two stories. Mr. Parker confirmed it will be. P. Harris noted that the most difficult hurdle is identifying some problem with the land that meets the definition of hardship. His concern is being fair to everyone who is out there. They only have .17ac of land. He's not sure if the problem is there isn't enough space, or whether it's because they're trying to do too much given the space they have. Mr. Parker noted the lot is irregular which causes the need for the variance and it's a very small area variance they are requesting. P. Harris noted his concerns are for safety and fire access. If the abutter, Mr. Toeblor, built closer it would limit access around the property. Mr. Parker noted that the large oak tree on the right will be removed. The

water pump, washer and dryer are currently in the shed. N. Patten asked if both sheds will be removed? Mr. Parker noted he had planned to remove only one, but he could remove both if the Board requires that. The lot was originally an open lot. They first moved a mobile home on the lot until the sewer came through and then built the current residence. P. Harris noted they've done a good job on the house. Mr. Parker noted they enjoy it there. P. Harris asked if the side setback is 12.5'. Mr. Parker noted the surveyor used the correct setbacks because he found the fence is actually not on the property line which gave them more room. They also made some adjustments in the original plan to further reduce any encroachments.

The chairman asked if there were any comments or questions from the public. Mr. Toebler said he is the abutter in the direction the building is moving and he is not going to extend his building and he is in favor of the proposal.

There being no further question or comment the chairman closed the public hearing.

L. Couture noted that it looks like the addition could be squared off with the edge of the house and a variance wouldn't be necessary. Mr. Parker noted that the sewer and main power panel are in the way and they didn't want to build over the sewer.

BOARD ACTION – James & Claire Parker:

MOTION: On a motion by P. Oberhausen, seconded by L. Couture, it was voted unanimously to grant a Variance of Article 5 Table 2 of the Zoning Ordinance to construct an addition closer (9.3') to the side property line than allowed (12.5') on the following basis:

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. Conditions:
 - A. All required floodplain/Shoreland Protection documents to be submitted.
 - B. No structures or additions that do not meet setback, except for those approved herein are allowed.
 - C. Property pins are needed to confirm setback.
 - D. Portable garage and one shed to be removed.

(5-0)

OTHER BUSINESS:

1. **Minutes:**

P. Oberhausen noted that on page 3, he had included a condition that the tongue of manufactured home for Ludlum is to be removed.

MOTION: On a motion by N. Patten, seconded by P. Oberhausen it was voted unanimously to accept the minutes of the September 27, 2006, meeting as amended. (5-0)

2. **Law Lectures:**

The members were reminded of the upcoming 11/1 (Planning & Zoning basics) and 11/8 (Environmental Permitting) law lectures in Meredith.

3. **Adjournment:**

MOTION: On a motion by P. Oberhausen seconded by N. Patten it was voted unanimously to adjourn at 7:35pm. (5-0)

Respectfully submitted,

Candace L. Daigle, Town Planner