



BELMONT LAND USE OFFICE

ZONING BOARD OF ADJUSTMENT

Wednesday, August 22, 2007
Belmont Corner Meeting House
Belmont, NH 03220

Present: Chairman P. Harris (7:09pm); Members N. Patten, P. Oberhausen, J. Bennett;
Alternate E. Hawkins.
Absent: Member L. Couture.
Staff: C. Daigle.

The Vice Chairman opened the meeting at 7pm and appointed E. Hawkins as a voting member for the evening. The vice chairman explained that there is not a full 5-member Board present. An affirmative vote of 3 members is necessary to approve any application. All applicants have the option to be heard by the short board or to request to be tabled until the next regular meeting. If the applicant chooses to proceed, the fact that any decision made was by a short board is not grounds for a rehearing.

ABUTTERS' HEARING – Todd Chandonnait and Heather Morgan: Request for a Variance of a Article 5 Table 2 of the Zoning Ordinance to construct an addition with a deck closer (33.4') to the side property line than allowed (50'). Property is located at 51 Swallow Road in an "R" Zone, Tax Lot 212-025, ZBA # 4807.

Mr. Sheldon Morgan presented the application. Heather Morgan and Todd Chandonnait were also present. Mr. Morgan referred to the packet previously submitted to the Board. The intention is to enlarge the structure for the existing living quarters in 2 of the 3 apartments. The front apartment will not change. The enlargement will be in the living and dining rooms of the two rear apartments, one up and one down. There will be no increase in bedrooms although the bedroom will move into a larger area of the house, converting the existing bedroom into a utility room. The kitchens will not change. The building will be 20' longer parallel to the side line, but because of the angle of the building the new construction will be .2' closer to that sideline. The existing building had a deck which has been temporarily taken away. The stairs now come off the southerly side of the building so they can get in and out during the construction. The stairs and small deck will then be removed and the entrance will once again be off the west side of the building.

The vice chairman asked for public comment. Steven Oliver of 48 Swallow Rd stated he supports the addition.

J. Bennett asked if there are any additional bathrooms? Mr. Morgan replied there were not. P. Oberhausen noted that ground construction had begun, but been halted as soon as they realized they would need a variance before the building permit could be issued.

There being no further questions or comments the chairman closed the public hearing.

BOARD ACTION – Todd Chandonnait and Heather Morgan:

MOTION: P. Oberhausen moved to grant the application for a Variance of a Article 5 Table 2 of the Zoning Ordinance to construct an addition with a deck closer (33.4') to the side property line than allowed (50') on property located at 51 Swallow Road in an "R" Zone, Tax Lot 212-025, ZBA # 4807 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 because:
 - 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.

And with the following conditions:

1. No structures or additions that do not meet setback, except for those approved herein are allowed.
2. Building permit application to be amended to include deck

The motion was seconded by J. Bennett and carried. (3-1 E. Hawkins in opposition)

Chairman Harris arrived at 7:09pm resulting in a full 5-member board for the remaining applications.

ABUTTERS' HEARING – David & Charlene Reinauer: Request for a Variance of Article 5 Table 2 of the Zoning Ordinance to demolish and reconstruct a pre-existing nonconforming single family residence closer (26') to the front property line than allowed (50'). Property is located at 130 Sunset Drive in an "RS" Zone, Tax Lot 107-130, ZBA # 4307.

David & Charlene Reinauer were present for this application. Mr. Reinauer noted they will be demolishing the existing 50-year old home and replacing it. It is not constructed to current standards and is very dilapidated. The existing shed and storage building will also be removed. They have municipal sewer and community water. The new house will be 2-stories on a slab with an attached 2-car garage. He reviewed the proposed setbacks. They will increase the water setback to be conforming. The only setback relief needed is to the road.

The new unit will meet or exceed building codes. The proposed house will fit in with other existing homes in the area, many of which are much closer than 50' to the road and water. There's a 2-car garage on the lots on either side of them, both of which are less than 20' from the road so their new unit will actually be set back further from the road than the abutting structures.

The variance is needed because the lot is a preexisting nonconforming lot which is not large enough to build a home in conformance with the Ordinance. They looked at their options and based on abutting houses and the water, they felt the best option was to move back from the water line and take the extra 4' towards the house.

It will enhance the appearance on the property on Sunset Drive and improve the existing environmental issue. They need a year-round permanent residence. There are serious issues with the current structure. The Variance is necessary to build a year-round home.

The spirit of the ordinance is observed because it will be similar with the appearance of surrounding homes and has consistent setbacks with others.

Substantial justice will be done because they will be able to construct a home suitable for a year-round residence. It will benefit the Town and Sunset area through an increase in value. It will not diminish, but will increase the value of surrounding properties. There have been several brand new homes built in the immediate area and several have been completely remodeled. Many of the neighbors are glad to have it upgraded.

P. Oberhausen asked about the propane and where it will be located. Mr. Reinauer responded that they will continue to use it and he believes it will go on the side of the new garage. It fuels the radiant in-slab heat. The tank will be 17' away from the abutter. P. Oberhausen asked if they would consider an alternate form of energy because propane tanks in close proximity to other structures result in a significant safety issue which he is very concerned about for this and other properties. Charlene Reinauer stated she has respiratory allergies and propane is the cleanest source of heat for them to use. P. Oberhausen noted that the tank size will have to be quite large to supply their needs. P. Harris asked about LP regulations. C. Daigle noted that installations are required to meet Fire Department regulations but are not required to meet building setbacks. Mr. Reinauer stated they could also put the tank behind their house. Mrs. Reinauer stated they didn't realize they had to bring that type of information to this meeting. P. Oberhausen clarified that it was their decision, but he wanted them to consider the possible danger due to the close proximity of other structures.

P. Harris noted he recognized the effort to comply with the water setback. He asked about the 2-story configuration. Mrs. Reinauer noted that there are three new 2-story homes across the street

and the next door home is 2-story. J. Bennett agreed it was good to keep the distance from the water. P. Harris clarified that the existing house is 30' from the road and they are moving 3.8' closer to the road.

No abutters were present. There being no further questions or comments the chairman closed the public hearing.

BOARD ACTION – David & Charlene Reinauer:

MOTION: N. Patten moved to grant the application for a Variance of Article 5 Table 2 of the Zoning Ordinance to demolish and reconstruct a pre-existing nonconforming single family residence closer (26') to the front property line than allowed (50') on property located at 130 Sunset Drive in an "RS" Zone, Tax Lot 107-130, ZBA # 4307 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 because:
 - 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.

And with the following conditions:

1. All property bounds/existing footprint certified during construction as required.
2. All required floodplain/Shoreland Protection documents to be submitted.
3. No structures or additions that do not meet setback, except for those approved herein are allowed.
4. The 4x4 front deck shall remain open and unroofed.
5. The proposed footprint shall include any overhang of the 2nd story.
6. A new building permit application shall be submitted with the correct structure size and fees.
7. Shed and storage bin shall be removed prior to occupancy of the new structure.
8. Propane tank & installation to comply with all FD requirements.
9. Driveway permit required.

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

ABUTTERS HEARING – Ann Marie Legg for Mallard’s Landing Association: Request to extend for one year (6/22/08) or to grant new approvals for:

- a. A Special Exception of Article 10.A.3.c of the Zoning Ordinance to add useable space (second story) within a preexisting nonconforming structure.
- b. A Special Exception of Article 10.A.3.d of the Zoning Ordinance to attach a shed closer (13.14’) to an interior road than allowed (15’) but not closer than the existing structure (11.84’).
- c. A Special Exception of Article 10.A.3.d of the Zoning Ordinance to attach a shed closer (34.26’) to the high water mark than allowed (50’) but not closer than the existing structure.
- d. A Variance of Article 5 Table 2 of the Zoning Ordinance to attach a shed closer (6.71’) to an abutting structure than allowed (20’).

Property is located at 82 Mallard’s Landing Road in an “RS” Zone, Tax Lot 110-002-000-619, ZBA # 4407, 4507, 4607 & 4707.

Ms. Ann Marie Legg was present for this application. She explained that getting the approvals from NH DES took quite some time and that Mr. Sargent of Bartlett Associates had kept in touch with the Town during the process. Everything in the original application remains the same. They will be gaining space between themselves and their neighbor.

The Board reviewed the issue of reapproval versus new approvals. P. Harris noted they did not meet the timeframe for submitting an extension application. There does not appear to have been any changes in the Ordinance that would impact this approval. J. Bennett and E. Hawkins spoke in favor of approving the proposal as a new application instead of an extension.

The chairman asked for public comment. Jeannie Tracy of 80 Mallards Landing Road is an abutter and is in support. Tom Thibeault of 78 Mallards Landing Road stated he was also in support. Bob Thibeault of 84 Mallards Landing Road spoke in favor.

There being no further questions or comments the chairman closed the public hearing.

BOARD ACTION – Ann Marie Legg for Mallard’s Landing Association:

MOTION: P. Harris moved that all four proposals be considered as a new application and not an extension of previous approvals, and he moved to grant the application for a Special Exception of Article 10.A.3.c of the Zoning Ordinance to add useable space (second story) within a preexisting nonconforming structure on property located at 82 Mallard’s Landing Road in an “RS” Zone, Tax Lot 110-002-000-619, ZBA # 4407 on the following basis:

1. a. The use is allowed in the district
- b. The Ordinance specifically allows the use when a Special Exception is granted.
2. a. The specific site is appropriate for the use by adding living space

- in a residential zone.
- b. No factual evidence is found that property values in the district will be reduced as the proposal is in keeping with the area.
- c. There is no valid objection from abutters based on fact. Several spoke in favor of the proposal.
- d. No nuisance or hazard is involved.
- e. Adequate and appropriate facilities will be provided.
- f. There is adequate sewage disposal.
- g. Structures must otherwise meet all dimensional requirements of the Ordinance.

And with the following conditions:

- 3.
 - a. All property bounds/existing footprint certified during construction as required.
 - b. All required floodplain/Shoreland Protection documents to be submitted.
 - c. No structures or additions that do not meet setback, except for those approved herein are allowed.
 - d. A completed updated building permit application is required.

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

MOTION: P. Harris moved to grant the application for a Special Exception of Article 10.A.3.d of the Zoning Ordinance to attach a shed closer (13.14') to an interior road than allowed (15') but not closer than the existing structure (11.84') on property located at 82 Mallard's Landing Road in an "RS" Zone, Tax Lot 110-002-000-619, ZBA # 4507 on the following basis:

- 1.
 - a. The use is allowed in the district
 - b. The Ordinance specifically allows the use when a Special Exception is granted.
- 2.
 - a. The specific site is appropriate for the use.
 - b. No factual evidence is found that property values in the district will be reduced.
 - c. There is no valid objection from abutters based on fact.
 - d. No nuisance or hazard is involved.
 - e. Adequate and appropriate facilities will be provided.
 - f. There is adequate sewage disposal.
 - g. Structures must otherwise meet all dimensional requirements of the Ordinance.

And with the following conditions:

- 3.
 - a. All property bounds/existing footprint certified during construction as required.

- b. All required floodplain/Shoreland Protection documents to be submitted.
- c. No structures or additions that do not meet setback, except for those approved herein are allowed.
- d. A completed updated building permit application is required.

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

MOTION: P. Harris moved to grant the application for a Special Exception of Article 10.A.3.d of the Zoning Ordinance to attach a shed closer (34.26') to the high water mark than allowed (50') but not closer than the existing structure on property located at 82 Mallard's Landing Road in an "RS" Zone, Tax Lot 110-002-000-619, ZBA # 4607 on the following basis:

1.
 - a. The use is allowed in the district
 - b. The Ordinance specifically allows the use when a Special Exception is granted.
2.
 - a. The specific site is appropriate for the use.
 - b. No factual evidence is found that property values in the district will be reduced.
 - c. There is no valid objection from abutters based on fact.
 - d. No nuisance or hazard is involved.
 - e. Adequate and appropriate facilities will be provided.
 - f. There is adequate sewage disposal.
 - g. Structures must otherwise meet all dimensional requirements of the Ordinance.

And with the following conditions:

3.
 - a. All property bounds/existing footprint certified during construction as required.
 - b. All required floodplain/Shoreland Protection documents to be submitted.
 - c. No structures or additions that do not meet setback, except for those approved herein are allowed.
 - d. A completed updated building permit application is required.

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

MOTION: P. Harris moved to grant the application for a Variance of Article 5 Table 2 of the Zoning Ordinance to attach a shed closer (6.71') to an abutting structure than allowed (20') on property located at 82 Mallard's Landing Road in an "RS" Zone, Tax Lot 110-002-000-619, ZBA # 4707 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 because:
 - 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.

And with the following conditions:

1. All property bounds/existing footprint certified during construction as required.
2. All required floodplain/Shoreland Protection documents to be submitted.
3. No structures or additions that do not meet setback, except for those approved herein are allowed.
4. A completed updated building permit application is required.

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

ABUTTERS HEARING – K. Heidi Fishman: Request for:

- a. Variance of Article 5 Table 2 of the Zoning Ordinance to construct a shed closer (3') to the front property line than allowed (50'). ZBA # 4107
- b. Variance of Article 4 of the Wetlands Ordinance to construct a shed closer (32.5') closer to the highwater mark than allowed (50'). ZBA # 4207

Property is located at 14 Island Drive in an "RS" Zone, Tax Lot 111-009.

Ms. Fishman was present for this application. They want a shed as they have no garage or basement - nowhere to put toys and lawn furniture. They have checked with NH DES and this is the furthest point from the water. They do not need a NH DES permit because of the minimal size of the structure. They are on a peninsula, but will meet 50' on one side and be 32' on the other. It's right against the road, but they are at the end of a dead end road so there is no passing traffic.

Ms. Fishman reported that Mr. Copp is closest and is in favor. C. Daigle read the letter from Mr. Copp in support of the proposal. There were no abutters present.

P. Harris asked what would be stored in the shed. Ms. Fishman explained that it will be water toys, trash awaiting pickup, shovels, rakes, etc. P. Harris asked about a lawnmower and gasoline. Ms. Fishman explained that they don't have a lawn or a lawnmower. For the very small patch of grass they do have they borrow the neighbor's electric lawnmower. They would store tools for gardening and their trash to keep it away from animals until trash day. In the winter they would put their lawn furniture in it also. P. Harris noted the next owner might want

to store something of a contaminant nature and suggested installing a membrane floor in the shed to capture spills for cleanup to protect water quality. Ms. Fishman noted they were looking at the prefab Home Depot sheds, but they'll install a membrane floor if the Board wants one. There is nowhere further from the water to place the shed. Any other place would block the driveway and there are also some larger trees they were hoping not to have to cut and also a slope. P. Harris noted those as reasons for requesting the variance. J. Bennett noted the membrane might be a good option to protect the water if they can't get the 50' setback. Ms. Fishman also pointed out that the ground rises and it is uphill to the water on the side where they will be only 32' from the water which would keep surface runoff from moving in that direction. P. Harris pointed out that it does not stop contaminants from entering the groundwater. He felt it was reasonable that in order to reduce the setback some other safeguard is put into place.

There being no further questions or comments the chairman closed the public hearing.

BOARD ACTION – K. Heidi Fishman:

MOTION: J. Bennett moved to grant the application for a Variance of Article 5 Table 2 of the Zoning Ordinance to construct a shed closer (3') to the front property line than allowed (50') on property located at 14 Island Drive in an "RS" Zone, Tax Lot 111-009 ZBA # 4107 on the following basis:

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

And on the following conditions:

1. All property bounds/existing footprint certified during construction as required.
2. No structures or additions that do not meet setback, except for those approved herein are allowed.
3. All required NH DES shoreland protection waivers/permits be obtained.

The motion was seconded by N. Patten and carried. (4-1 E. Hawkins in opposition)

MOTION: J. Bennett moved to grant the application for a Variance of Article 4 of the Wetlands Ordinance to construct a shed closer (32.5') closer to the highwater

mark than allowed (50') on property located at 14 Island Drive in an "RS" Zone, Tax Lot 111-009 ZBA # 4207 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 because:
 - 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.

And on the following conditions:

1. All property bounds/existing footprint certified during construction as required.
2. No structures or additions that do not meet setback, except for those approved herein are allowed.
3. All required NH DES shoreland protection waivers/permits be obtained.
4. The shed floor shall be built to provide containment for contaminants. Ms. Fishman asked if Tyvek or some similar product would be suitable and P. Harris agreed it would be.

The motion was seconded by N. Patten and carried. (4-1 E. Hawkins in opposition)

OTHER BUSINESS:

1. **Minutes:**

MOTION: On a motion by P. Oberhausen, seconded by E. Hawkins it was voted unanimously to accept the minutes of July 25, 2007. (4-0-1 N. Patten abstained)

2. **Budget:**

The members reviewed the August 6th memo from C. Daigle with information on the proposed 2008 Land Use budget request. The Planning Board will also review the proposal at their 8/27 meeting. The budget is due to the Town Administrator by September 5th. The proposal includes an increase in postage, printing and LRPC dues all totaling \$1,579 and an increase for tax map updates of \$2,200 to add street numbers to the tax maps. There are no payroll numbers available as non-union employee rates (all Land Use employees are non-union) will not be set by the Selectmen until after the completion of Union contract negotiations. The Planning Board may also consider

replacing the existing large format printer. The members felt adding street numbers to the tax map would be very beneficial.

The Board discussed issues related to the budget including LRPC dues, mapping, payroll, roads & sidewalks and tax maps.

3. **Membership:**

J. Bennett tendered her resignation to the Board. The Board expressed its great appreciation for her participation and its regret at her leaving.

4. **Adjournment:**

MOTION: On a motion by E. Hawkins seconded by P. Oberhausen it was voted unanimously to adjourn at 8:15pm. (5-0)

Respectfully submitted,



Candace L. Daigle, Town Planner