

## ZONING BOARD OF ADJUSTMENT

Wednesday, August 27, 2008  
Belmont Corner Meeting House  
Belmont, N.H.03220

Members Present: Vice-Chairman P. Oberhausen; N. Patten, L. Couture and M. Ford.  
Members Absent: P. Harris (E).  
Alternates Present: P. Palombo.  
Alternates Absent: E. Hawkins (E).  
Staff: C. Daigle and E. Murphy.

The vice-chairman opened the meeting at 7p.m and appointed P. Palombo as a voting member for tonight's meeting.

**ABUTTERS' HEARING – RICK & KRISTIE JEWELL:** Continuation of a request for:

- A. A Variance of Article 5 Table 2 of the Zoning Ordinance to permit a shed closer (11.2') to the side property line than allowed (12.5'). ZBA # 1808
- B. A Variance of Article 5 Table 2 of the Zoning Ordinance to permit a shed closer (23.9') to the front property line than allowed (50'). ZBA #1908

Property is located at 53 Woodland Drive in an "RS" Zone, Tax Lot 116-030.

Mrs. Kristie Jewell presented the application.

Mrs. Jewell stated that they don't have a garage to store outdoor equipment and they want someplace to store their lawnmower and shovels. The backyard slopes off so they couldn't put the shed there.

P. Oberhausen wanted to know what kind of floor the shed has. Mrs. Jewell stated that it is a wooden floor made out of scrape wood.

Mrs. Jewell explained the pictures that the Land Use Technician submitted. She stated that they just finished the yard and there are steep slopes behind the fence. They have to go down the road to get to the yard because of the slopes. L. Couture wanted to know if they have rear or side access from the house to the yard. Mrs. Jewell stated that there is a back door but they can't get to the yard from there. They have to walk down the street. There is fencing around the yard so no one falls down the slope.

P. Oberhausen stated it is a big piece of property and the shed is almost in the ROW. Mrs. Jewell stated that it just happened that way. They have tried to sell the property but no one wants it because of

the cliff. They just cleared the lot so they could have a yard but they have to walk in the road to get to it because the cliff is very steep.

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

**BOARD ACTION – RICK & KRISTIE JEWELL:**

**MOTION:** M. Ford moved to grant a Variance of Article 5 Table 2 of the Zoning Ordinance to permit a shed closer (11.2') to the side property line than allowed (12.5').

1. A Variance will not decrease surrounding property values because the shed is next to the driveway.
2. A Variance is not contrary to the public interest because there are no health or safety issues.
3. Denial would result in unnecessary hardship to the owner because the use is restricted to one corner of the lot.
  - A. the variance is needed to enable the applicant to construct the development as designed due to special conditions of the property because of the steep slopes.  
and
  - B. the benefit sought by the applicant cannot be achieved by some other reasonably feasible method because of the slopes.
4. A Variance will result in substantial justice being done.
5. A Variance will observe the spirit and intent of the ordinance.

The following conditions apply:

1. No structures or additions that do not meet setback, except for those approved herein are allowed.
2. Requires all applicable inspections/permits.

The motion was seconded by P. Palombo and carried. (3-1-1)N. Patten opposed, P. Oberhausen abstained.

**MOTION:** M. Ford moved to grant a Variance of Article 5 Table 2 of the Zoning Ordinance to permit a shed closer (23.9') to the front property line than allowed (50').

1. A Variance will not decrease surrounding property values because the shed is next to the driveway.
2. A Variance is not contrary to the public interest because there are no health or safety issues.
3. Denial would result in unnecessary hardship to the owner because the use is restricted to one corner of the lot.

- A. the variance is needed to enable the applicant to construct the development as designed due to special conditions of the property because of the steep slopes.  
and
  - B. the benefit sought by the applicant cannot be achieved by some other reasonably feasible method because of the slopes.
4. A Variance will result in substantial justice being done.
  5. A Variance will observe the spirit and intent of the ordinance.

The following conditions apply:

1. No structures or additions that do not meet setback, except for those approved herein are allowed.
2. Requires all applicable inspections/permits.

The motion was seconded by P. Palombo and carried. (3-1-1) N. Patten opposed, P. Oberhausen abstained.

**ABUTTERS' HEARING – DON & ANN HEATH:** Request for a Special Exception of Article 5  
Table

2 of the Zoning Ordinance to construct a porch closer (13.7') to the front property line than allowed (50') but not closer than the existing structure. Property is located at 20 Wakeman Road in an "RS" Zone, Tax Lot 111-026, ZBA # 2608.

At least three members have viewed the site.

Mr. Don Heath presented the application.

Mr. Heath explained that the house collapsed because of the snow and they rebuilt it in the same footprint. They want to move the porch that was on the front of the house and put it on the side away from the road. Cars don't slow down when they come up the hill and that creates a safety issue because the road comes towards the porch. The old 7' x16' porch was closer to the front property line than this proposal. The grandchildren spend time on the porch and moving it would make it safer for them. During the dry season cars create dust and having the porch on the side will lessen the dust on the porch.

P. Oberhausen stated that moving the porch to the side of the house is a big improvement creating more space between the road and the porch.

L. Couture wanted to know if the proposal falls within the Shoreland Protection Act. Mr. Glen Heath stated that he submitted the application to the State and they have approved it because the piers were already in. He will be getting a copy of the approval from the State and submit it to the Land Use Office.

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

**BOARD ACTION – DON & ANN HEATH:**

**MOTION:** L. Couture moved to grant a Special Exception of Article 5 Table 2 of the Zoning Ordinance to construct a porch closer (13.7') to the front property line than allowed (50') but not closer than the existing structure.

1. The use is allowed in the district
2. The specific site is appropriate for the use.
3. No factual evidence is found that property values in the district will be reduced, they will improve.
4. There is no valid objection from abutters based on fact.
5. No nuisance or hazard is involved, this will eliminate a hazard.
6. Adequate and appropriate facilities will be provided.
7. There is adequate sewage disposal, Town sewage.
8. Structures must otherwise meet all dimensional requirements of the Ordinance.

The following conditions apply:

1. All property bounds/existing footprint certified during construction as required.
2. All required floodplain/Shoreland Protection documents to be submitted and any related conditions to be complied with.
3. 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 – RICHARD MOREAU:** Request to extend for one year (8/30/09) 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 Dock Road (FKA Morgan Road) in an "R" Zone, Tax Lot 239-037, ZBA # 2808.

Mr. Moreau presented the application.

Mr. Moreau explained that when he bought the property it was already a year into the approval. They are in the process of converting their existing home into apartments which they plan to finish before they start building on the Dock Road property. He just needs extra time before he starts building.

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

**BOARD ACTION – RICHARD MOREAU:**

**MOTION:** P. Oberhausen moved to grant a one year (8/30/09) extension of 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 on the same conditions as included with the original approval.

The motion was seconded by M. Ford and carried. (5-0)

**ABUTTERS' HEARING – JOHN WESLEY:** Request for a Special Exception of Article 5 Table 1 of the Zoning Ordinance for an accessory apartment in the “RS” zone. Property is located at 193 Bean Hill Road, Tax Lot 223-028, ZBA #2809.

At least three members have viewed the site.

Mr. John Wesley presented the application.

Mr. Wesley explained that he is in the process of upgrading the septic design and enlarging the original house to accommodate the apartment. He is insulating the addition and putting in a full foundation. The property is a good size with plenty of parking and will not create a hardship to anyone because it is hard to see from the road.

P. Palombo wanted to know if this is an accessory apartment or addition. Mr. Wesley stated that the units will have separate utilities. He will be living in the apartment and his tenant, Mr. Curtis Appleyard, will be staying in the house. By adding the accessory apartment it will allow him to accommodate Mr. Appleyard and himself at the same time. The main house wasn't large enough so he putting on a 600 square foot addition. There is a 1000 gallon septic system that accommodates the three bedrooms in the original house. The accessory apartment will have two bedrooms and a new septic system is being designed for the apartment. The main house was built in 1988 and the code at that time required a 1000 gallons septic system. It was designed by White Mountain Septic Design. C. Daigle stated that Mr. Wesley has a legal septic system for the house and a separate legal system for the apartment.

L. Couture wanted to know if the electric is up to code. C. Daigle stated that this is an after-the fact application and is required to meet any current building codes. Mr. Wesley explained that the building was a tool shed so it has electricity and was inspected and approved by the former Code Enforcement Officer. He is required to have heat in the new addition and they are designing it now. The apartment will have a direct vent furnace and the house will also get a new furnace.

P. Oberhausen wanted to know if Mr. Wesley planned on having an accessory apartment when built the tool shed. Mr. Wesley stated that it started out as a tool shed and then with improvements it turned into a place to live. P. Oberhausen wanted to know why Mr. Wesley decided to come before the Board now. Mr. Wesley stated that when he started the tool shed he didn't know it was going to become an apartment. C. Daigle stated that he may have been cited for the apartment. Mr. Wesley stated that he had and has paid doubled the permit cost. He is happy with the Town and his tenant and wants to do things right.

C. Daigle explained that a problem occurred when they did the size calculation for the apartment making it a two family instead of an accessory apartment. Mr. Wesley decided to put an addition on the main dwelling to meet the size needed for an accessory structure size instead of going for a two-family dwelling. P. Palombo wanted to know if the apartment was restricted to a relative or care giver. C. Daigle explained that the ordinance used to have in-law apartments but the Town felt that it was too restrictive and they eliminated the need for the occupants to be related. Accessory apartments require the owner to occupy either the principal dwelling or the apartment. The apartment is also based on size.

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

### **BOARD ACTION – JOHN WESLEY:**

**MOTION:** N. Patten moved to grant a Special Exception of Article 5 Table 1 of the Zoning Ordinance for an accessory apartment in the “RS” zone.

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

The following conditions apply:

1. Install upgraded State approved septic system
2. Complete primary dwelling addition
3. Obtain Certificate of Occupancy for apartment from building official.
4. Use must continue to meet standards for Accessory Apartment.

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

### **OTHER BUSINESS:**

### **BOARD'S ACTION - MINUTES:**

N. Patten made a motion to approve the minutes of July 23, 2008 . L. Couture seconded. Carried (4-0-1)  
P. Palombo abstained.

### **STAFF REPORT:**

### **NH ASSOCIATION OF REGIONAL PLANNING COMMISSION:**

The Board received a copy of the upcoming Fall Planning and Zoning Conference scheduled for October 25<sup>th</sup>. Any member wanting to attend the conference will be reimbursed for the fees.

**ADJOURNMENT:**

**MOTION:** On a motion by N. Patten, seconded by L. Couture, it was voted unanimously to adjourn at 7:47p.m. (5-0).

Respectfully submitted,

Elaine M. Murphy