

ZONING BOARD OF ADJUSTMENT

Wednesday, January 24, 2007
Belmont Corner Meeting House
Belmont, N.H.03220

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

The chairman opened the meeting at 7p.m. and appointed J. Bennett as a voting member for tonight's meeting. He explained that the Board usually consists of five voting members and that an affirmative vote of three is necessary to pass any motion or approval. The applicants have the option of going with a short Board or postponing. A short Board is not a reason for a rehearing.

Abutters' Hearing – Robert and Janine Norkiewicz: Requests for:

- A Variance of Article 5 Table 2 of the Zoning Ordinance to allow a shed closer (4.69') to the side property line than allowed (25').
- A Variance of Article 4 of the Wetland Ordinance to allow a shed closer (31.43') to the highwater mark than allowed (50').

Property is located at 59 Sargent Lake Road in the "R" Zone, Tax Lot 238-022, ZBA # 0107 & 0207.

Mr. Norkiewicz presented the application and agreed to a short Board.

The Board received a copy of the email from abutter Calley Milne who is in favor of the proposal. It does not affect their view of the lake and does not impact their property.

Mr. Norkiewicz explained that the shed was placed in the only area it could be. The shed is used to store his lawnmower, snowblower, propane tanks and other outdoor equipment. They used to be stored in his basement but with having kids he had safety concerns about storing those items in the basement. Last summer he was denied a permit for a shed and thought it was because it was on a foundation and he thought a plastic shed was not a permanent structure and did not need a permit. He received a letter from the Code Enforcer/Field Inspector stating that he needed a variance and that is why he is here. The lot has many slopes. The shed is on the back side of the house and doesn't obstruct lake views.

N. Patten wanted to know if gasoline was stored in the shed. Mr. Norkiewicz stated that

propoane for the grill and gas for the lawnmower and snowblower are stored in the shed. He explained that the shed is made of plastic tiles that are screwed together, the floor is tongue and groove and the edges are sealed. P. Harris stated that the concern is the close proximity to lake and the hazardous material. Mr. Norkiewicz stated it has a sealed tongue and groove floor. It is water tight. P. Oberhausen wanted to know how long it has been up for. Mr. Norkiewicz stated that he put it up in the late fall. P. Oberhausen stated that it is water tight but it does hold moisture. He wanted to know why they can't turn the shed and move it 8'-10' closer to the house. Mr. Norkiewicz explained there is a retaining wall that goes to the corner of the house and the front stairs to the house are in that area.

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

BOARD ACTION – ROBERT AND JANINE NORKIEWICZ:

MOTION: P. Oberhausen moved to grant a Variance of Article 5 Table 2 of the Zoning Ordinance to allow a shed closer (4.69') to the side property line than allowed (25') 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 J. Bennett and carried. (4-0)

P. Harris stated the sealed tongue and groove floor was made to house the hazardous material that is in the shed.

MOTION: P. Oberhausen moved to grant a variance of Article 4 of the Wetland Ordinance to allow a shed closer (31.43') 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. 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. (4-0)

P. Harris stated if the slopes interfere with the placement of the shed.

E. Murphy explained that there is a petitioned aquifer amendment which prohibits issuing any building permits that are in the aquifer zone or aquifer district until after the March elections. The petition is to protect the aquifer but it does not list the allowed or prohibited uses in that zone. Since the allowed uses cannot be determined by the petition, counsel has advised building permits in those zones/districts be denied without prejudice until the election results are in. Mr. Norkiewicz's property is in the aquifer zone so his building permit can not be processed at this time.

Abutters' Hearing – Shirley A Mansur: Request for a Special Exception of Article 10A.3.d of the Zoning Ordinance to allow a concrete patio pad and wooden platform closer (35.6') to the front property line than allowed (50') but not closer than the existing structure. Property is located at 20 Leisure Lane in an "RM" Zone, Tax Lot 121-088, ZBA # 0307.

At least three members have viewed the site.

Ms Shirley Mansur presented the application and agreed to a short Board.

Ms. Mansur explained that when she replaced her single wide with a double wide the contractor poured extra concrete that did not line up with the back door. The concrete extends from the back deck and is used to hold her garbage cans. It has been there since she replaced the house but she didn't know she wasn't in compliance until she received a letter from the town

E. Murphy explained she received a phone call from abutter, Mr. William Divers who stated that he has no objections to the proposal and it will be an added benefit to the neighborhood.

P. Harris stated that some safety concerns the Board looks for is if there is access around the building. They also look to see if there is room for future road expansion. These concerns do not apply to this application because the house is closer to the setbacks than the patio. The proposal fits into the neighborhood as there are similar uses in the neighborhood. No hazards or nuisance are involved. .

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

he closed the public hearing.

BOARD ACTION – SHIRLEY A MANSUR:

MOTION: N. Patten moved to grant a Special Exception of Article 10A.3.d of the Zoning Ordinance to allow a concrete patio pad and wooden platform closer (35.6') to the front property line than allowed (50') but not closer than the existing structure as it meets all the criteria.

1. The Ordinance specifically allows the use when a Special Exception is granted.
2. The specific site is appropriate for the use. The use is the same as others in neighborhood.
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. Same as others in neighborhood.
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.
9. 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. (4-0)

E. Murphy informed Ms. Mansur that she is in the proposed aquifer zone and her building permit cannot be processed at this time

OTHER BUSINESS:

BOARD'S ACTION - MINUTES:

N. Patten made a motion to approve the minutes of December 27, 2006. P. Harris seconded. Carried (4-0)

STAFF REPORT:

ELECTIONS:

The members were reminded that signup for the elections has started and will close on February 2nd. There are two vacant positions, one three year term and one two year term.

ADJOURNMENT:

MOTION: On a motion by P. Oberhausen, seconded by J. Bennett, it was voted unanimously to adjourn at 7:24 p.m. (4-0).

Respectfully submitted,

Elaine M. Murphy