



City of Laconia
Zoning Board of Adjustment
Monday, March 16, 2020 - 6:30 PM
City Hall in the Armand A. Bolduc Council Chamber

3/16/2020 - Minutes

1. CALL TO ORDER

Meeting was called to order by Chair S. Bogert at 6:30 PM.

2. ROLL CALL

Present: Steve Bogert; Roland Maheu; Gail Ober

Absent: Orry Gibbs; Michael DellaVecchia; Mike Foote

Chair S. Bogert stated there is quorum, and that a unanimous vote is necessary for all applications to be approved. Chair S. Bogert offered that any applicants would prefer to have a full board review their application, that they request an extension at this time. No applicants requested a continuance.

3. RECORDING SECRETARY

Ashley Ruprecht, Conservation Technician

4. STAFF IN ATTENDANCE

Dean Trefethen, Director of Planning/Zoning and Code Enforcement

5. ACCEPTANCE OF MINUTES FROM PREVIOUS MEETINGS

5.I. January 21, 2020 Zoning Board Of Adjustment Minutes (PDF)

G. Ober motioned to accept the meeting minutes of January 21, 2020 as presented.

R. Maheu seconded the nomination.

All in favor (3-0).

6. EXTENSIONS

Chris Duprey, representative of the applicant, explained that last July he was before the ZBA for an extension on the applications, and in October 2019 he went before the Planning Board for a 1 year extension on the related applications. There is remaining construction work to finish the sidewalk on Scenic Rd. this spring but other than that there are no further updates at this time. There are no major changes to the application.

The Board's decisions on each of the applications are listed individually below.

6.I. Akwa Waterfront LLC Variance Extension Request - 63-99 Fletcher Lane (PDF)

G. Ober motioned to approve the variance extension request for 63-99 Fletcher Lane until July 2020. R. Maheu seconded. All in favor (3-0).

6.II. Akwa Waterfront LLC Special Exception Extension Request - 63-99 Fletcher Lane (PDF)

G. Ober motioned to approve the special exception extension request for 63-99 Fletcher Lane until July 2020. R. Maheu seconded. All in favor (3-0).

6.III. Akwa Vista LLC Special Exception Extension Request - 664 Scenic Rd (PDF)

G. Ober motioned to approve the special exception extension for request for 63 Scenic Rd. until July 2020.

The applicant stated it should be 664. G. Ober amended the motion for 664 Scenic Rd. instead of 63 Scenic Rd. R. Maheu seconded the motion. All in favor (3-0).

7. CONTINUED PUBLIC HEARINGS, CONSIDERATION AND POSSIBLE VOTE Note: The Purpose Of This Agenda Section Is For The Board To Continue The Public Hearing For The Applicant And The Public To Provide Input. The Board May Also Deliberate The Application, Decide And Conduct A Final Vote At This Time.
8. PUBLIC HEARINGS, POSSIBLE CONSIDERATION AND VOTE Note: The Purpose Of This Agenda Section Is For The Board To Have A Presentation From The Applicant And Open A Public Hearing For The Public To Provide Input. The Board May Also Deliberate The Application, Decide And Conduct A Final Vote At This Time.

8.I. ZO2020-0002VAR 485 Endicott St East Variance Application (PDF)

Malorie Morse, representative and daughter of the applicant, explained her family has lived in Laconia for 22 years and has grown, and is requesting a variance for an addition to the existing house. The addition would provide extra space to a bedroom and bathroom. The addition would be approximately 7' from the property line, and the required setback is 10'.

D. Trefethen explained it doesn't appear there are any structures nearby on the adjacent property. The Board had no additional questions for the applicant.

Chair S. Bogert opened the public hearing at 6:43PM. There was no one from the public to speak for or against the application. The Board had no additional questions. In a closing statement the applicant stated the additional space would be nice. The public hearing closed at 6:44PM.

G. Ober motioned to approve application ZO2020-0002VAR 485 Endicott St E. for a variance from Article VII Section 235-35(B) Side Setback to allow for an addition to the existing house.

(1) The variance will not be contrary to the public interest; AND

Granting the variance will have no effect to the general public.

(2) The spirit of the ordinance is observed; AND

By granting the variance, there is no effect on the zoning of that particular area whatsoever.

(3) Substantial justice is done; AND

The benefit of granting the variance to the applicant is far greater than any harm that could potentially be done to the general public

(4) The value of surrounding properties are not diminished; AND

If granted, the values of the surrounding houses would not be altered, limited, or diminished in any capacity.

(5) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship;

The purpose of the ordinance is not violated under the unnecessary hardship provision. Zoning stays intact, and the request is reasonable.

S. Bogert seconded the motion. All in favor (3-0).

8.II. ZO2020-0004VAR 690 Weirs Blvd #8 Variance Application (PDF)

Applicant Gail Zayke outlined her application for a variance from the required side setback to allow for an addition to the existing cottage. The side where the addition would be is wooded and there is a dumpster. The addition would square off the existing cottage, which is already located in the required setback.

D. Trefethen noted that the area has private roads and is mostly used seasonally. The Board had no further comments.

Chair S. Bogert opened the public hearing at 6:50PM. There was no one from the public in attendance to speak for or against the application. The Board had no further questions from the applicant. In a closing statement, the applicant stated she is looking forward to the project and continuing to enjoy the area. The public hearing closed at 6:51PM.

G. Ober noted that the condo association already approved the applicant's request. Chair S. Bogert stated it is reasonable to square off the building.

G. Ober motioned to approve application ZO2020-0004VAR at 690 Weirs Blvd #8 for a request for a variance from Article VII Section 235-35(B) Side Setback to allow for an addition to the existing cottage.

(1) The variance will not be contrary to the public interest; AND

Granting the variance will have no effect on the public.

(2) The spirit of the ordinance is observed; AND

If the variance is granted, the spirit of the ordinance would be observed because it has no effect on the zoning.

(3) Substantial justice is done; AND

Granting the variance will have substantial justice because the benefit to the applicant outweighs any possible detriment that could occur to the community.

(4) The value of surrounding properties are not diminished; AND

If the variance is granted the value of the surrounding properties would not be diminished because it doesn't have an effect on the surrounding properties.

(5) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship;

a. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:

i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because: The application has no effect.

ii. The proposed use is a reasonable one because: The request is reasonable.

R. Maheu seconded the motion. All voted in favor (3-0).

8.III. ZO2020-0009VAR 92 Pine St Variance Application (PDF)

Applicant Chris Logue provided an overview of the application to the Board. There is discussion about the parking requirement based on the pews and parking space sizing requirements. The applicant currently has 14 parking spaces but 20 are required for the number of pews they have.

D. Trefethen explains that the variance is a request to keep the number of pews and reduce the required parking from 20 to 14 spaces. The Board cannot grant a variance in regards to the required sizing of parking spaces.

The Board expresses concerns about the lack of overflow parking and the potential of people parking on the street. The applicant says that if needed he will hold 2 services to reduce the number of people in attendance and minimize any potential parking impacts to the neighborhood.

D. Trefethen suggests that if the Board grants the variance, that they add a condition that it will only be for the current use of a church proposed by the owner.

Chair S. Bogert opened the public hearing at 7:08PM. There were no members from the public in attendance to speak for or against the application. The Board had no further questions for the applicant. In a closing statement to the Board, the applicant reiterated that he would do his best to work with the community and think it would bring great things to the neighborhood. The public hearing closed at 7:10PM.

D. Trefethen added the parking requirement is driven by the number of seats, and that a condition could be added that this is granted for the use by this property owner.

R. Maheu motioned that ZO2020-0009VAR at 92 Pine St Variance Application is denied because it will cause a hardship on the neighborhood and the use is contrary to the neighborhood. The Board has discussion about the lack of overflow parking and snow storage, and make a joint motion to deny the application based on the following:

(1) Granting the variance would be contrary to the public interest;

Granting the variance would be contrary to the public interest because the parking is inadequate.

(2) The spirit of the ordinance would be observed by denying the application;

The spirit of the ordinance would be observed due to the lack of parking and closeness of the neighborhood.

(3) Substantial justice is done by denying the application;

Substantial justice is granted by denying the variance because the public would not be harmed if the variance is denied, and would be harmed if the variance is granted.

(4) The value of surrounding properties may or may not change;

The value of the surrounding properties may or many not be diminished or enhanced, and there are a number of accidents that occur already at that location.

G. Ober seconded the motion. All voted in favor (3-0).

8.IV. ZO2020-0011SE 68A Gables Dr Special Exception Application (PDF)

Before the applicant addressed the Board, D. Trefethen explained that this application is under the Special Exception criteria for the new Short-Term Lodging (STL) ordinance, as these criteria were requested by the City Council. D. Trefethen said these criteria should be assessed by the Board on a case-by-case basis to allow applicants to apply for STL permits if they fit under the special exception criteria. There is discussion amongst the Board on the language of the criteria and how it differs from the requirements of the ordinance.

The applicant, Richard O'Brien addressed the Board. Richard, his sister, and wife have owned the property since June 1991. Since the summer of 1992 they have rented the unit out at times to various parties, typically vendors during Bike Week and in August when they are not there but there is a demand for rentals. From Labor Day to May the family uses the unit but it is not a primary residence for them. The have rented the unit through Roche Realty and Bayside Rentals. The Bi-laws of the Condominium Association allow for rentals. The applicant would like to continue to rent out the property so that they can continue to afford and enjoy the unit.

D. Trefethen added that the seasonal restriction and 151 day owner occupied requirement of the STL ordinance does not apply in the instance that the Special Exception is granted. Because the property is zoned in RS the Special Exception criteria of the ordinance is the only process the applicant qualifies for under STL. The Board had no further questions.

At 7:31PM Chair S. Bogert opened the public hearing. There is no one from the public in attendance to speak for or against the application. In a closing statement, the applicant reiterated they have been renting out the unit since 1992 and would like to continue to do so. There were no further comments. The public hearing was closed at 7:32PM.

D. Trefethen recommended that the Board adds a condition if they chose to approve the application that this Special Exception would only apply to the current owners since the Special Exception does not have an expiration. The applicant will still need to apply for a permit every 2 years for STL.

G. Ober motioned to approve ZO2020-0011SE 68A Gables Dr requesting a Special Exception from Article VII Section 235-41(M) to allow Short Term Lodging.

- 1) The use requested is specifically authorized in the chapter;
- 2) The requested use will not increase demand for municipal services;
- 3) Any special provisions for the use as set forth in this chapter are fulfilled;
- 4) The requested use will not create hazards to the health, safety, or general welfare of the public;
- 5) The requested use meets the criteria that the applicant can demonstrate that the use in question has been common practice at this specific property and structure for a period of not less than five years prior to the enactment of the STL Ordinance;

The unit has been used for STL since 1992 through Roche Realty and Bayside Rentals, which far exceeds the 5 year minimum requirement.

This Special Exception will only apply to the current owners, Sarah, Richard, and Patricia O'Brien, and a permit for STL will still need to be obtained from the City. If there is a change in the ownership, the Special Exception will no longer be in effect.

R. Maheu seconded the motion. All voted in favor (3-0).

8.V. ZO2020-0012VAR 76 Morningside Dr Variance Application (PDF)

Applicant Jim St. Pierre addressed the Board regarding the application to construct a 10'-8" wide x 13'-4" long bathhouse and utility building at the WSCA Community Beach on Lake Opechee, with a front setback of 17'. The homeowners in the association will have deeded rights and access to the bathhouse. Access will be limited to homeowner in the association only. There is no bathhouse currently. The bathhouse will be a single, unisex stall with a small storage space for grills and outdoor tools. The applicant has received an NHDES permit for the proposed project and the association voted and approved the project last year. The bathhouse will tie into public water and sewer and was strategically placed out of the sightline of abutting neighbors.

Chair S. Bogert opened the public hearing at 7:46PM. Bob Durfee from the Windmill Shores Community Association (WSCA) stated he assisted in engineering the project and is in favor of the variance since it will allow for the bathhouse to stay outside of the 50' shoreland setback and puts the location of the building in the blindspot of the abutters. The project had a 75% approval from the WSCA. There were no other members from the public.

The public hearing closed at 7:49PM.

The Board commented that the lot is shallow and granting the variance would be beneficial since it takes the viewpoint of the neighbors into account and will be utilizing public utilities rather than a port-o-potty.

G. Ober motioned to approve of ZO2020-0012VAR 76 Morningside Dr application for a variance from Article VI Section 235-35(A) Front setbacks to reduce the front setback for the construction of a bathhouse.

(1) The variance will not be contrary to the public interest; AND

Granting the variance would be beneficial to the public.

(2) The spirit of the ordinance is observed; AND

By granting the variance the character of the neighborhood will not be altered at all, and public is not at risk since access will be limited to the homeowners association members only.

(3) Substantial justice is done; AND

The benefit to granting the variance far outweighs any potential damages that could be done.

(4) The value of surrounding properties are not diminished; AND

Granting the variance could improve the values of the surrounding properties since a beach with facilities is an improvement in the neighborhood.

(5) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship;

a. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:

i. No fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:

ii. The proposed use is a reasonable one because: The shape of the lot is a hardship and makes the request reasonable.

R. Maheu seconded the motion. All voted in favor (3-0).

8.VI. ZO2020-0013VAR 156 Eastman Shore Rd Variance Application (PDF)

Applicant Robert Owen is requesting a variance to construct a 12' by 14' open, covered screen porch on wood/concrete piers and a roof on the north side of the cottage. There was an existing porch in the proposed location but it was removed in 1975. The porch will conform to all setbacks except approximately 3' into the 50' rear setback on the lakeside. The applicant has received a permit from NHDES for the project. The house is currently nonconforming since it is partially within the 50' setback. The site for the porch is preferred since it will require no tree cutting, land disturbance, and configuration is suitable for access from the interior of the house. The applicant went into the existing deck as well. The flooring of the porch will be made of wood or composite material and it will have screens but will not be enclosed with walls.

Chair S. Bogert opened the public hearing at 8:09PM. No members of the public were in attendance to speak for or against the application. The Board confirmed that the porch will only be 3' into the setback. R. Maheu mentioned he did not think it would be an issue with neighbors. S. Bogert read public comments from the 2 abutters- Larry Zupkosky and Maureen Guglielmino. There were no further comments.

The public hearing closed at 8:12PM.

Chair S. Bogert motioned to approve ZO2020-0013VAR 156 Eastman Shore Rd application for a variance from Article IV Section 235-19 Shoreland Protection and VI Section 235-35(B) Side and rear setbacks to reduce rear setback for the construction of a screen porch.

(1) The variance will not be contrary to the public interest; AND

Granting the variance will not impose a hardship to accompanying neighbors or threaten health, safety, or welfare of the public.

(2) The spirit of the ordinance is observed; AND

Granting the variance will allow the applicant to enjoy the property and the lake as it is laid out.

(3) Substantial justice is done;

(4) The value of surrounding properties are not diminished; AND

Granting the variance will have no harm to any of the neighbors in the area and was approved by NHDES.

(5) Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship;

a. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because:

The layout and topography of the area and placement of the buildings as it was constructed prior to zoning and some of the buildings are in the setbacks. The property had a screen porch at one time and

although the grandfathering has expired it makes sense to allow for it to be reconstructed.

G. Ober seconded the motion. All voted in favor (3-0).

8.VII. ZO2020-0014SE 16 Birdie Way Special Exception Application (PDF)

Applicant Jennifer Butchma approached the Board. She and her husband purchased the property in March 2018. They prefer for the house to look occupied and lived in to prevent the potential for crime activity. The house has a garage and driveway. They do not meet the 5 year minimum requirement for the STL Special Exception criteria since they purchased the house in 2018. The applicant rents mostly to family and occasionally to vendors and others during Bike Week and for only approximately 6 weeks in total during the season. The minimum time the applicant allows for renters is 1 week per stay. Currently Natural Retreats is the property manager when they have rented out the house.

Chair S. Bogert opened the public hearing at 8:27PM. There were no members of the public present to speak for or against the application. G. Ober would like for the applicant to provide contact information for the property manager to the Planning Department to have on file in the event they need to get in contact with them. D. Trefethen said that is a requirement of a STL permit, but it can still be made as a condition for the Special Exception. There were no additional comments.

The public hearing closed at 8:28 PM.

G. Ober stated she would like for the Special Exception only to apply for the current owners. There is discussion amongst the Board and Staff about the benefit to the community of having the unit be occupied rather than vacant, and the language and intent of the Special Exception criteria.

G. Ober motioned to approve ZO2020-001SE 16 Birdie Way application for a Special Accepton from Article VII Section 235-41(M) to allow Short Term Lodging.

- 1) The use requested is specifically authorized in the chapter;
- 2) The requested use will not increase demand for municipal services;
- 3) Any special provisions for the use as set forth in this chapter are fulfilled; AND

The Special Exception will fulfill the special provisions in the chapter and is necessary since the property is slightly larger than the 1,400sq ft that is allowed in the STL Ordinance.

- 4) The requested use will not create hazards to the health, safety, or general welfare of the public; AND

The applicant operates the rental process through a property manager.

- 5) The applicant can demonstrate offer convincing evidence that granting the Special Exception for this property includes a general community benefit that rises above the financial gain of the applicant;

The applicant uses the property themselves and did not purchase the property with the intent to benefit financially by renting it out.

Contact information for Natural Retreats or other any subsequent property manager will be on record with the Planning Department before it is rented out and the Special Exception will only apply to the current deeded owners, Jennifer and Olaf Butchma.

R. Maheu seconded the motion. All voted in favor (3-0).

9. OTHER BUSINESS

None at this time.

10. ADJOURNMENT

G. Ober motioned to adjourn the meeting. R. Maheu seconded the motion. All voted in favor (3-0).

Meeting adjourned at 8:35PM.

DRAFT