



City of Laconia
Zoning Board of Adjustment
City Hall in the Armand A. Bolduc Council Chamber
Accepted May 21, 2019

4/15/2019 - Minutes

1. CALL TO ORDER

Meeting was called to order by Chair S. Bogert at 6:34 PM.

2. ROLL CALL

Present: Steve Bogert; Mike Foote; Orry Gibbs; Michael DellaVecchia; Roland Maheu

Absent with Notification: Suzanne Perley

Michael DellaVecchia was seated as a voting member.

3. RECORDING SECRETARY

Karen Clark, Zoning Technician

4. STAFF IN ATTENDANCE

Dean Trefethen, Planning Director

5. ACCEPTANCE OF MINUTES FROM PREVIOUS MEETINGS

5.I. March 18, 2019 Zoning Board Of Adjustment Minutes (PDF)

M. Foote made a motion to accept the minutes of the March 18, 2019 meeting as presented.

O. Gibbs seconded the motion.

All in favor (5-0)

6. EXTENSIONS

6.I. ZO2017-0008 And ZO2017-0009 135 Endicott St East Extension Requests (PDF)

The applicant briefly addressed the Board. He explained that there have been no changes to the project; the extension request is to allow for financing of the project.

M. Foote made a motion to approve the extension request for application 2017-0008 Gardens at Winnepesaukee, 135 Endicott St E, (variance from 50' wetland buffer setback and perimeter setback); there are no changes to the project, request is due to securing financing.

O. Gibbs seconded the motion.

All in favor. (5-0)

O. Gibbs made a motion to approve the extension request for application 2017-0009 Gardens at Winnepesaukee, 135 Endicott St E, (variance to construct buildings in 10' perimeter setback for cluster subdivision); there are no changes to the project, request is due to securing financing.

M. Foote seconded the motion.

All in favor. (5-0)

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.

S. Bogert informed the applicants and audience that O. Gibbs would be recusing herself from the Sweetbrier Way applications. This would leave the Board at four members; the applicant was offered the opportunity to continue the hearing and wait for a full five member board or continue with four members. P. Brouillard, attorney for the applicants, opted to move forward with the applications and have the public hearings.

6:38 PM O. Gibbs recused herself from applications ZO2019-0001 VAR and ZO2019-0002VAR.

7.I. ZO2019-0001VAR 29 Sweetbrier Way Variance (PDF)

Philip Brouillard, attorney for the applicants, addressed the Board. Due to the properties being directly abutting properties in the same village, and the applications are for lot coverage variances, he made one presentation concerning both properties.

P. Brouillard outlined the request, he noted that the project approvals were made under the now defunct PUD (Planned Urban Development) regulations which allowed for 20% lot coverage. The village was approved with ten lots, eight are built out, these are the two remaining approved lots. P. Brouillard stated they are requesting a minimal increase to 21.35%, which, to allow for a very small margin of error, he noted could be rounded to 22%. He noted that those who had already built their homes had used more than their pro-rata share and that the owners of #29 and #10 Sweetbrier should not be penalized for it.

Dean Clark, DMC Surveyors, addressed the Board, he noted that the PUD regulation that was in effect at the time of the approvals for Long Bay and South Down are now defunct. He noted that other villages in Long Bay and South Down had received variances to go to up to 30% coverage.

Phil Brouillard addressed the Board and outlined the criteria for the variance request:

1. Granting the variance would not be contrary to the public interest because the properties were approved as two buildable lots. The owners in the Rosedown village understood that it was approved for ten units.
2. If the variance were granted, the spirit of the ordinance would be observed because the former PUD regulations allowed for 20%; current regulations allow for 40% coverage, it would not conflict with the spirit of the ordinance.
3. Granting the variance would do substantial justice because it would not alter the character of the neighborhood, nothing would change.
4. If the variance were granted, the values of the surrounding properties would not be diminished because it would not alter the character of the neighborhood, nothing would change. The dwellings would be identical to other houses in the village.
5. Unnecessary Hardship. Literal enforcement of the regulations would not allow the property owners to use their property and build a home. The owners should not be penalized for the other owners, who built earlier, using more than their pro-rata share.

The Board briefly discussed the size and type of housing, the number of lots that were approved for the village. It was asked that if the owners built a smaller house could it meet 20% coverage; P Brouillard explained that only one house could be built; if coverage were split between the two lots they would be tiny homes and extremely out of character with the neighborhood.

At 7:02 Chairman S. Bogert opened the public hearing.

Laura Hartz, attorney for the Rosedown Homeowners Association spoke in opposition of the variance requests. She stated that the plan was approved under the PUD which allowed for smaller lots with more areas for preservation. She also stated that the area has flooding and that two more houses would increase the problem. L. Hartz stated granting the variance would lead to an injustice making an existing problem worse.

P. Brouillard addressed the Board. The purpose of the PUD was to establish efficient housing locations, the construction of the homes, once complete and graded would not increase the flooding, as it would flow to the existing drain in the village. The percentage that they are requesting is very small and would

not significantly impact the overall greenspace in the village. P. Brouillard noted that several developers worked on the project; this led to homeowners using more than their share.

S. Bogert noted that the hardship was created by a misallocation of the allotments; that the owners of 29 and 10 Sweetbrier are requesting to be allowed to build a home of a size appropriate to the neighborhood.

Dick Mariano, Treasurer of Rosedown HOA, addressed the Board. He stated that there are significant runoff problems, and that building two additional homes would reduce their property values. He requested that the Board rule against the requests.

Marge Lynn, 51 Fox Crossing Lane, stated that she has watched the other villages in Long Bay get the variances to allow additional coverage but that South Down voted to maintain the 20% coverage. She stated that one of the owners bought the lot at a tax sale, that he knew it was not a buildable lot.

Barbara Shea, 45 Lantern Circle, stated that her property looks at the lots that allowing the owners to build would impact the aesthetics of the area.

At 7:24 PM, with no other public comment, the public hearing was closed.

D. Trefethen informed the board that most of the homes were built several years ago, over the course of time there have been several inquiries into the two remaining lots and the people were informed of the coverage problem and that a variance would be required but they never used the term "unbuildable".

P. Brouillard explained that when the lot being referred to as unbuildable was purchased, there was 1.07% available (of the 20%), to build his house he would need 1.04%, that would leave the other lot with .03%, and not able to build without relief from the Zoning Board of Adjustment. P. Brouillard stated that by not bothering to do the calculations as the first eight lots were built out, and not providing relief (by the ZBA) it is a constitutional taking of the property.

The Board discussed the fact that the owners have been paying taxes on building lots, they have been paying dues to South Down HOA. It was noted that once graded properly, the water will run into the storm drain as it was designed to do. It was also discussed that the two house designs are the same as other houses in the Rosedown Village; the lots were designed as building lots. S. Bogert commented that all the lots were created equally but they are not being treated equally. M. Foote commented that the tiny homes (that were suggested) would be out of character with the neighborhood.

S. Bogert made a motion to approve application ZO2019-0001VAR 29 Sweetbrier Way Variance from Article V Section 235-36 and Attachment 3 Table II to allow additional lot coverage over previously approved 20% to 20.5% coverage.

1. Granting the variance would not be contrary to the public interest because the properties were approved as two buildable lots. The owners in the Rosedown village understood that it was approved for ten buildable lots.

2. If the variance were granted, the spirit of the ordinance would be observed because the former PUD regulations allowed for 20%; current regulations allow for 40% coverage, it would not conflict with the spirit of the ordinance, it will do no harm.

3. Granting the variance would do substantial justice because it would not alter the character of the neighborhood, nothing would change. Houses are identical to others in the same village of Rosedown.

4. If the variance were granted, the values of the surrounding properties would not be diminished because it would not alter the character of the neighborhood, nothing would change. The houses would be identical to other houses in the village.

5. Unnecessary Hardship. Literal enforcement of the regulations would not allow the property owners to utilize their property and build a home. The owners should not be penalized for the other owners who used more than their share.

M. DellaVecchia seconded the motion.

All in favor (4-0)

7.II. ZO2019-0002VAR 10 Sweetbrier Way Variance (PDF)

S. Bogert made a motion to approve application ZO2019-0002VAR 10 Sweetbrier Way Variance from Article V Section 235-36 and Attachment 3 Table II to allow additional lot coverage over previously

approved 20% to 21.5% coverage.

1. Granting the variance would not be contrary to the public interest because the properties were approved as two buildable lots. The owners in the Rosedown village understood that it was approved for ten buildable lots.

2. If the variance were granted, the spirit of the ordinance would be observed because the former PUD regulations allowed for 20%; current regulations allow for 40% coverage, it would not conflict with the spirit of the ordinance, it will do no harm.

3. Granting the variance would do substantial justice because it would not alter the character of the neighborhood, nothing would change. Houses are identical to others in the same village of Rosedown.

4. If the variance were granted, the values of the surrounding properties would not be diminished because it would not alter the character of the neighborhood, nothing would change. The houses would be identical to other houses in the village.

5. Unnecessary Hardship. Literal enforcement of the regulations would not allow the property owners to utilize their property and build a home. The owners should not be penalized for the other owners who used more than their share.

M. Foote seconded the motion.

All in favor. (4-0)

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. ZO2019-0007VAR 12 Thompson Ave Variance (PDF)

Applicant Eutichio Calore, briefly outlined his request. The current house on the lot is in very poor repair and is danger of falling down. He is requesting the setback variances to allow him to demolish existing house and replace it with one that is more conforming in some areas but due to the very small lot size all setbacks cannot be met.

At 8:12 PM S. Bogert opened the public hearing

George Winchell, 11 Thompson Ave, spoke in favor of the application. He stated that the house is in severe disrepair and that this house would be a big improvement to the neighborhood.

Jeff Brown, 22 Thompson Ave, also spoke in favor of the application.

At 8:13 PM, with no other public comment, S. Bogert closed the public hearing.

The Board briefly discussed the application. It was recognized that the applicant did the research and purchased the small "paper street" lot that was next door and not utilized. He then did a lot merger to join the two lots.

O. Gibbs made a motion to approve application ZO2019-0007VAR 12 Thompson Ave Variance from Article VI Section 235-35A and B to demolish an existing single family residence and replace with a more conforming single family residence. New residence would encroach approximately ten feet into front setback; one foot into side setback; and seven feet into rear setback.

1. Granting the variance would not be contrary to the public interest because the properties is intended for a single family home. Applicant is removing dilapidated structure and replacing it with similar single family home.

2. If the variance were granted, the spirit of the ordinance would be observed because this allows the applicant use of the lot; allowing him to build a new, safe structure.

3. Granting the variance would do substantial justice because it would not alter the character of the neighborhood, it is a single family home in a neighborhood of similar size homes on similar small lots.

4. If the variance were granted, the values of the surrounding properties would not be diminished because it would increase the values by replacing an old structure with a new one, increasing the value of subject property and surrounding properties.

5. Unnecessary Hardship. Literal enforcement of the regulations would not allow the property owners to use their property due to the small size of the lot, they could not tear down old house and rebuild with new, safe structure.

R. Maheu seconded the motion.

All in favor. (5-0)

8.II. ZO2018-0008VAR 173 Franklin St Variance (PDF)

Lucas Jesseman, applicant, briefly outline the proposed application/project. The lot contains an old house in need of repair and renovations. He is proposing a complete renovation, converting a 1 ¼ story house with a full 2 story house, which would increase the bulk of the nonconformity and there is a small section in the back that would encroach into the side setback.

At 8:26 PM S. Bogert opened the hearing to the public.

At 8:26 PM with no one to speak for or against the application, the public hearing was closed.

The Board briefly discussed the project and the benefit of the project.

O. Gibbs made a motion to approve application ZO2018-0008VAR 173 Franklin St Variance from Article VI Section 235-35 B to renovate and add on to an existing nonconforming single family residence.

Addition to the residence would encroach approximately three feet into side setback and increase the bulk of the nonconformity.

1. Granting the variance would not be contrary to the public interest because the properties is intended for a single family home. Applicant is renovating the existing home and putting on small addition to make it functional.

2. If the variance were granted, the spirit of the ordinance would be observed because this allows the applicant use of the lot; allowing him to renovate an old dilapidated structure and create an updated, safe structure.

3. Granting the variance would do substantial justice because it would not alter the character of the neighborhood, it is a single family home in a neighborhood of similar size homes.

4. If the variance were granted, the values of the surrounding properties would not be diminished because it would increase the values by renovating and upgrading the old structure, increasing the value of subject property and surrounding properties.

5. Unnecessary Hardship. Literal enforcement of the regulations would not allow the property owners to use their property due to the small size of the lot, they could not do any renovations without increasing bulk of nonconformity or encroaching in the setback area.

M. Foote seconded the motion.

All in favor. (5-0)

8.III. ZO2019-0009VAR 33 Walnut St Variance (PDF)

David Pidgeon, applicant, briefly outlined the application. They would like to replace an existing deck that is in need of repair with a three season room and add a handicap ramp to the end of the house to allow access from back yard to front of house (yard is sloped). The house was built prior to the current setback requirements and the deck is located in the setback area. A portion of the ramp would extend

into the side setback at the opposite end of the house.

At 8:39 PM S. Bogert opened the hearing to the public.

At 8:39 PM with no one to speak for or against the application, the public hearing was closed.

The Board briefly discussed the application and reviewed the sketch provided.

M. Foote made a motion to approve application ZO2019-0009VAR 33 Walnut St variance from Article VI Section 235-35A and B to remove and replace existing nonconforming deck (12'x14') and add a handicap ramp. Deck protrudes approximately eight feet into setback area; handicap ramp encroaches approximately four feet into the setback area.

1. Granting the variance would not be contrary to the public interest because the project is on an existing home, is renovating the existing deck and putting on small ramp to make it more functional.

2. If the variance were granted, the spirit of the ordinance would be observed because this allows the applicant use of the lot; allowing him to renovate an old deck and create a new safe ramp from the front to the back yard.

3. Granting the variance would do substantial justice because it would not alter the character of the neighborhood, it is a single family home in a neighborhood of similar size homes. The three season room would enhance the home, improving the neighborhood.

4. If the variance were granted, the values of the surrounding properties would not be diminished because it would increase the values by renovating and upgrading the old deck to a three season room and adding a handicap ramp, increasing the value of subject property and surrounding properties.

5. Unnecessary Hardship. Literal enforcement of the regulations would not allow the property owners to make renovations to their home as it was built prior to zoning and renovations/repairs cannot not be made without relief from the Board.

R. Maheu seconded the motion.

All in favor. (5-0)

8.IV. ZO2019-0010VAR 1 Simpson Ave Variance (PDF)

Shushil Neupane, applicant, addressed the Board and outlined his proposal to add a deck and handicap ramp to the property located at 1 Simpson Ave. Due to the large size of the deck and the proximity to the property lines, an extensive discussion regarding parking and access ensued.

Ryan Cardella, from Winnepesauke Pier, addressed the Board. He stated that they are not opposed to the type of project but have concerns about blocking the right of way. He noted that people park on the side of the house now, if there is a deck there where will they park?

The Board continued discussion regarding the proximity to property lines, the Right of Way (ROW) and parking. An existing conditions survey and a possible site visit were discussed.

M. Foote made a motion to continue the hearing until an existing conditions survey and site visit by the ZBA to 1 Simpson Ave were completed.

O. Gibbs seconded the motion.

All in favor. (5-0)

8.V. ZO2019-0011VAR 2075 Parade Rd Variance (PDF)

Ray Simonson, applicant, addressed the Board and outlined the application. He explained that this would be located in the carriage shed of the existing business (Tavern 27), near the golf course. He noted that they currently have a liquor license, this would be a change in that they would produce some of their liquor and sell it on site. He briefly explained the process and that a nanodistillery is very small

and is limited on the size of the still and the number of cases that they are allowed to produce annually. Anything above what would be sold onsite in the restaurant would be sold to the state liquor store, a truck would bring the tavern its order for the restaurant, drop it off, then pick up what was sold to state.

At 9:37 PM S. Bogert opened the hearing to the public.

Alan Sheldon, an abutter, spoke in favor of the project.

It was noted that letters of support for the project were received by the Board.

At 9:38 PM, with no other public comment, the public hearing was closed.

S. Bogert made a motion to approve application ZO2019-00111VAR 2075 Parade Rd Variance from Section 235 Attachment 2, Table 1 Table of Permitted Uses to allow for a manufacturing (nanodistillery) as an expansion of the current business use.

1. Granting the variance would not be contrary to the public interest because the expansion of the business is very small, it would have minimal impact on the subject property.

2. If the variance were granted, the spirit of the ordinance would be observed because this allows the applicant to modestly expand the business.

3. Granting the variance would do substantial justice because it would not alter the character of the neighborhood, the business is existing, the expansion is modest, and would not be noticeable to the surrounding properties.

4. If the variance were granted, the values of the surrounding properties would not be diminished because it is a small change, it would enhance the business and not diminish surrounding property values.

5. Unnecessary Hardship. Literal enforcement of the regulations would not allow the property owners to expand their business. The request is a modest expansion of the business.

R. Maheu seconded the motion.

All in favor. (5-0)

9. OTHER BUSINESS

The Board was informed that the Paugus Park issue has a date at the State Supreme Court.

10. ADJOURNMENT

At 9:46 PM R. Maheu made a motion to adjourn the meeting

M. DellaVecchia seconded the motion.

All in favor. (5-0)

Respectfully submitted,

Karen Clark

Zoning Technician

At 9:46 PM R. Maheu made a motion to adjourn the meeting

M. DellaVecchia seconded the motion.

All in favor. (5-0)

