



City of Laconia
Zoning Board of Adjustment
Monday, October 19, 2020 - 6:30 PM
City Hall in the Armand A. Bolduc Council Chamber

10/19/2020 - Minutes

1. PUBLIC PARTICIPATION

Chairman S. Bogert read aloud the directions regarding logging in to the Zoom meeting.

2. CALL TO ORDER

Chair S. Bogert called the meeting order at 6:45 PM. (The start was delayed due to technical issues.)

3. ROLL CALL

Attendance was made by roll call vote:

Present: S. Bogert; M. Foote; G. Ober (via Zoom); R. Maheu; M. DellaVecchia (7:15pm)

M. DellaVecchia was seated as a full member.

4. RECORDING SECRETARY

K. Santoro, Zoning Technician

5. STAFF IN ATTENDANCE

D. Trefethen, Director of Planning and Community Development

6. ACCEPTANCE OF MINUTES FROM PREVIOUS MEETINGS

6.I. September 21 2020 Zoning Board Of Adjustment Meeting Minutes (PDF)

M. Foote made a motion to accept the minutes of the September 21, 2020 meeting as presented.

R. Maheu seconded the motion.

Vote was taken by roll call vote. All in favor (4-0)

7. EXTENSIONS

8. 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.I. ZO2020-0037SE 4 Duffers Drive Unit B Special Exception Application (PDF)

It was noted that this application was continued from last meeting so that the applicant could supply requested proof of rental history. D. Laforcarde, applicant, participated via Zoom. He explained that he had provided the required documentation. The Board briefly discussed the documentation and application.

At 6:57 PM S. Bogert opened the public hearing.

At 6:58 PM, with no one to speak for or against the application, S. Bogert closed the public hearing.

G. Ober made a motion to approve application ZO2020-0037SE 4 Duffers Drive Unit B Special Exception Application for a Special Exception per Article VII Section 235-70(2) to allow Short Term

Lodging.

a. The use requested is specifically authorized in the chapter:
The use is authorized by Special Exception in the RS Zone.

b. The requested use will not increase demand for municipal services:
The property will not be used in any way that exceeds demand as a permanent residence.

c. Any special provisions for the use as set forth in this chapter are fulfilled;
The provisions for trash removal, occupancy limits and off street parking will be met.

d. The requested use will not create hazards to the health, safety, or general welfare of the public;
There will be no hazard created for the public.

e. The requested use meets ONE of the two following criteria:

(1) 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 5 years prior to the enactment of the Short-Term Lodging Ordinance.

The applicant has provided copies of tax statements and contract information from the rental agent indicating at least five years of rental history at the property.

M. Foote seconded the motion.

Condition: Approval is specific to the applicant; if applicant were to sell the new owner needs to apply for appropriate permits.

Vote was taken by roll call vote. All in favor (4-0)

M. Dellavecchia arrived (7:15pm)

8.II. ZO2020-0079VAR 34 Pine St Variance Application (PDF)

It was noted that the applicant has a second application later on the agenda, for a Special Exception for use as a multifamily. It was clarified that the variance for density needs to be heard first, the special exception is dependent upon the granting of the variance.

Applicant H. Selian participated via Zoom. He outlined his request to the Board to increase the allowed number of units (density) from two units to four units. There was an extensive discussion regarding the parking plan and the stacked parking spots; the concern was that people parking in the rear would not be able to leave if cars are stacked in driveway. H. Selian explained that there was room to pass if a certain pattern was followed, he offered to stripe the parking if that would help.

At 7:26 PM S. Bogert opened the public hearing.

At 7:28 PM, with no one to speak for or against the application, S. Bogert closed the public hearing.

The Board discussed the neighborhood and the lot size. The Board went back to the issue of parking, the possibility of removing the small shed to reorient the parking was discussed. It was revealed by the applicant that the larger workshop building had been converted to a living space prior to his purchase of the property. The Board members discussed the need for housing in the City.

G. Ober made a motion to deny Amended Application ZO2020-0079VAR for a variance from Article VI Section 235-33 Maximum Residential Density to allow the conversion of the residence from a two family to a four family.

1. The variance will not be contrary to the public interest;

Granting the variance would not be contrary to the public interest as it would provide small units of housing.

2. The spirit of the ordinance is observed; AND

If the variance were granted, the spirit of the ordinance would be observed as the owners would be providing needed housing in the City

3. Substantial justice is done; AND

Granting the variance would not do substantial justice because the greater benefit is to the applicant and not the community

4. The value of surrounding properties are not diminished; AND

If the variance were granted, it will not diminish the value of the neighboring properties;

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

The hardship criteria has not been met. There are two units of existing nonconforming housing on the lot; by granting variance it would make the lot more nonconforming.

M. Dellavecchia seconded the motion.

Discussion: M. Dellavecchia noted that he felt the spirit of the ordinance was not met.

A roll call vote was taken. All in favor. (5-0)

Due to the fact that the application for a variance for density was denied, the applicant was asked if he would like to withdraw the special exception application.

Applicant Haik Selian acknowledged the denial and requested that his application for a Special Exception for use as a multifamily be withdrawn.

8.III. ZO2020-0081VAR 111 Island Drive Variance Application (PDF)

Applicants D. Osgood and B. Osgood, presented their application to the Zoning Board. They explained that they would like to add a second floor over the original cottage portion of their house on Christmas Island. There is already a two-story addition on the cottage, this would continue the roof line across as well as a corresponding deck. The applicants noted that at the same time they would be doing foundation repairs and raising the house up approximately a foot to bring it above the level of the road.

At 8:15 PM S. Bogert opened the public hearing.

At 8:16 PM, with no one to speak for or against the application, S. Bogert closed the public hearing.

The Board briefly discussed the project. It was noted that the applicants will need to reach out to NH DES regarding any necessary permits.

G. Ober made a motion to approve with conditions application ZO2020-0081VAR for a variance from Article IV Section 235-19F(2)(b) Minimum requirements within specified areas of the Shoreland Protection District to allow an addition to a portion of the second floor.

Condition: Applicant must obtain all necessary state and local permits.

1. The variance will not be contrary to the public interest;

Granting the variance would not be contrary to the public interest as it would improve the existing structure and has no impact on the public.

2. The spirit of the ordinance is observed; AND

If the variance were granted, the spirit of the ordinance would be observed as the owners would be improving their home without further impacting the water.

3. Substantial justice is done; AND

Granting the variance would do substantial justice as it allows the improvement of the property with no detriment to the public.

4. The value of surrounding properties are not diminished; AND

If the variance were granted, it will not diminish the value of the neighboring properties;

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

The original structure was built in 1950; any improvements to the property will require relief from the Board. The project is reasonable and in harmony with the other houses on the island.

R. Maheu seconded the motion.

A roll call vote was taken. All in favor. (5-0)

8.IV. ZO2020-0083VAR 119 Pendleton Beach Rd Variance Application (PDF)

Steve Smith, agent for the applicant, outlined the application to the Board. The applicants are looking to add a balcony on the second floor. The property sits in Shoreland Protection overlay district. He noted that the project will be increasing greenspace, as the overall scope of the project includes removing a driveway. The only penetration into the buffer will be the second floor balcony.

At 8:30 PM S. Bogert opened the public hearing.

At 8:31 PM, with no one to speak for or against the application, S. Bogert closed the public hearing.

M. Foote made a motion to approve application ZO2020-0081VAR for a variance from Article IV Section 235-19F(2)(b) Minimum requirements within specified areas of the Shoreland Protection District to allow the construction of a second floor balcony.

1. Granting the variance would not be contrary to the public interest because:

The purpose of the ordinance is to protect the water quality of the Lake for all to enjoy. The existing house is a preexisting nonconforming structure which is located within the 50' waterfront buffer. The building was original built to meet setback standards both City and State. The proposal to construct a balcony off the second floor no closer than the existing structure without impact to the buffer area would not be contrary to the public interest.

2. If the variance were granted, the spirit of the ordinance would be observed because:

The ordinance was adopted to protect the water quality of the lake for the general public by limiting impacts to the shoreline thereby preserving the aesthetic and property values of the neighborhood and surrounding community. The proposed balcony will not result in any impacts to the waterfront buffer thereby preserving water quality, aesthetic, and property values.

3. Granting the variance would do substantial justice because:

It would allow the owners reasonable use of their property with no impacts to the abutting properties, neighborhood, or general public.

4. If the variance were granted, the values of the surrounding properties would not be diminished because:

The current use of the site is an allowed use within the zone, the proposed improvement is in keeping with the abutting properties and the neighborhood and will result in no impacts to the waterfront buffer and the water quality of the lake.

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

The house is pre-existing within the waterfront buffer, the proposed improvement will not penetrate the buffer further than the existing structure, will not impact the surface of the waterfront buffer therefore will not result in any impact. The State of NH Shoreland Protection Division has determined that the proposed improvement will not result in an impact to the waterfront buffer and has issued a permit subject to Local permitting.

5.ji The proposed use is a reasonable one because;

The use is an allowed use, is consistent with the abutting properties and the neighborhood and will result in no impacts to the abutters, neighborhood or general public.

M. Dellavecchia seconded the motion.

A roll call vote was taken. All in favor. (5-0)

8.V. ZO2020-0084VAR 43 Opal Lane Variance Application (PDF)

(Due to technical difficulties when his public hearing was to be presented, the applicant requested that the Board move to the next application and he would drive to City Hall to utilize their laptop. The Board moved to next application.)

G. Solesky outlined his application to the Board. He explained that due to the unusual shape of the lot at the end of a cul-de-sac the garage, which is attached by a breezeway, goes into the side setback

area. He also has a wet area in the back of the property so there is no other location for the garage.

At 9:56 PM S. Bogert opened the public hearing.

At 9:57 PM, with no one to speak for or against the application, S. Bogert closed the public hearing.

M. Foote made a motion to approve Application ZO2020-0084VAR for a variance from Article VI Section 235-35 (A) and 235-35(B) Minimum setback requirements to allow the construction of a garage.

1. The variance will not be contrary to the public interest;

Granting the variance would not be contrary to the public interest as it is improving the existing home and would not have an impact on the public.

2. The spirit of the ordinance is observed; AND

If the variance were granted, the spirit of the ordinance would be observed as the owners would be improving the house and not impacting wetlands at the rear of the property.

3. Substantial justice is done; AND

Granting the variance would do substantial justice because it would upgrade the property, and not impact wetlands.

4. The value of surrounding properties are not diminished; AND

If the variance were granted, it will not diminish the value of the neighboring properties;

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

The lot sits on the end of a cul-de-sac, it is an unusual shape, and wetlands at the back of the property limit the location. The encroachment is as minimal as possible with the shape of the lot. The use is reasonable as it allows the owners to have a garage which is in harmony with other homes in the neighborhood.

R. Maheu seconded the motion.

Vote was taken by roll call vote. All in favor. (5-0)

8.VI. ZO2020-0085VAR 17 Van Dyke Dr Variance Application (PDF)

Attorney Paul Fitzgerald outlined the application for 17 Van Dyke Dr. He indicated that this is for the development of a single lot on a private road, that if created the lots would meet all other dimensional requirements with the exception of frontage on a city street or road.

At 8:54 PM S. Bogert opened the public hearing.

Craig Bailey, land surveyor, and agent for abutter Susan Turcotte, addressed the Board. He stated that the four lots utilize a private road, adding another lot would make an already non-conforming situation more nonconforming.

G. Ober asked if they are considering Van Dyke Dr a driveway. The abutter noted that it was a driveway. G. Ober also asked the other Board members if they felt the application should be run by an attorney regarding what the classification of Van Dyke Drive is, and who would maintain the road/drive.

D. Trefethen clarified that the owners are responsible for maintenance and that easements and/or agreements can be put into place.

M. Dellavecchia asked how the lot is proposed to be divided. The applicant outlined a rough idea of where the division would be made.

At 9:14 PM. Chair S. Bogert closed the public hearing.

The Board extensively discussed the layout of the lots that are currently on Van Dyke Dr. It was noted that lots 16 & 17 have no frontage on a city street. M. Dellavecchia raised the question as to why the abutter is so against it. There are currently three lots there, a fourth would not be out of character.

Cal Dunn addressed the Board. S. Bogert clarified with C. Dunn how he is related to the application (he lives on abutting property). It was noted that the public hearing had been closed.

S. Bogert reopened the public hearing at 9:30PM.

C. Dunn reiterated that it is making a non-conforming lot and that the road cannot support a fourth lot, that safety pulling onto Union Ave is an issue.

P. Fitzgerald responded that the abutter ignores why variances are built into the ordinance. They feel they have met the criteria and that the access issues can be straightened out with easements and/or agreements.

At 9:40 PM S. Bogert closed the meeting to the public.

M. Dellavecchia made a motion to approve Application ZO2020-0085VAR for a variance from Article VI Section 235-34 Minimum lot frontage to allow the subdivision of the lot.

Conditions to include: Water and sewer are on the lot; and proper easements and agreements will be in place.

1. Granting the variance would not be contrary to the public interest because:

It would be in keeping with the general size of permitted lots within the zone (already existing) and would increase support for public services through taxation of the developed properties.

2. If the variance were granted, the spirit of the ordinance would be observed because:

adequate access to both lots for residents, required public access, and emergency vehicles is provided through Van Dyke Drive which is a privately owned but adequate and properly maintained roadway

3. Granting the variance would do substantial justice because:

It would allow the development of the subject premises in keeping with surrounding properties while causing no diminution of value or negative impacts within the neighborhood.

4. If the variance were granted, the values of the surrounding properties would not be diminished because:

Development of the subject premises in accordance with current codes and regulations would enhance the value of surrounding properties, not diminish them.

5. 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:

No fall 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 purpose of the frontage requirement is to provide appropriate access and to prevent overly compact development. In this case, more than adequate access is provided, although not on a publicly accepted street. Further, the subdivision of this lot into two lots does not result in lots that are nonconforming as to lot size or result in overly dense development within the neighborhood.

ii. The proposed use is a reasonable one because:

It allows for the reasonable use of the property as two separate parcels with no adverse impacts on the neighborhood or undue burdens on public services (police, fire, ambulance or schools)

G. Ober seconded the motion.

Vote was taken by role call vote. 1 in favor (Dellavecchia); 4 opposed (Bogert; Maheu; Ober; Foote)
Motion failed.

8.VII. ZO2020-0086VAR 289 Pleasant St Variance Application (PDF)

Continued to October 21, 2020 meeting.

8.VIII. ZO2020-0087VAR 522 Endicott St N Variance Application (PDF)

Continued to October 21, 2020 meeting.

- 8.IX. ZO2020-0088VAR 23 Summit Ave Variance Application (PDF)
Continued to October 21, 2020 meeting.
9. 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.
- 9.I. ZO2020-0090SE 84 Sarah Circle Special Exception Application (PDF)
Continued to October 21, 2020 meeting.
- 9.II. ZO2020-0091SE 1A Gables Dr Special Exception Application (PDF)
Continued to October 21, 2020 meeting.
- 9.III. ZO2020-0096VAR 144 Lake St Unit 14 Variance Application (PDF)
Continued to October 21, 2020 meeting.
- 9.IV. ZO2020-0097VAR 68 Franklin St Variance Application (PDF)
Continued to October 21, 2020 meeting.
- 9.V. ZO2020-0098SE 39 Linny Lane Special Exception Application (PDF)
Continued to October 21, 2020 meeting.
- 9.VI. ZO2020-0099SE 34 Pine St Special Exception Application (PDF)
Application withdrawn by applicant.
10. OTHER BUSINESS
- 10.I. 2021 DRAFT Zoning Board Of Adjustment Calendar (PDF)
Item will be placed on November agenda.
11. ADJOURNMENT
At 10:15PM G. Ober made a motion to continue the meeting with all remaining applications to Wednesday, October 21, 2020 at 6:30PM.
M. Foote seconded the motion.
A roll call vote was taken. All in favor (5-0)