



City of Laconia
Zoning Board of Adjustment
WEDNESDAY, October 21, 2020 - 6:30 PM
City Hall in the Armand A. Bolduc Council Chamber

10/21/2020 - Minutes

1. PUBLIC PARTICIPATION

S. Bogert read aloud the ZOOM meeting information.

2. CALL TO ORDER

Chair S. Bogert called the meeting order at 6:41 PM.

3. ROLL CALL

Attendance was made by roll call:

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

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

It was clarified that the public hearing on this agenda item was held last month. The motion to approve failed, the Board needs to motion and vote to deny with reasons for denial. No additional public input will be heard.

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

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

Granting the variance would have minimal impact on the public.

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

The request is consistent with the spirit of the ordinance.

3. Granting the variance would do substantial justice because:

Substantial justice would not be done because the benefit to the applicant outweighs the benefit to the public.

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

The value of the surrounding properties may be adversely affected.

5. Unnecessary Hardship

The use is reasonable but there is no definable hardship.

R. Maheu seconded the motion.

Discussion: S. Bogert noted that the issue was the lot has 37" of road frontage; the other two lots do not have any public road frontage; adding fourth lot with no road frontage would make it more non-conforming.

Vote was taken by roll call vote. Four in favor; One opposed (M. Dellavecchia). Motion passes (4-1)

6.II. ZO2020-0086VAR 289 Pleasant St Variance Application (PDF)

Applicants M. Welch and E. Swett outlined their application to the Board. They explained that they would like to put a wrap around deck on the rear of the house to allow them use of a space that is currently not usable due to terrain and the old stone foundation on the house, which was built in 1920.

The Board discussed if there were other options for the space, could the deck be shortened up to not encroach in the setback. They discussed the amount of usable space taking into consideration the swing of the door, etc. It was noted that the house is already in the setback, the deck would not extend past the edge of the house.

At 7:01 PM S. Bogert opened the public hearing.

At 7:02 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 ZO2020-0086VAR for a variance from Article VI Section 235-35 (B) Minimum side setback requirements to allow the construction of a deck.

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.

3. Substantial justice is done; AND

Granting the variance would do substantial justice because it would upgrade the property, and maintain the character of the neighborhood.

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 project is a reasonable one to improve their home's value and function. The house is located in the setback and the new deck will not have any additional encroachment.

R. Maheu seconded the motion.

A roll call vote was taken. Four in favor, One opposed (M. Dellavecchia). Motion passes (4-1)

6.III. ZO2020-0087VAR 522 Endicott St N Variance Application (PDF)

Applicants were not present at the meeting.

R. Maheu made a motion to continue the application to the November 16, 2020 meeting.

M. Dellavecchia seconded the motion.

A roll call vote was taken. Four in favor, One opposed (M. Foote). Motion passes (4-1)

6.IV. ZO2020-0088VAR 23 Summit Ave Variance Application (PDF)

Applicant G. Kobelski outlined the application to the Board. He explained that they have worked with

the Water Department to extend city water down Summit Ave. This gives the lot both city water and sewer, which reduces the minimum required lot size to 10,000sf. He explained that the only variance they are looking for is for the 150' shorefront requirement, the lots will meet all other dimensional requirements. G. Kobelski noted that over 50% of the lots in the area are less than a half acre; and more than 50% have less than the required 150' of shore frontage.

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

At 7:27 PM, with no one to speak for or against the application, S. Bogert closed the public hearing.

The Board briefly discussed the application including the benefit to the community with the extension of city water down Summit Ave. G. Ober noted it was a good proposal with no impact on the shoreline, other than an invisible dividing line.

G. Ober made a motion to approve application ZO2020-0088VAR for a variance from Article IV Section 235-19 F(2)(a)1 Minimum Shore Frontage; to allow the subdivision of lot into two lots, each with a single family house.

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

There is no affect to general public. Request is to divide 47,040+/- SQ.FT lot into two 23,520+/- SQ.FT among family members. Sewer exist on site. Owners would bring public water to the lots.

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

No change or harm to the shore front would result of the lot division. The current shore front is 21 7' of sandy beach with the rights for 3 docks. No need to change any of that to meet this request.

3. Granting the variance would do substantial justice because:

Resulting lots from division will be as big as or larger than lots and shorelines of majority of lots along the 2 mile shoreline where these lots would reside in Laconia.

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

Request is in line with current 68 lots on the 2 miles of SFR shoreline between the Gilford line and Weirs Channel Bridge. Roughly 50% of the 68 lots in this 2 mile stretch have less than the 108 feet of shore frontage each of our lots will have. Additionally, 50% of these 68 lots have less the 1/2 acre (21 , 780 sq. ft.) and each of the two lots will have 23,520 sq. ft.

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:

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:

This variance does not negatively impact the premise of 235-19. Dividing the lots in no way will cause (a) degradation of the shoreline, (b) reduce water quality , or (c) reduce the benefits of shorelands. The shore line will remain in its current state as an open sandy beach.

ii. The proposed use is a reasonable one because:

All set back will be met and at least 50-feet from the reference line of public waters for both lots

M. Foote seconded the motion.

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

6.V. ZO2020-0090SE 84 Sarah Circle Special Exception Application (PDF)

Application was withdrawn by the applicant.

6.VI. ZO2020-0091SE 1A Gables Dr Special Exception Application (PDF)

The applicants, Thomas & Jeanette Van De Water presented their application. They explained that they purchased the condominium two years ago, and that the prior owners, the Gouverneaux's had been renting the unit since 2014. They presented a letter from the rental agency as proof.

The Board extensively discussed the Short Term Lodging Ordinance, including the language regarding the five year history. The Board did not accept the letter; they are requiring contracts or income statements to prove the five year history.

S. Bogert made a motion to continue application ZO2020-0091SE for a Special Exception per Article VII Section 235-70(2) to allow Short Term Lodging to the November 16, 2020 meeting.

G. Ober seconded the motion.

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

6.VII. ZO2020-0096VAR 144 Lake St Unit 14 Variance Application (PDF)

Applicant L. Mailloux outlined his application to the Board. He explained that they are proposing to demolish the existing cottage and rebuild with a full foundation, new cottage will have additional floor. With the additional floor the height will be 33'8", which is compliant as the maximum height is 35'.

At 7:57 PM S. Bogert opened the public hearing.

At 7:58 PM, with no one to speak for or against the application, S. Bogert closed the public hearing.

L. Mailloux noted that he has included the DES Shoreland Permit By Notification acceptance letter and supporting documentation. M. Dellavecchia commented that the height is unsightly, it looks like an elevator tower. It was noted by the applicant that two adjacent cottages are approximately 33' in height, his home would not stand out from the others. G. Ober noted that what he is proposing is allowed, there are not architectural standards.

M. Foote made a motion to approve application ZO2020-0096VAR. Applicant for a variance from Article IV Section 235-19 (F)(2)b Shoreland Protection; Development Standards; and Article IX Section 235-35 (B) Side and rear setbacks to allow the demolition and reconstruction of a cottage.

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

Granting the variance would not be contrary to the public interest There is already an existing home, neighbors have done this project prior to us and our plan conforms with the other homes in the association.

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.

3. Substantial justice is done; AND

Granting the variance would do substantial justice because it would upgrade the property as the current home is not structurally sound and maintain the character of the association.

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 current structure was build in early 1900's prior to zoning regulations being in place, the current structure is not sound and needs to be updated. The project is reasonable because it maintains the same footprint and is in harmony with the surrounding cottages.

G. Ober seconded the motion.

Vote was taken by roll call vote. Four in favor; One abstained (M. Dellavecchia). Motion passes (4-0-1)

6.VIII. ZO2020-0097VAR 68 Franklin St Variance Application (PDF)

C. Berry, agent for the applicant, outlined the proposal to the Board. He explained that the applicant

would like to replace an existing stoop, which sits in the front setback, with a farmer's porch. The intent is to create a more New England style home that will be no closer to the road than the existing stoop. C. Berry noted that it fits the streetscape, creates functional space and creates a neighborhood feel.

At 8:21 PM S. Bogert opened the public hearing.

At 8:22 PM, with no one to speak for or against the application, S. Bogert closed the public hearing.

The Board briefly discussed the application

G. Ober made a motion to approve Application ZO2020-0097VAR for a variance from Article IV Section 235-35A Front Setback to allow a front farmers porch to be built in place of the existing stoop.

1.) Granting the variance would not be contrary to the public interest;

a. The public interest is articulated best within the definition of the Residential Single Family (RS) District which states that the area shall be designed to establish and maintain attractive areas used solely for the single-family residences and closely related supporting facilities such as schools and churches. This particular parcel of land is the first residence seen from Elm Street as you enter Franklin and is also the zone line between the UC zone and the RS zone. The addition of the front farmers porch within the front setback is not contrary to the public interest in light of the fact that the improvement proposed will only enhance the residential appeal and view of the neighborhood entrance through the introduction of a New England style architectural element which promotes the visual reduction of vertical massing and establishment of neighborhood feel. All of this is accomplished without reducing the existing 5.6' setback any further.

2.) Deviation from the strict requirements of the Ordinance is consistent with the spirit of the Ordinance; In this case the proposed encroachment is for a highly functional New England style architectural feature which isn't proposed to encroach any further than the existing condition. Though the spirit of the ordinance is to regulate space and bulk standards within zones for continuity, this case is different due to the existing condition. The spirit of the ordinance then looks to visual and structures modifications within the zone, and in this case, there are improvements made at no cost to the physical distance to the right of way line. Due to the existing condition and the era in which the structure was built the deviation is within the spirit of the ordinance.

3.) Granting the variance would do substantial justice;

Granting of the variance will do substantial justice in allowing the owners to improve the property in a responsible manner and improve the functionality of the front of the site in a conventional New England style format without sacrificing the existing distance to the front right of way line or the existing edge of pavement. In doing so there will be substantial improvement to the beautification of this end of Franklin Street as a passerby enters the remainder of the residential neighborhood from the existing UC zone. The addition, located within the existing building footprint, is proposed to be an expansion of the kitchen area. This area is proposed to bring one of the front door features closer to the street and introduce additional windows along the façade, creating a warmer feel to the front of the house. This area is currently recessed.

4.) Granting the variance will not result in diminution of surrounding property values;

a. The proposal will only improve the locus property and its value and will intern help raise the value of the surrounding residential neighborhood. Architectural improvements and improvements designed around neighborhood creation through the use of public / private special appearance benefit all properties in the surrounding area.

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

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

i. The parcel is unique in that it contains an aged structure that is currently set within the front

setback. This means that any improvement at the front of this structure would require relief from the ordinance. This structure is special to the area given its age, and specific architecture. Many of the other structures in the immediate area are more modern, however this older New England style Colonial remains and is in prominent view from the entrance of the street. There is no fair and substantial relationship between the requirement of a 25' front setback and this structure whereas the requirement was implemented well after this structure was built and the applicant is only looking to expand the existing non-conformity laterally along the right of way and not proposing to reduce the setback any further than the existing condition. Without the variance this functional architectural improvement cannot be constructed which results in an aged structure that cannot be further modified to the benefit of the owner or the neighborhood as a whole. This presents a hardship to the land owner.

b. The proposed use is a reasonable one because:

i. The property has been the applicant's home since 1967. The owners have been long standing members of the neighborhood and community as a whole and is keenly interested in ensuring the renovation is a reasonable use within the context of the neighborhood. This use is not only reasonable from the context of functional New England appeal but in the context of space and bulk whereas it does not further encroach on the roads right of way.

M. Foote seconded the motion.

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

6.IX. ZO2020-0098SE 39 Linny Lane Special Exception Application (PDF)

Chair S. Bogert informed the Board that he has a personal connection to the applicants (friends). He stated that he has no financial connection or stands to gain anything from the application. He polled the Board to see if they felt he should recuse himself. A roll call poll was taken (4-0) for S. Bogert to remain seated on the Board for the application.

The applicants outlined their application to convert their basement to an in-law suite (accessory dwelling unit). The provided a sketch of the floorplan indicating that it meets the size parameters (750sf or less); has no more than two bedrooms; and is part of the main house.

At 8:34 PM S. Bogert opened the public hearing.

At 8:35 PM, with no one to speak for or against the application, S. Bogert closed the public hearing.

The Board briefly discussed the application.

G. Ober made a motion to approve application ZO2020-0096SE for a Special Exception from Article VII Section 235-41 (A) to create an Accessory Dwelling Unit.

a. The use requested is specifically authorized in this chapter:

The use is specifically authorized by Special Exception.

b. The requested use will not create undue traffic congestion or unduly impair pedestrian safety: Existing driveway and garage meets required off street parking regulations; there will be no impact to public safety; it will not create undo traffic congestion.

c. The requested use will not overload any public water, drainage or sewer system or any other municipal system, nor will there be any significant increase in stormwater runoff onto adjacent property or streets.

There will be no change in stormwater runoff as all changes are internal; the request will not overload municipal utilities including water, and sewer systems.

d. The requested use will not create excessive demand for municipal police, fire protection, schools or solid waste disposal services.

The use will not create excessive demand for municipal police and fire protection and will have no impact on the school system.

e. Any special provisions for the use as set forth in this chapter are fulfilled.

The provision of a special exception will be met if granted; there are no other special provisions.

f. The requested use will not create hazards to the health, safety, or general welfare of the public, nor be detrimental to the use of or out of character with the adjacent neighborhood.

The use will not create hazards to health, safety or general welfare of the public; the change is internal and will not change the character of the neighborhood.

g. The proposed location is appropriate for the requested use.

The proposed location is appropriate for the requested use. The walkout basement provides a secondary means of egress, which is appropriate for safety.

h. The requested use is consistent with the spirit and intent of this chapter and the Master Plan.

The requested use is consistent with the spirit and intent of the chapter, it provides a small unit of efficient, affordable living space with no impact to the existing neighborhood.

M. Foote seconded the motion.

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

7. ADJOURNMENT

The Board briefly discussed holding interim elections since the Vice Chair/Secretary resigned. It was noted this is regularly done in January; with only two meetings they will wait until January.

At 8:44 PM R. Maheu made a motion to adjourn the meeting.

M. Foote seconded the motion.

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