



8/16/2021 - Minutes

1. CALL TO ORDER

S. Bogert called the meeting to order at 6:30 PM

2. ROLL CALL

Present: S. Bogert; G. Ober; M. Dellavecchia; M. Foote

Absent with notification: R. Maheu; J. LaRoche; M. Hayward

3. RECORDING SECRETARY

K. Santoro, Zoning Technician

4. STAFF IN ATTENDANCE

R. Mora, Assistant Planning Director

5. ACCEPTANCE OF MINUTES FROM PREVIOUS MEETINGS

5.I. July 14 2021 Zoning Board Of Adjustment Special Meeting Minutes (PDF)

G. Ober requested a correction to the minutes of July 14, 2021. There is a sentence that does not make sense.

Section 5.1 41-63 Elm Street; Paugus Elm1 LLC, Request For Rehearing Of Appeal On An Administrative Decision.

The second sentence should read: G. Ober does not see the reason for the emergency meeting, one emergency meeting had already been called and she felt that the second emergency meeting showed favoritism to a specific large developer.

M. Foote made a motion to accept the minutes of July 14, 2021 as amended.

G. Ober seconded the motion.

All in favor. (4-0)

5.II. July 20 2021 Zoning Board Of Adjustment Regular Meeting Minutes (PDF)

G. Ober made a motion to accept the minutes of July 20, 2021 as presented.

M. Foote seconded the motion.

All in favor.

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.

S. Bogert addressed the applicants and the public regarding the fact that there are only four members of the Board present. Four members is a quorum, however, he explained that any vote would have to be 3-1 to pass, a 2-2 vote would be a negative vote. He offered all applicants the option of continuing to the next meeting where there may be a full five member board. He polled the applicants:

The attorney for 33 Clearwater Ave, James Bianco, addressed the Board and stated that on behalf of his client, they would like to continue the application to the next meeting.

All other applicants present did not accept the option to continue to the September meeting and will move forward with their application presentations at the present meeting.

6.I. ZO2021-0018SE 33 Clearwater Ave Special Exception Application (PDF)

Continued to the September 20, 2021 meeting (see above).

6.II. ZO2021-0031VAR 196 Paugus Park Rd Variance Application (PDF)

Steven Smith, agent for the applicant, presented the application for 196 Paugus Park Road. He explained that by demolishing the existing house and moving the new house forward on the lot it will become much more conforming, the only encroachment would be a piece of the front entry/porch into the front setback.

Steven Smith also noted that all State DES permits have been applied for.

He then outlined the five criteria for a variance. G. Ober clarified that the request is for encroachment into the front setback only.

At 6:50 PM S. Bogert opened the public hearing.

At 6:50 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 ZO2021-0031VAR 196 Paugus Park Rd Variance Application for a variance from Article VI Section 235-35(A) Front setback to allow for the replacement of a nonconforming residential structure with a more conforming residential structure with attached garage and a deck a portion of which will be in the front setback.

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

The subject lot is less than 1/4 the size of a lot currently permitted in this district. The subject lot was created in the early 1940's as part of the original Paugus Park Shore Subdivision which was prior to the adoption of Zoning. The current House is located within the 50' waterfront buffer along with the attached deck and the existing shed is entirely within the 10-foot side setback. Under the Shoreland Protection act living area is not allowed within the 50' waterfront buffer. The footprint of the proposed house with attached garage is located completely out of the 50' waterfront buffer, the proposed deck is located further from the reference line than the existing deck and the existing shed is being eliminated completely making the proposed redevelopment of the site more conforming. Additionally, the NHDES Shoreland Division has reviewed and approved the redevelopment.

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

The proposed redevelopment will eliminate any side setback violations thereby providing greater protection to the abutting properties. The 50' waterfront buffer will be provided relative to the house location thereby providing greater protection of Paugus Bay, abutting property owners and the general public, while allowing the property owner reasonable use of their property.

3. Granting the variance would do substantial justice because:

It would allow the owners reasonable use of their property while protecting the abutting property owners by maintaining the required side setbacks and the waterfront buffer which will promote public health, safety and welfare and protect the essential character of the neighborhood.

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

The new proposed residential structure will meet all Building and Life safety Codes. The structure will be substantially more conforming. Current side setback violations will be eliminated. The waterfront buffer will be maintained under the current zoning and NHDES Shoreland regulations while the new structure will be in keeping with the numerous new residential structures along Paugus Park Road.

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:

The proposal is to remove the existing nonconforming residential structure with attached deck and shed and construct a new residential structure with attached garage and deck substantially more conforming on a pre-existing nonconforming lot. Because of the existing nonconforming situation, applying a rigid interpretation of the requirements of the Zoning Ordinance would make it impossible for the owners to have reasonable use of their property as has been allowed along Paugus Park Road.

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

The zoning ordinance was adopted in part to promote good civic design and the appropriate use of land and buildings. The nonconformance of the lot relative to overall size and dimensional standards makes it very restrictive to develop once you apply the setbacks required in this zone. Additionally, because this property has frontage on a water body the rear setback is increased three-fold from 15' to 50' making it even more difficult to develop within the allowed building envelope. The proposed redevelopment of the site is designed to do exactly what the Zoning Ordinance promotes, good design to use the property in a safe and appropriate manner in a way that minimizes the nonconformance of the structure, improves overall safety while protecting the immediate abutters and the overall neighborhood.

ii. The proposed use is a reasonable one because:

The replacement of the existing nonconforming structure with a substantially more conforming structure that meets both current Building & Live Safety Codes is reasonable. Keeping the new residential structure substantially within the required setbacks is reasonable. The owners have designed and located the new structure in a manner which eliminates impacts to immediate abutters and the surrounding neighborhood, protects the waterfront by lessening the impact on Paugus Bay, and will be keeping with the numerous new residential structures along Paugus Park Road.

b. If the criteria in subparagraph (a) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably use in strict conformance with the ordinance, and a variance is therefore, necessary to enable a reasonable use of it.

The owners believe the criteria in subparagraph (a) are established, nevertheless, this particular property, presents some very difficult conditions. This zone requires a land area of 40,000sf when only one municipal service is provided, and 100 feet of road frontage. Additionally, the front setback requirement is 25 feet, side setback is 10 feet, and the rear setback is 15 feet. The subject lot only contains 8,396sf which is % of the required size and has only 60 feet of road frontage only 60% of the required frontage. Because this lot fronts on a water body the rear setback becomes 50 feet resulting in a reduction of 2,100sf of buildable area as a result. Given these challenges the owner has proposed a new structure which minimizes the proposed nonconformity, eliminates the existing side setback impact on the immediate abutter, eliminates the current impact on Paugus Bay and has employed the use of porous technology and infiltration trenches to capture, treat and recharge the ground water to further protect the lake and abutting properties. The variance request for the replacement structure is made necessary due to these special conditions of the property, distinguishing it from other properties in the area which have both sewer & water, and are not located on a waterbody.

Condition: All State and local permits are applied for and received.

M. Dellavecchia seconded the motion.

All in favor. (4-0)

7. 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.

7.1. ZO2021-0039VAR 176 Pleasant St Variance Application (PDF)

Randy Bartlett, owner of 176 Pleasant Street, outlined his application. He explained that originally he was requesting a three-family house, he has modified his request to a two-family house. He explained that in the current market a house of this size as a single family (6000sf) is not practical. He is requesting to convert it to a two-family home.

Randy Bartlett outlined the available parking and the number of spots available for the two units. He briefly touched on the short term lodging that was originally mentioned in the application, that it was not part of his variance application. Staff clarified that the variance request is for density only. Two family houses are an allowed use in the RG Zone; the lot density would allow for 1.92 units; a variance is required for the density to allow two units.

The Board members briefly discussed the application. G. Ober clarified the density request. M. Dellavecchia commented that he was okay with two units but not three.

AT 7:16 PM S. Bogert opened the public hearing.

Dennis Bothamley, 108 Shore Drive, was representing the Universalist Church which is next door to 176 Pleasant St. The church had expressed concern with a multifamily house next door but with the reduction to a two-family he felt that the church would be more comfortable. The main concern of the church was parking for a multifamily but a two family could be contained in the existing driveway for 176 Pleasant.

Three letters were noted for the record. One was received from John Bethell, and the second from Carroll Stafford and the third from Louis and Karen Coppi. The letters expressed concerns with a multifamily and with short term lodging. It was noted that the new request is for a two family and that short term lodging is not part of this application.

At 7:21 S. Bogert closed the public hearing.

G. Ober commented that a two family fits the neighborhood. In response to what might be done in the future, S. Bogert clarified that they have to look at the application as it is presented to them. Local inspections will be done and proper permits will have to be pulled, due diligence will be done. He did note that he does not agree with some of the closet size apartments that are being carved out of some houses but with the size of this building, that is not the case, the house can support two units.²

M. Foote made a motion to approve Application ZO2021-0039VAR for a variance from Article VI Section 235-33 Maximum residential unit density to allow for conversion of a single family residence to a two family residence.

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

Granting the variance would have no effect on or relationship between the general public and the proposed use as a two family. All parking will be on site; there are other two and multifamily homes in the area.

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

The spirit of the ordinance would be observed, it is a large building that can support a second unit of housing, which would increase the housing stock.

3. Granting the variance would do substantial justice because:

It will do substantial justice by providing another unit of housing without changing the building.

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

Converting the house to a two family will not diminish the value of the surrounding properties, there will be no exterior changes.

5b. If the criteria in subparagraph (a) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably use in strict conformance with the ordinance, and a variance is therefore, necessary to enable a reasonable use of it.

The house is a very large house on a small lot, there are other two unit and multifamily houses in the neighborhood. The use is reasonable for the house and is in harmony with the surrounding neighborhood.

Condition: All state and local permitting must be applied for and received/granted.

G. Ober seconded the motion.

All in favor. (4-0)

7.II. ZO2021-0040SE 23 Summit Ave Special Exception Application (PDF)

Gregg Kobelski outlined his application to the Board. He explained that they are proposing to convert what is currently taxed as a cabin to a detached Accessory Dwelling Unit (ADU), the cabin would be removed and rebuilt. He explained it already has water and electric running to it as it was a bathhouse. There is also a sewer line available.

G. Kobelski explained that the property has been subdivided and the existing house will be torn down and two separate houses on the two lots will be built. The ADU will be on the parent lot, 23 Summit Ave. The proposed unit is 450sf.

At 7:36 PM S. Bogert opened the public hearing.

At 7:36 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 ZO2021-0040SE for a Special Exception from Article VII Section 235-41A to allow for the installation of a detached accessory dwelling unit.

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

ADU is allowable under Table 1 Residential, Accessory Uses with Special Exception

b. The requested use will not create undue traffic congestion or unduly impair pedestrian safety.

ADU will not create any additional traffic than exists for the primary residence. The driveway and road frontage will not be affected by ADU and will have no impact on pedestrian safety.

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.

All ADU utilities will be from the primary residence. The primary residence is connected to Laconia sewer and will be connected to the Laconia city water system. The property is down sloped away from the road and will not cause runoff to other properties or streets.

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

This will not create an excessive demand for municipal services, it is a small single unit of housing.

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

All provisions of the ADU ordinance will be fulfilled.

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.

No hazards will be created to the health, safety or welfare of the public. The ADU will be an improvement to the existing cabin on the property and be in character with the neighborhood.

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

The proposed location will replace a worn cabin and remains outside the 50' shoreline buffer.

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 master plan as it provides an additional unit of housing that is consistent with the neighborhood.

Condition: All state and local permitting must be applied for and received/granted.

M. Foote seconded the motion.

All in favor. (4-0)

8. OTHER BUSINESS

R. Mora talked briefly about the Board's meeting schedule. Currently several of the meetings are held on Tuesday evening due to holidays and budget season, the Board was asked if they would like to amend their bylaws to meet on the third Tuesday, rather than the third Monday. It was the consensus of the Board to leave the meetings on the third Monday due to members scheduling conflicts.

9. ADJOURNMENT

At 7:48 PM S. Bogert made a motion to adjourn the meeting.

G. Ober seconded the motion.

All in favor. (4-0)

DRAFT