



CHESTERFIELD ZONING BOARD OF ADJUSTMENT

THURSDAY, JULY 08, 2021 AT 6:30

P.M. PUBLIC HEARINGS BEGIN:

6:45P.M. at the Town Offices in the
Jon McKeon Meeting Room

MINUTES

Chairwoman Kristin McKeon opened the meeting at 6:33PM. Also in attendance were Joe Hanzalik, Joe Brodbine, Lucky Evans, Gary Winn, John Zannotti through Zoom, and Jim Barey.

Joe Hanzalik moved to allow John Zannotti to participate remotely. The motion was seconded by Joe Brodbine.

Discussion: Brodbine asked why Zannotti was not attending in person. Zannotti responded he is out of town with his family.

The motion passed unanimously by roll call vote.

Introduction of Board Members & Selectboard Representative to ZBA

KMcKeon introduced all the board members present.

KMcKeon seated Joe Brodbine as a voting member.

Review: meeting minutes 06/10/2021

KMcKeon passed chair responsibilities to Hanzalik for review of the minutes.

Joe Hanzalik moved to accept the 06/10/2021 meeting minutes as amended. The motion was seconded by Joe Brodbine and passed unanimously by roll call vote.

The board decided to discuss Meeting Procedures in Other Business later in the meeting.

Perrin Reconsideration for Equitable Waiver

The board discussed having signed and dated consent from the Perrin's that they agree with the letter sent by Laura Carroll representing the Samson's (abutters to the Perrin's).

KMcKeon stated that this reconsideration was brought on by the Samson's wanting to impose a time limit on the work to be completed by the Perrin's. Brodbine stated the board is happy with the decision made and it would be reasonable for the board to consider that both parties operate within the time limit they have agreed upon. Brodbine continued, stating that the board could add a condition onto their original decision including a date of completion. Evans and Hanzalik discussed the submission timing of the request for reconsideration, Hanzalik noting that at this time it would be a moot point. KMcKeon stated she is worried about being partway through July and asked what kind of timeframe the board would consider reasonable for date of completion. Brodbine suggested May 13th of 2022 if all parties are amenable. KMcKeon noted that the date requested is a year from the time of the original Zoning Board decision. KMcKeon continued, stating that would be fine if both parties are signing off. KMcKeon asked if this decision is not put in effect until now, should the due date be a year from now or a year from the original decision. Brodbine stated since both parties agreed upon the May date, they should go with that. Zannotti stated, regarding the letter from Carroll, May 13th should be pushed to July of 2022. KMcKeon stated if the board decides to condition their decision, they do not need the approval of anyone else. Zannotti agreed with McKeon.

John Zannotti moved to include the date of July 8th, 2022 as the completion date for the project as approved by the Zoning Board of Adjustment. The motion was seconded by Kristin McKeon and passed unanimously by roll call vote.

Continuations

Continuation from the regular Zoning Board meeting of 06/10/2021: **Michael S & Joan H Bernbach Revocable Living Trust** with Fieldstone Land Consultants/Christopher Guida representing, are requesting a variance from Article V Non-Conformities, Section 503 Non-Conforming Buildings & Structures, part 503.1 Expansion of the zoning ordinance to permit the restoration of a portion of a three-bedroom dwelling. The property is located at 168 North Shore Road Spofford, NH 03462 (Tax Map 5D Lots B031 & B032).

Zannotti opened discussion, asking about a plan that was recently submitted by Chris Guida (representing the Bernbach's) and why it was submitted so late. Guida stated the plan was not overly clear on the original application, so he did a more complete markup. Zannotti stated he is put back by the late submission of the plan and he will dismiss this until he has a chance to see what is on it. Brodbine stated the package that got sent out earlier mentioned the additional six feet of height which is not new information. Guida stated he is not presenting new information; this is the same plan with further clarification for the presentation. Zannotti stated that his point is, the board is setting a precedent, if accepting this new info, future applicants will assume that new information can be accepted right up to the date of the meeting. Brodbine stated he does not view this as new information. Evans agreed, stating it is clarified information. Guida noted it is the exact same drawing, he simply colored it for clarification as well as a scale for the drawing. KMcKeon clarified that the original plan exhibited the proposed plan but not also the original.

Guida agreed. Evans stated it is a clarification of previously introduced information. Zannotti disagreed, what the board received last time were sketches on graph paper that the applicant expected the board to scale and determine dimensions. Zannotti continued, stating that in his opinion the Zoning Board should not derive that information.

Brodbine stated there was an inconsistency with the height. Guida responded, obviously the ground is not level all around the house, along the side is 26 feet because of the slope of the land. Guida stated the proposed plan will be 6 feet higher. Evans stated in the end, the concern would be the volume. Hanzalik and Evans noted discussion on possible changes to volume. Guida stated he provided the impervious area and the potential for merging the lots will make this property more conforming. Guida continued, stating that reducing setbacks by 17 feet makes the building more conforming. Guida noted that the property would still be considered non-conforming as it was created before the Zoning regulations, but it is a valiant effort by the owners to renovate their home and become more conforming.

Brodbine asked if the volume numbers sent out were a representation if the lots were merged. Guida responded they were based on the un-merged lots. Brodbine clarified they do not have the figures in front of them for the combined lot.

Hanzalik noted, as a board they should not get in the habit of requesting architecturally stamped drawings and they must take what is submitted and extrapolate the data. Hanzalik stated he does not believe this board should be requesting such professional drawings. Zannotti stated he agreed with Hanzalik, the board does not need to have stamped architectural prints for each applicant, what they did receive were sketches on graph paper that had no scale to them and it left it up to the Zoning Board to then scale it. Zannotti stated he thought the applicant should show more diligence in the application procedure, noting that the initial sketches lacked sufficient data and caused the board to extrapolate the information. KMcKeon stated as a note for everyone, applicants may or may not supply fancy drawings, but the burden of proof is on the applicant. KMcKeon continued, stating if the applicants do not supply enough information to make an educated decision the board should not entertain voting on a decision. The board agreed.

Brodbine stated the information not seen includes figures for the merged lots and he would like to see those numbers. Evans asked if the lots were going to be merged. Guida stated the owners did not want to at this time, but it was up for discussion. KMcKeon stated that the Zoning Board could put the merger in their decision as a condition, but the town could choose to merge the lots independently.

KMcKeon stated merging the lots would take out almost all setback issues.

KMcKeon asked if all the garage was on the other side or just half. Guida responded half. The board agreed to ask Guida for the volume calculations for the merged lots.

McKeon invited the property owners to speak. Joan Bernbach apologized that a professional drawing was not provided, they are new to this, and they relied on others to assist. JBernbach continued, stating they had no awareness that the house was built partly on two different lots. JBernbach asked why the lots would need to be merged. KMcKeon responded the building is on both lots and the boathouse cannot be on a lot without a home, it breaks more rules, noting that if

the two lots are being used as one de facto, they are merged. JBernbach relayed that the owner across the street stated that she had no objection to the project. JBernbach stated that the only view of the lake from across the street is down the Right of Way on the right side of the property but that will not change.

Jeff Scott stated that the beauty of the Zoom meetings were the ability to screen share so the public could see the applicant presentations more easily. Scott continued stating that it would be a good thing if the lots were merged.

Joe Brodbine moved to continue the Bernbach hearing to August 12th at 6:45PM. The motion was seconded by Joe Hanzalik.

Discussion: KMcKeon asked that Guida provide those numbers a week before the next meeting. The motion passed unanimously by roll call vote.

New Applications

Kim & Marina Perrin are requesting a variance from **Article II Use Districts, Section 203.5 Setback & Yard Requirements** of the Zoning Ordinance to permit paving of a driveway in the side setback. The property is located at 438 North Shore Road Spofford, NH 03462 (Tax Map 5H Lot B003).

Zannotti asked if the existing driveway respects the one-foot boundary line established for the carport. If so, he is fine with everything here. The board discussed the driveway being included as incidental in the original motion. Zannotti noted that he is not sure of the scale for the drawing provided by the applicant. McKeon confirmed that the driveway was included on the original drawing and so should be moved one foot off the property line as stated in the motion on May 13th, 2021. Zannotti asked if the Zoning Board was getting into a position of approving driveways. KMcKeon stated the driveway was already there, including that a permit was not needed since the driveway was preexisting. Zannotti asked about the new paving exhibited on the plot plan submitted by the applicant. Kim Perrin stated the area Zannotti was asking about was marked and paved before but was torn up when the carport was built. Perrin continued, stating he wanted to be completely covered in submitting this application. Zannotti asked that the North 83 direction line is in fact the line agreed upon, 29 feet towards the Perrin's property not the Samson's. Perrin confirmed that is correct.

John Zannotti moved that this is not a variance application that the Zoning Board of Adjustment should rule on. The motion was seconded by Joe Hanzalik and passed unanimously by roll call vote.

Other Business

Evans opened discussion on Title XLVII, noting that the triple blazed birch shown in the Huntley survey being accepted by cruise clearing the lot. Evans stated it is a misdemeanor to remove a survey marker and it would have come up with different numbers, superior or inferior to deeds brought up. Evans noted that it is an oddity that the first survey wins. KMcKeon asked if this was

something the Code Enforcement Officer should address. Evans stated this is a loose end. KMcKeon stated that unfortunately the Zoning Board cannot do anything about it. Brodbine stated, the problem with a law like this is enforcement and finding out who committed the misdemeanor.

KMcKeon noted that decisions came back on Joy Street and West East Westmoreland: for Joy Street, the judge voted in the Zoning Board's favor; the applicants and their legal counsel are taking the appeal to the next level. KMcKeon stated she asked Matt Beauregard about it and he relayed that he was working with Ratigan. KMcKeon noted her frustration with the procedure. KMcKeon noted that West East Westmoreland will be coming back as the judge decided the appeal will be heard. KMcKeon noted she has asked that Ratigan be guiding the new committee that is formed to hear the case; it is worth the money to have him guide the group. KMcKeon stated she had given some names of people suggested for the committee. The board agreed. Zannotti asked what other steps could be taken from a Zoning Board position to challenge the superior court ruling that a new committee be established. KMcKeon stated they could appeal it, but she is not sure whose purview that is. Hanzalik stated Ratigan would have advised the Town to pursue an appeal or go along with appointing a committee. Zannotti stated if this goes through, it puts the Zoning Board as null and void and it will be an awful precedent. Brodbine asked who could now speak for the town if the Board of Selectmen and the Zoning board could not speak to the issue.

Joe Hanzalik moved to have Kristin McKeon reach out to John Ratigan to advise the new five-person committee on the appeal with West East Westmoreland. The motion was seconded by Lucky Evans. Joe Brodbine abstained from voting.

Discussion: Zannotti asked if the Board of Selectmen should be asked to sign this letter.

KMcKeon responded she is emailing Ratigan because she does not think there is time to send a letter by post. Hanzalik stated he does not believe the Board of Selectmen should be involved since the Zoning Board already has an open rapport with Ratigan on this case. KMcKeon stated she would strongly urge the Board of Selectmen to also write a letter.

The motion passed unanimously by roll call vote. Joe Brodbine abstained.

KMcKeon noted discussion on the handouts for the board on not re-opening the public portion; asking that the board members read up on the rules regarding proper procedure.

Joe Brodbine moved to adjourn at 8:36PM. The motion was seconded by Joe Hanzalik and passed unanimously by roll call vote.


The next meeting will be on August 12th, 2021 at 6:30PM.

Respectfully submitted,

Jim Barey

Secretary to the Zoning Board of Adjustment

Approved by:



Kristin McKeon, Chairperson

8/17/21
Date