

APPROVED
TOWN OF PELHAM
ZONING BOARD OF ADJUSTMENT MEETING
March 13, 2017

The Chairman David Hennessey called the meeting to order at approximately 7:00 pm.

The Secretary Bill Kearney called roll:

PRESENT: David Hennessey, Svetlana Paliy, Bill Kearney, Peter McNamara, Chris LaFrance, Alternate Darlene Culbert, Alternate Thomas Kenney, Planner/Zoning Administrator Jennifer Hovey

ABSENT: Alternate Lance Ouellette, Alternate Pauline Guay, Alternate Kevin O'Sullivan

PLEDGE OF ALLEGIANCE

HEARINGS

Case #ZO2017-00003

Map 30 Lots 11-336 & 11-351

HAGGERTY, Charles 7 Marjorie - 4 Springdale Lane - Seeking a Variance concerning Articles III & VII, Sections 307-8 & 307-39 to permit to expand a pre-existing non-conforming use by raising it 9ft. and expanding the footprint and to allow soil disturbance to install a foundation.

Mr. Kearney read the list of abutters aloud. There were no persons present who asserted standing in the case, who did not have their name read, or who had difficulty with notification.

Mr. Hennessey stated the Board would hear testimony from the applicant and review the variance criteria. He noted most cases for properties in that area on Little Island Pond, the Board had conducted site walks. He would be entertaining a motion for a site walk and date specification. He explained site walks were a continuation of the public hearing during which the public is invited.

Mr. Brian Geaudreau of Hancock Associates came forward as the applicant's representative. The applicants also came forward. Mr. Geaudreau explained that the scope of the project was to construct a foundation underneath the existing building where there currently was none. As part of that construction, the first floor would be raised by approximately 9ft. and they would also square off the rear corner of the building. He noted the lot was an existing non-conforming lot; the building does not meet yard. They were not looking to increase the non-conformity of those setbacks. On the western side of the property, the building is located approximately 1ft. off the property line and on the eastern portion of the building the existing footprint was approximately 12ft. off the property line. The addition of squaring off the footprint will not create a further reduction in the yard. As a part of the project, Mr. Geaudreau told the Board they had been to the Department of Environmental Services ('DES') and the Board of Health to install a new septic system and received approval of the appropriate permits. They have also filed with DES for work within the Shoreland.

Mr. Hennessey asked for clarification about the septic system and if a new system would be installed. Mr. Geaudreau told the Board they would be installing a new system, which had already been permitted both locally and by the State.

Mr. Geaudreau read aloud the responses to the variance criteria as submitted with the application.

Mr. McNamara understood the applicant would be moving the existing wood shed entirely onto their property. Mr. Geaudreau replied that was correct. The shed was currently partially located within the Springdale Lane right-of-way. He noted the applicant owned both parcels adjacent to it and they would be removing the shed from the right-of-way and relocating it to be entirely on the property. Mr. McNamara understood the structure would be raised 9ft. and asked if the foundation was the primary reason for such. Mr. Geaudreau answered yes. Mr. McNamara questioned if the applicant would be keeping the wood frame dwelling. He wanted to know if they would be changing it or adding to it, in terms of height, other than the corner (to be squared off). Mr. Haggerty replied the roof line would stay the same. Mr. Geaudreau stated the only physical changes to the existing structure would be to square it off on the back right corner.

PUBLIC INPUT

Attorney Robert Parodi, representing Daniel and Debra Constant, came forward to address the variance request. He provided the Board with photographs and stated his client owns property on both sides of the applicant's lot. The first photograph showed the view to the pond in relation to the Constant home, the second two photographs showed the view from the Constant property looking toward the applicant's house and pond. Attorney Parodi told the Board his clients were opposed to the Variance request. He stated the applicant hadn't presented any hardship; there's nothing unique about the property, it's similar to other properties in the neighborhood. The biggest issue was that the proposal of raising the applicant's property 9ft. would adversely affect the Constant property. Attorney Parodi stated his clients also objected to moving the wood shed, which would also adversely impact the Constant's view of the lake.

Attorney Parodi stated the purpose of zoning is to avoid overcrowding. The specific purpose of the non-conforming provisions of the ordinance is to not expand a non-conformity. He saw the request as clearly an expansion of a non-conformity. He noted they were doubling the square footage of the property by the placing of the foundation. He commented there was a statement in the applicant's proposal something to the effect that the lot would be 'no more non-conforming'. They felt the proposal to enclose the corner of the building would increase the non-conformity of that building. Attorney Parodi believed granting the Variance would adversely affect the property value. He noted the proposal would increase the value of the applicant's property, but it would be at the expense of his client's property. He believed the proposal was contrary to the public interest as it would alter the essential character of the neighborhood by more than doubling the size (of the building). Attorney Parodi stated the spirit of the ordinance was to eliminate non-conformity; however the proposal would expand the non-conformity and adversely affect his client's property values. He reiterated there were no special conditions of the applicant's property to justify a hardship. He stated there was no hardship.

Mr. McNamara heard Attorney Parodi state that the proposal would double the size of the home; however the plan indicated the existing house and wood porch 842SF and post construction the house and wood porch would be 920SF. Attorney Parodi replied the applicant proposed a full basement, which clearly could be living space because the height was increasing by 9ft. Given that information the size would be more than doubled. The problem was the increased height of the structure.

Ms. Paliy questioned if the Constants had made an attempt to purchase the (applicant's) property. Attorney Parodi was not aware of them doing so. Ms. Paliy questioned how a house with no foundation would be mortgaged. Attorney Parodi believed there were plenty of houses mortgaged with no foundation. He didn't

know if the applicant had a mortgage on their property. He stated he did a lot of real estate and houses were mortgaged all the time without a foundation.

Mr. Johnathan Cole, 8 Springdale Lane told the Board he was currently constructing a house on his lot and understood there were two right-of-ways running through his property. One was currently used by the applicant to access their property, the other was shared by his property and the Constant property for access. He told the Board they had just put in a leaching field for his septic system and was concerned with heavy equipment driving over it. Mr. Hennessey asked the applicant if there were any plans to traverse the right-of-way where the septic system was located for construction purposes. Mr. Haggerty didn't know the location of Mr. Cole's septic system. Mr. Cole replied part of the septic system was in the right-of-way.

Ms. Marjorie Haggerty (applicant) spoke to the hardship. She told the Board that the property was within two inches of the ground; the right corner (looking downhill) was just about on the ground and water runs into the property. The floors are warped, the door is falling off. She said the previous owner built ditches to divert the water because they were not financially capable of doing anything else. She stated the existing structure could not be utilized in any beneficial way without raising the structure and putting a foundation underneath. Ms. Haggerty noted the existing structure was 688SF. The bedrooms were tiny and by squaring off the other corner, it would enable them to move the bathroom thereby enlarge the bedrooms. With regard to the Constant's view of the lake, Ms. Haggerty pointed out there was no structure directly behind her property, it was all vacant and the Constants removed the trees. She said their lot was not obstructing the Constant's view. She told the Board the Constants had an opportunity to buy the property and they chose not to. Ms. Haggerty discussed Zoning and explained they met with the Planning Director, who reviewed the plan of the lot and measured everything and said it should not be a problem. Mr. Hennessey replied the Board took the Zoning law and applied it as best they could by comparing it to the five Variance criteria. Ms. Haggerty questioned how moving the shed would adversely affect the Constants. Mr. Hennessey said the Board would have to review the site.

Mr. Hennessey understood the roofline would stay the same, but wanted to know the total height of the proposed structure from grade. Mr. Haggerty didn't have the height information. Mr. Hennessey noted the Town had an Ordinance that put a maximum height that the Board reviewed closely for shorefront. He said if the Board walked the site they would request that some marker (i.e. balloon) be placed so they could see the proposed structure height.

MOTION: (McNamara/LaFrance) To conduct a site walk.

VOTE: (5-0-0) The motion carried.

A site walk was scheduled for April 1, 2017 beginning at 9am.

The Case was date specified to April 10, 2017.

Case #ZO2017-00004

Map 27 Lot 2-84-4

WELCH, Michael - 26 Rolling Ridge Lane - Seeking a Special Exception concerning Article XII, Lot 307-74 to permit an accessory dwelling unit in the existing structure

Mr. Kearney read the list of abutters aloud. There were no persons present who asserted standing in the case, who did not have their name read, or who had difficulty with notification.

Mr. Welch came forward to answer questions regarding his request for Special Exception. He was seeking to put an in-law apartment within his existing home.

Mr. Hennessey inquired if the plans met all the criteria. Ms. Hovey stated the plans met the criteria, with the exception of the State approved Septic Design. She said it had been approved by the Town and was submitted to the State. Mr. Hennessey said the approval should be subject to receipt of the State approval.

MOTION: (McNamara/LaFrance) To specify any approval is subject to the State approval of the septic system.

VOTE: (5-0-0) The motion carried.

BALLOT VOTE Mr. Hennessey – Yes
#ZO2017-00004: Mr. Kearney – Yes
Ms. Paliy - Yes
Mr. McNamara – Yes, contingent on State septic approval.
Mr. LaFrance - Yes

(5-0-0) The Special Exception was Granted.

SPECIAL EXCEPTION GRANTED

Mr. Hennessey noted there was a 30-day right of appeal.

Case #ZO2017-00005

Map 34 Lot 6-246

AUSTIN, John & Amy - 149 Marsh Road - Seeking a Special Exception concerning Article XII, Lot 307-74 to permit an accessory dwelling unit in the existing structure.

Mr. Kearney read the list of abutters aloud. There were no persons present who asserted standing in the case, who did not have their name read, or who had difficulty with notification.

Mr. Hennessey asked if the application met all the requirements. Ms. Hovey told the Board it met all the requirements. Mr. Hennessey questioned if the property was located in the Mixed Use Zoning District. Ms. Hovey said it was not.

John and Amy Austin came forward to answer questions regarding their request for Special Exception. Ms. Austin told the Board the in-law was for her mother. Mr. Austin noted it was a pre-existing structure that was being cleaned up and including a kitchen. It meets the 750SF and the septic design has been approved by the Town and the State.

Mr. McNamara confirmed that the unit was already attached to the house. Mr. Austin answered yes.

BALLOT VOTE Mr. Hennessey – Yes
#ZO2017-00005: Mr. Kearney – Yes
Ms. Paliy - Yes
Mr. McNamara – Yes
Mr. LaFrance - Yes

(5-0-0) The Special Exception was Granted.

SPECIAL EXCEPTION GRANTED

Mr. Hennessey noted there was a 30-day right of appeal.

SITE WALK – April 1, 2017 – 9am

Case #ZO2017-00003 - Map 30 Lots 11-336 & 11-351 - HAGGERTY, Charles 7 Marjorie - 4 Springdale Lane

DATE SPECIFIED CASE – April 10, 2017

Case #ZO2017-00003 - Map 30 Lots 11-336 & 11-351 - HAGGERTY, Charles 7 Marjorie - 4 Springdale Lane

MINUTES REVIEW

February 13, 2017:

MOTION: (Kearney/Paliy) To approve the February 13, 2017 meeting minutes as written.

VOTE: (4-0-1) The motion carried. Mr. McNamara abstained.

February 23, 2017 – (Joint hearing with Planning Board) – deferred.

ADJOURNMENT

MOTION: (McNamara/LaFrance) To adjourn the meeting.

VOTE: (5-0-0) The motion carried.

The meeting was adjourned at approximately 7:45pm.

Respectfully submitted,
Charity A. Landry
Recording Secretary