

DRAFT—NO LEGAL VALUE

Minutes

Board of Adjustment Meeting

October 15, 2020

As Chair of the Board of Adjustment of the Town of Strafford, Ashley Rowe opened the meeting by stating that due to the State of Emergency declared by the Governor as a result of the COVID-19 pandemic and in accordance with the Governor's Emergency Order #12 pursuant to Executive Order 2020-04, this public body is authorized to meet electronically.

The Chair then summarized the following announcements: This is an electronic meeting and the Board is making a physical location available to join the teleconference at the Strafford Town Hall. In accordance with the Emergency Order, I (the Chair) am confirming that we (the Board of Adjustment) are:

- a) providing public access to the meeting by telephone, with additional access possibilities by video or other electronic means. We are using the Google Meet platform for this public meeting. All members of the Planning Board are able to communicate contemporaneously during this meeting through this platform, and the public has access to contemporaneously listen and, if necessary, participate in this meeting through dialing +1 928-793-9242 and using the assigned meeting code or by clicking on the website address: meet.google.com/rkk-cxfs-jzc.
- b) providing public notice of the necessary information for accessing this meeting. We previously gave notice to the public of the necessary information for accessing this meeting, including how to access the meeting via Google Meet or telephonically. Instructions were posted on the website of the Town of Strafford at www.trafford.nh.gov.
- c) providing a mechanism for the public to alert the public body during the meeting if there are problems with public access: If anybody has a problem they were directed to call or email eevans.trafford.nh@gmail.com.
- d) adjourning the meeting if the public is unable to access the meeting: In the event the public is unable to access the meeting, the meeting will be adjourned and rescheduled.

The Chair opened the meeting at 7:02 PM by taking roll call attendance. Members present were Ashley Rowe, Chairman, Lynn Sweet, Herman Groth, Terry Hyland, Aaron Leff, and Tim Reed and Jeffrey Sanita, Alternate members. There were several call-in members of the audience and several interested parties in attendance in person for Cases Number #422 and #423. David Copeland, the Building Inspector, was also present. Mr. Rowe noted that the next regular meeting of the Board will be Thursday, November 19, 2020.

Case Number 422

Mark Whitcher is requesting Variances to Article 1.4.1 Sections B and C of the Zoning and Land Use Ordinances in order to construct a new 24 foot by 28 foot garage on his non-conforming lot located on the shore of Bow Lake. The new garage would come within 25 feet of the front boundary, within 12 feet of the northwest side boundary and within approximately 35 feet of the structure on the abutting lot to the northwest, which is up to fifteen feet closer to the front boundary, 13 feet closer to the side boundary and approximately 15 feet closer to a structure on an abutting lot than current ordinances require. (Location: 57 Bow View Drive, Tax Map 27, Lot 21)

Mark Whitcher, petitioner, was present electronically, accompanied by Judi Whitcher. Jim Griswold, an abutter, submitted a letter of concern. ?, an abutter, was present at the Town Hall. Lynn Sweet noted that she has a connection with the Whitchers regarding a timber contract, and asked if the Board felt that she should recuse herself. Mr. Groth said that if he feels there is no conflict of interest, he is satisfied, and Mr. Rowe said that he feels that if there would be no monetary gain from the current application, there is no reason to step back.

Mr. Whitcher presented his request for Variance for the construction of a new garage; the garage would be a 2-bay Edsel model prefabricated garage from Lavalley Structures, Inc. The garage has a storage area on the second floor. The garage is designed so that headlights will not go into the neighbors home; the garage would have few windows and none on the rear side toward the Griswold property. He advised that they are requesting a Variance because they feel that the proposed location is the best because it avoids the area of their septic disposal system and it will not block the view of neighbors across the road and they have designed the garage without windows to the rear so that headlights will not disturb the neighbors to the east. Although the layout of the lot suggests that it might be possible to position the garage mostly within the setback, the septic system is elevated and would cause a problem on the southwest corner, and lot drops off toward the lake so placing the garage in the middle of the lot would require extensive fill and the garage would be elevated. Mr. Whitcher said that they have talked to their neighbors about the project. Mr. Rowe then read the letter from Jim Griswold into the record and asked Mr. Whitcher to comment. Mark Whitcher said that the siding will match the house. There will be 8 foot garage doors, and he plans real stairs rather than a pull-down stairway access to the storage area for safety. He said that he feels that the garage is the minimum size possible for what they want to store. Lynn Sweet asked about the distance between the proposed garage and the structure on the abutting lot. Mr. Whitcher noted that the abutting structure is about 25 feet from the boundary, so would be about 37 feet from the new garage. Noting the letter, Mr. Rowe asked if there would be any leeway to move the proposed location towards the road and off the side line. Mark Whitcher said that it could be twisted counterclockwise which would pull one end away from the property line. Herman Groth said that the headlights are more of an issue than where the garage is located, but he noted that it would be possible to fit a garage in the building envelope without a variance, so perhaps a compromise would be best.

Mark Whitcher said that he is trying to be a good neighbor and talked about his concern with the headlights. Tim Reed asked whether the garage could be positioned nearer the existing home, as shown on the 2012 plan. Mr. Whitcher noted the elevation of the septic system, and said that it would also require more tree-cutting, and would elevate the garage inappropriately due to the existing cottage. The new septic leachbed is 5 feet higher than the drive, he noted. The house is 8 feet lower than the wall that supports the leach field. Terry Hyland asked if the garage would impact the view from across the street and if changing the location would make a difference. Mr. Whitcher said that moving the garage toward the house and septic field would most definitely interfere with the view from across the street.

The Chairman then opened the public hearing. ? said that she supports the request and noted the importance of storage. There were no other comments. Mr. Rowe closed the public hearing. Board members then reviewed the application documents regarding how the criteria for variance are met by the proposal. It was noted that the proposal is for a garage and storage space, and that the proposal minimizes impact on the waterfront. The proposed location will not block views but the Board does have a letter stating concerns with the proposed proximity of the garage to the boundary. Will it diminish property values. Mr. Groth suggested that he feels that it would not. The applicant argues that the small lots are the hardship. Tim Reed asked several questions regarding public interest and hardship. Mr. Rowe summarized the proposal, saying that the applicants have done what they can to minimize the impact, the garage would not be a hazard to traffic, and would not require tree-cutting. There would be more substantial impacts if they followed other options that would be more conforming. Mr. Rowe said that it was his opinion that the proposal is not contrary to the public interest.

Ashley Rowe confirmed with Mr. Whitcher that the previous variance granted in 2012 for the reconstruction of the home, with an attached garage, has expired. Mr. Rowe addressed Mr. Reed and agreed that the key question for evaluating hardship is why they cannot build in the building envelope. Terry Hyland noted the view, and how it would impact neighbors. Mr. Rowe agreed that this is an issue and noted

that there is nobody present to comment that their view would be blocked. Lynn Sweet noted that she is familiar with the topography in the area and agrees with the concern for elevations. Mr. Rowe turned to Mr. Whitcher and asked if he had any additional responses to the Board's comments and concerns. Mr. Rowe then turned to the Board and summarized the discussion. He said that the biggest concern was meeting the hardship criteria--why the garage could not be built in the envelope. Mr. Whitcher noted the following: setback from the septic, view from the neighbors, and that building within the envelope would require a lot of fill and the garage would be elevated. It would not be a good use of the property, he said. Mr. Whitcher asked whether Board members had viewed the site; several members are familiar with the area. Herman Groth noted that it would be more of an impact if the driveway was on that side. He noted that the abutters to the east would not be required to meet a 50 foot setback to this new garage if the garage is given a variance to come closer to the side boundary and to abutting structures. The Chairman asked Mr. Whitcher if he has completed his Shoreland permit application. Mr. Whitcher said that he had waited until learning the outcome of the current hearing.

Mr. Rowe then said that he would entertain a motion. ? made the following motion; ? seconded the motion:

To approve the request for Variance to allow the construction of a 24 by 28 foot garage as shown on the application materials submitted for this meeting. The garage will come within 25 feet of the front boundary, extending up to 15 feet closer to the front boundary with Bow View Drive than ordinances allow. The garage will come within 12 feet of the northerly side boundary, which is up to 13 feet closer to the side boundary and up to 15 feet closer to a structure on the abutting property to the north than current ordinances allow.

Mr. Rowe asked for an amendment to the motion to include that the granting of the variance is conditional upon receipt of a Shoreland permit from NH DES for the project. ? amended the motion to include that approval is conditional upon the receipt of a NH DES Shoreland Impact Permit. Herman Groth seconded the motion; there was no further discussion. The Chairman called the vote. The motion carried by unanimous vote of the members present. It was noted that there is a 30-day appeal period.

Case Number 423

Tobin Farwell, Farwell Engineering Services, is requesting a Variance to Article 1.4.1, Section C, to Article 1.4.4, Section 3, and a Special Exception under Article 1.7.1 of the Zoning and Land Use Ordinances in order to demolish and reconstruct and expand a non-conforming structure on a non-conforming lot on the shore of Bow Lake. Both the existing seasonal camp and the new proposed two-story year-round structure come closer to both side boundaries and to the shore of Bow Lake than current ordinances require. The existing structure comes within 13 feet of the westerly side boundary, which is up to 12 feet closer than current ordinances allow. The existing structure comes with 5.9 feet of the easterly boundary and within approximately 20 feet of the shore of Bow Lake. The new proposed year-round home and deck will come within 11 feet of the northwesterly boundary, which is up to two feet closer to the boundary than the existing structure and up to 14 feet closer to the side boundary than current ordinances require. The new proposed home will come within 8.2 feet of the easterly boundary and approximately 25 feet of Bow Lake, which will increase the setback to both the easterly side boundary and to Bow Lake without meeting current setback requirements. (Owner: John J. Neville Bow Lake Irrevocable Trust, J. Christopher Neville and Lauren Desforge, Trustees, 235 Brown's Pasture Road, (Tax Map 30, Lot 18)

Tobin Farwell was present. The Neville family submitted a letter authorizing Mr. Farwell to speak on their behalf. Bernhard Metzger and Jeanne & Chris Mieszczanski were present electronically. Lynn Sweet advised the Board that she would recuse herself due to a business connection with the applicant. The Chairman designated Tim Reed as a voting member for this case.

Mr. Farwell presented the application. They hope to reconstruct the current seasonal home, centering the new home a bit more on the lot. The new structure will come within approximately 8 feet of the easterly boundary and 11 feet of the westerly boundary. They hope to extend the front deck across the entire structure, which will be pulled back a bit from Bow Lake, but will still come closer to Bow Lake than

ordinances allow. They have replaced the septic disposal system in the past few years. They will be taking down one of the small storage sheds currently on the lot.

The Chairman then opened the public hearing. There were no comments. The Chairman then closed the public hearing on the request for Special Exception and then said that he would entertain a motion on the request for Special Exception for the proposed demolition and reconstruction of the existing non-conforming structure as a 2-story home. ? made the following motion, seconded by ?:

To grant the request for Special Exception to allow the reconstruction of the existing non-conforming seasonal structure as a 22 by 30 foot 2-story home with an 8 foot deck toward Bow Lake and a screen porch extending toward the northwesterly boundary. The existing home comes within 5.9 feet of the southeasterly boundary, within 13 feet of the westerly boundary, and within 20.8 feet of Bow Lake. The existing structure meets front yard setback requirements.

The Chairman called the vote. The motion carried by unanimous vote of the members present.

The Chairman then turned to the request for Variances. Before beginning discussion on the application, the Chairman noted concern about RVs on the lot. He noted that he does not see the RVs account for in the impervious surface calculations, but he noted that they have not moved. Mr. Farwell said that there is no pad and that the RVs are not permanent, so he did not include them in the impervious surface calculation. Mr. Rowe said that they had not moved in quite a while and that he was concerned for impervious surface and stormwater. He advised that unless the RVs are registered, they should only stay on site for 180 days; otherwise they would be considered as structures. Mr. Rowe noted that the lot across the road is also located in the Shoreland zone, and he noted he is concerned about the impervious cover on that lot as well. Mr. Farwell noted that the lot across the lot is in separate ownership although the Neville's have deeded rights to the well. After brief discussion, Mr. Rowe noted that code enforcement will be enforcing the rules, and noted that the RVs may need to move.

The discussion then turned to the Variance applications; it was noted that the revised application shows the distance from Bow Lake to the steps. Mr. Rowe clarified that the granting the Special Exception for the expansion of the non-conforming original structure allows the Board to proceed, but he noted that Variances will be required for the expansion of the structure in the setback areas. In the course of the discussion, Mr. Rowe wondered if the project would also require a Conditional Use Permit, noting that the steps will come a bit closer than 25 feet to Bow Lake, and noting the language of Article 1.4.4, Section 3. Mr. Farwell finally suggested that the encroachment should be considered under the Variance criteria and the Board moved forward with the Variance applications.

Mr. Rowe suggested that they begin with the proposed encroachment into the two side boundaries, as the proposed new structure would come closer to both side boundaries than allowed under Article 1.4.1, Section C. Mr. Farwell presented the application, addressing the criteria for variance. Herman Groth noted no concern with property values. Mr. Rowe asked about the lot across the road, and it was confirmed that adding the second story would not obstruct any views. Mr. Farwell suggested that the small size of the lot, which was created pre-zoning, is a hardship. It was noted that there would only be a 10 foot building envelope on the lot under current ordinances, although the lot has an existing non-conforming structure.

The Chairman then opened the public hearing. Bernie Metzger, the abutter to the east, advised that he has no objections. The Chairman then closed the public hearing, and the Board began deliberations. The Chairman suggested that they begin with the request for Variance for encroachment toward the northwest side boundary. Aaron Leff made the following motion, amended by Mr. Rowe to include the condition of receipt of a NH DES Shoreland Impact Permit as follows:

To approve a Variance to allow the new structure, as displayed on the plans presented to the Board for this meeting, to come within 11 feet of the northwesterly boundary, which is up to two feet closer to the boundary than the existing structure and up to 14 feet closer than

current ordinances require, conditional upon receipt of a NH DES Shoreland Impact Permit for the project.

Terry Hyland seconded the motion, there was no further discussion, and the Chairman called the vote. The vote was unanimous in the affirmative.

The Board next turned to the proposed encroachment toward the southeasterly boundary. ? made the following motion:

To approve a Variance to allow the new structure, as displayed on the plans presented to the Board for this meeting, to come within 8.2 feet of the southeasterly boundary, which is up to 2.3 feet farther from the side boundary than the existing structure, and up to 16.8 feet closer to the boundary than current ordinances require, conditional upon receipt of a NH DES Shoreland Impact Permit for the project.

Tim Reed seconded the motion, there was no further discussion, and the Chairman called the vote. The vote was unanimous in the affirmative.

The Board next turned to the proposed encroachment toward Bow Lake. The new structure would come within Mr. Farwell again presented the application documents, addressing the criteria for variance. Mr. Farwell suggested again that the small size of the lot, which was created pre-zoning, is the main hardship. The Chairman then reopened the public hearing. There were no comments. The Chairman closed the public hearing and asked if there was a motion. Aaron Leff made the following motion:

To approve a Variance to allow the new structure, with the dimensions as shown on the plans submitted to the Board for this meeting, to come within 24.2 feet of Bow Lake at the closest point (the stairs from the deck), which is 3.4 feet farther from Bow Lake than the existing structure and up to 25.8 feet closer to Bow Lake than current ordinances require, conditional upon receipt of a NH DES Shoreland Impact Permit.

? seconded the motion, there was no further discussion, and the vote was unanimous in the affirmative. The applicant was advised that there is a 30-day appeal period before any permits may be issued.

Mr. Rowe asked the Building Inspector if he had any other issues or questions. There were none. Tim Reed then made a motion to adjourn the meeting. Aaron Leff seconded the motion, there was no further discussion, and the vote was unanimous in the affirmative. The meeting adjourned at 8:30 PM.