

Zoning Board of Adjustment Meeting Minutes

Location: Strafford Town Hall Conference Room

Date & Time: May 18, 2023 7:00PM

Voting Board Members Present:

Ashley Rowe – Chairman
Aaron Leff
Scott Hodgdon

Non-Voting Board Members Present:

Others Present:

Autumn Scott, Strafford Regional Planning Commission, Regional Planner

The Chairman called the meeting to order at 7:19PM. He indicated the closing date for new applications to be filed for the agenda for the regular June 15, 2023 meeting is May 25, 2023, and the closing date for informal discussion items to be added to the agenda is June 13, 2023.

New Business

The Chairman asked Autumn Scott introduce Case #23-003.

Autumn indicated that the owner and applicant, Jason Hebert, is requesting a Variance to Article 1.4.1, Land Requirements, Section C, Side and Back Yards, in order to construct a new 24 foot by 24 foot first-floor addition to the southerly end of the existing home in order to add a new master bedroom suite. At its closest point, the new addition would come within 15 feet of the northwesterly side boundary with the Whig Hill Association Greenbelt, which is up to 10 feet closer to the side boundary than current ordinances require. The proposed addition will meet all other setback requirements. (44 Barberry Lane, Tax Map 36, Lot 19). The application is complete; however, due to the addition of a bedroom, capacity of the current septic system needs to be addressed.

The Chairman indicated that three voting Board members in attendance provides a quorum for the Board, and the applicant agreed to move forward with the application. He asked Mr. Hebert to present the proposal and address the five criteria to be met in order for a proposal to qualify for the granting of a Variance.

Mr. Herbert restated the request for a Variance as indicated above. He stated that he is not residing at this property, but an active duty member of the U.S. Air Force in San Antonio, Texas. He is currently renting the 44 Barberry Lane residence, and when the lease expires in July 2023 and upon approval of the Variance, plans to refurbish the residence, complete the addition, and relocate to New Hampshire to reside in the home. Mr. Hebert provided the Board with pictures of the property and a plot plan depicting the addition on the south side the the current structure. The addition could not be placed on the north side of the structure due to location of a sub-level, two-car garage.

Mr. Hebert addressed the five criteria to be met for a proposal to qualify for the granting of a Variance as follows:

1. Explain why the granting the Variance will not be contrary to the public interest.

Granting the Variance will not be contrary to the public interest since the proposed addition does not infringe on the abutter's property and the new construction is in line with the current house architecture, specifically, the addition will closely match the original structure. The proposed use (master bedroom, bath, and closet) does not conflict with the explicit or implicit purpose of the Ordinance, and will not change the character of the neighborhood, threaten public health, safety, or welfare, or otherwise injure "public rights" since it will continue to be used strictly as a single-family residential property.

2. Explain why the use of the property contemplated by the applicant as a result of obtaining this Variance would not be contrary to the spirit of the Ordinance. Why would the spirit of the Ordinance still be observed?

The spirit of the ordinance would still be observed since the proposed addition would only affect the side property line setback. All other setbacks are met. Moreover, the affected side property line abuts a 25-foot greenbelt that runs parallel between my home and 43 Barberry Lane, which is owned by Mr. John Wentworth. The addition would only be visible to Mr. Wentworth's property, and he has indicated support for the addition. The 25-foot greenbelt will ensure the appearance of the 25-foot setback, required within Article 1.4.1, thus upholding the spirit of the Ordinance. Lastly, the proposed addition will neither affect the health, safety, or general welfare of the community nor will it add congestion or other dangers.

3. Explain how, by granting the Variance, substantial justice would be done.

Granting the Variance would provide substantial justice since the proposed addition allows establishment of first-floor master bedroom, which will allow the avoidance of repetitive climbing between the first and second story. Additionally, it would allow for sufficient space for my family by providing enough bedrooms for everyone while increasing living space and storage. There will be no harm to the general public.

4. Explain why the values of surrounding properties will not diminish as a result of the granting of this Variance.

The values of surrounding properties will not be diminished as a result of granting the Variance since new construction is in line with current house architecture and construction will be completed by a licensed contractor. Additionally, I take pride in my property and curb appeal and would not risk disturbing the beauty of our community. Whig Hill has been my home since I was young, and I would never want to disrupt the quiet country living character of the neighborhood.

5A. Explain the "special conditions" of the land that distinguish it from other properties in the area, such that denial of the Variance would result in unnecessary hardship. How is the proposed use a reasonable one? How is your property unique such that no fair and substantial relationship exists between the general public purposes of the Ordinance and the specific application of that provision to your property?

i. The proposed use of the property is reasonable and Variance denial would result in an unnecessary hardship since planned land usage complies with current structure egress, the proposed addition does not infringe on abutter's property, and current pricing favors consideration at this time.

ii. In the alternative, if the ZBA does not find sufficient unnecessary hardship, I offer that the Board need not find hardship at all. In accordance with NH Rev Stat 674:33,V. the ZBA is authorized to grant Variances to zoning Ordinances for a person or persons having a recognized physical disability to reside or regularly use the premises. Since the proposed addition is in harmony with the general purpose and intent of the zoning Ordinance and I will maintain the home as my fulltime/permanent residence, the ZBA is authorized to grant the Variance. Meanwhile, denial of the Variance would limit reasonable use of the property since I have a recognized disability which was incurred as a result of my active military service.

5B. Explain how the "special conditions" of your property distinguish it from other properties in the area, such that there is not a reasonable use of your property without the granting of a Variance.

Special conditions exist wherein the property does not have enough space in the rear, east side, to construct an addition which would comply with the required setback within Article 1.4.1, Section C of the Zoning and Land Use Ordinance. Additionally, there exists no reasonable alternative means to construct a first-floor master bedroom addition. As such, an alternate means for an addition is not available.

Mr. Hebert concluded his presentation and asked the Board for favor-full consideration regarding the granting of the Variance. Scott Hodgdon asked if the septic system was capable of handling a four bedroom home or if it needed to be upgraded. The Chairman indicated that the Whig Hill subdivision, which includes Lot 19, is a state approved subdivision with all lots approved for four bedroom structures. The current septic system design is approved for a three bedroom home. Both the Board and the applicant agree that the lot will support a septic system upgrade for four bedrooms, and a design indicating the increased capacity can be achieved must be on file with the Town.

The Chairman opened the meeting for public comments at 7:32PM. John Wentworth, 43 Barberry Lane, stated that he had no objections to the addition to the home as proposed. There being no further comments, the Chairman closed the meeting to public comments at 7:33PM.

The Chairman restated for the record that RSA 674:33 allows the Board to grant a Variance to a zoning Ordinance without a finding of hardship if a physical disability indicates the need for the Variance. There being no further discussion by the Board, the chairman asked for a motion to grant the Variance, contingent upon receipt of a state approved four bedroom septic system design, which was so moved by Aaron Leff and seconded by Scott Hodgdon. All voting Board members present voted verbally in the affirmative, and the motion passed.

There being no further business before the Board, the Chairman called for a motion to adjourn. Aaron Leff moved to adjourn, which was seconded by Scott Hodgdon, and voted on verbally in the affirmative by all voting Board members. The meeting adjourned at 7:36PM.