

Zoning Board of Adjustment Meeting Minutes

Location: Strafford Town Hall Conference Room

Date & Time: October 19, 2023 7:00PM

Voting Board Members Present:

Ashley Rowe – Chairman
Aaron Leff
Katrina Labrecque
Scott Hodgdon

Non-Voting Board Members Present:

Jean Chartrand-Ewen
Charlie Burnham

Others Present:

Blair Haney, Strafford Regional Planning Commission, Regional Planner
Robert Fletcher, Minutes Recorder

The Chairman called the meeting to order at 7:02PM and indicated the closing date for new applications to be filed for the agenda for the regular November 16, 2023 meeting will be Thursday, October 26, 2023.

The Chairman asked the Board members if they had reviewed the minutes for the September 21, 2023 meeting, and all indicated they had. Aaron Leff made a motion to accept the minutes as written, which was seconded by Scott Hodgdon and voted upon verbally in the affirmative by all voting Board members.

Continuing Business

Elliot Case 23-008: Zachary and Kristina Elliot are requesting a Variance to Article 1.4.4, Section 3 of the Zoning and Land Use Ordinances in order to allow a partially constructed building to remain in place. The structure is located within approximately 10 horizontal feet of a designated wetlands area as shown on the 2016 subdivision plan, which is up to 40 feet closer to wetlands than ordinances require. (Location: 1050 Second Crown Point Road, Tax Map 19, Lot 1-1)

Zachary Elliot addressed the request for a Variance. He indicated that they planned to build a house on the property and, in preparation, constructed a driveway and a small barn. He was unaware of the small wetland area on the property when locating the site for the barn on top of a steep hill. Mr. Elliot referenced a plot plan by Ross Engineering LLC., depicting barn and wetland locations, and a letter from Alex Ross, indicating the plan to provide a 5-foot wetland buffer planting area and a 5-foot no mow area to protect the wetland area. The Variance request included two photographs of the barn from different directions.

The Chairman asked about the status of a septic design and the primary use of the structure. Mr. Elliot indicated that Alex Ross would be designing the septic system, and the structure was an out-building used to store his tools. When asked if the structure would be hooked up to a septic system, Mr. Elliot indicated they wanted to, but with the wetland setback issue now consider the structure to be a barn.

The Chairman indicated the following concerns:

- Based on the photographs of the structure, it looks more like a tiny house rather than a barn. It has residential looking windows and a deck. The structure has the potential to become a residence and may not meet the size criteria for a home.
- Zoning regulations require a structure to have a primary or secondary use. Storing tools in a barn on vacant land is a secondary use, not primary. For the structure to be allowed for secondary use, there must be a primary use structure, such as a residence, on the same property.
- 5-foot planting area and a 5-foot mow area doesn't meet best management practices for over-land treatment and does not provide better wetland protection than the required setback.
- Wetlands were filled as part of the project as noted on the plan, but no indication of how the wetlands were impacted and a plan for restoration.

The Chairman stated that the 50-foot wetland setback buffer for a structure is required for any size wetland area. An additional 25-foot "no-cut" buffer is required when a wetland area exceeds 3000 square feet. Charlie Burnham stated that he could not remember within the last 20 years granting a Variance this close to wetlands. The Chairman suggested relocating the structure to meet setback requirements. Mr. Elliot indicated that they had obtained a estimate at \$25,000 to move the building. The Chairman advised Mr. Elliot that the Board could not consider this a financial hardship for granting a Variance due to the self-imposed error by Mr. Elliot.

The Board considered the five criteria to be met for a proposal to qualify for the granting of a Variance as presented in the Variance request:

1) Explain why the granting of this variance would not be contrary to the public interest.

This is a very small structure and will not be contrary to the public interest. No Harm to the public will result in granting this variance.

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 is to offer protection to wetland areas. A small barn with simple pier foundation supports within the 50-foot buffer with a 5-foot buffer planting strip and a 5-foot no mow strip will offer much more protection than is required.

3) Explain how, by granting this variance, substantial justice would be done.

Each case must be reviewed by the board individually. It would be an injustice to deny this variance since adequate wetland protection will be provided.

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

A well-built architecturally pleasing small barn will not diminish surrounding property value. In fact, this project will increase property values.

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?

This property is unique with all the small pockets of wetlands, and the many setbacks. A denial of this variance would result in an unnecessary hardship.

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.

This is a narrow parcel with multiple pockets of wetlands and a steep slope from the rear to the street. The proposed improvements will offer a high level of wetland protection over and above the town regulations.

The Board determined that all the responses, except number 4, did not meet the criteria to qualify for the granting of a Variance. The Chairman opened the meeting for public comments at 7:33PM, and there being none, closed the meeting to public comments. He informed Mr. Elliot that a Variance denial by the Board would limit the readdressing of the Variance request, which would only be allowed if there was substantial change to the original submission. Mr. Elliot could, however, request a continuance before the Board vote to allow the current Variance request to be considered at a subsequent Zoning Board meeting, where additional information and/or justification for the Variance would be expected to be presented.

Mr. Elliot requested a continuance. The Chairman asked for a motion to grant a continuance, which was so moved by Jean Ewen, seconded by Scott Hodgdon, and voted upon verbally in the affirmative by all voting Board members.

New Business

Candy Rand Snyder is requesting a Variance to Article 1.4.1, Sections B and C, of the Zoning and Land Use Ordinances in order to construct a new 25-foot by 24-foot garage which will be located closer to the front boundary and to the side boundary than ordinances require. On a corner lot, front yard setbacks are required to both Bow Lake Estates Road and Kooauakee Court. The proposed garage would come within approximately 8 feet of the applicant's property boundary, which would be up to 32 feet closer to the front boundary with Kooauakee Court than current ordinances require and may be up to 17 feet closer to the adjoining lot to the northwest than current ordinances require. (52 Bow Lake Estates Road, Tax Map 23, Lot 115)

Candy Rand Snyder and Heather Hale were present to address the Variance request as needed. The Chairman stated that the sketch of proposed location of the garage on a septic design plan indicated a road on the side boundary of the property. The road had not been constructed, which was confirmed by reference to the Town Tax Map. This would reduce the required setback from 40-feet to 25-feet.

The Chairman asked if the garage could be attached to the house in order for the structure to be further from the property boundary. The applicant responded that a wheelchair ramp was on that side of the house for normal entry into the home, which prevented an attached garage. A secondary entrance could not be utilized without construction of a deck which would require an additional Variance for boundary setback.

The Chairman noted that Town policy and procedure for a dimensional Variance requires a plan prepared by a land surveyor that shows the proposed building location and its proximity to property boundaries. The Board is not able to address the Variance request without this. Based on the need for this plan, the applicant requested a continuance. The Chairman asked for a motion to grant a continuance, which was so moved by Jean Ewen, seconded by Aaron Leff, and voted upon verbally in the affirmative by all voting Board members.

Other Business

The Board briefly discussed the need to address changes to the Accessory Dwelling Unit square foot maximum, and noted that the Planning Board was addressing this.

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 in the affirmative by all Board members. The meeting was adjourned at 8:04PM.