

Zoning Board of Adjustment Meeting Minutes

Location: Strafford Town Hall Conference Room

Date & Time: September 19, 2024 6:30PM

Board Members Present:

Ashley Rowe – Chairman
Aaron Leff
Katrina Labrecque
Jean Chartrand-Ewen

Alternate Board Members Present:

Charlie Burnham

Others Present:

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

The Chairman called the meeting to order at 6:31PM and indicated the closing date for new applications to be filed for the agenda for the regular October 17, 2024 meeting is Thursday, September 26, 2024. He recognized Board members Aaron Leff, Jean Ewen, and Charlie Burnham as present.

Continuing Business

Case #462, Leavitt Lane (Tax Map 37, Lots 54 through 62). KRJ Finance, LLC is requesting a Variance under Article 1.9.1 to the requirements of Article 1.4.1, Section A, Frontage, of the Zoning and Land Use Ordinances in order to allow the merger of Tax Map 37, Lots 54 through 62 to create one building lot with less than the 200 feet of frontage required by current ordinances.

Prior to the meeting, the applicant requested a continuance. The Chairman asked for a motion, and Jean Ewen made a motion to approve a continuance to the October 17, 2024 meeting, which was seconded by Aaron Leff, and voted upon verbally in the affirmative by all voting Board members. The motion passed.

New Business

130 Bow Lake Estates Road (Tax Map 23, Lot 21). Michael Twomey is requesting a Variance to Article 1.4.1, Section C (Side and Back Yards) of the Zoning and Land Use Ordinances to construct a new 20' by 24' foot attached garage to an existing non-conforming structure. The new garage would extend within 8' 10" of the northeasterly side boundary at its closest point, and within approximately 15' of a structure on the abutting property to the northeast, which is up to 16' 2" closer to the side boundary and approximately 35' closer to a structure on an abutting property than current ordinances require.

Prior to the meeting, the applicant requested a continuance. The Chairman asked for a motion, and Jean Ewen made a motion to approve a continuance to the October 17, 2024 meeting, which was

seconded by Aaron Leff, and voted upon verbally in the affirmative by all voting Board members. The motion passed.

169 Bow Lake Estates Road (Tax Map 23, Lot 96). Steven and Fiona Myers are requesting a Special Exception in accordance with Article 1.7.1 (Non-Conforming Use) of the Zoning and Land Use Ordinances to construct a 10' by 26' second floor addition over existing first-floor space and a new approximately 4' by 7.5' deck on the easterly end of their existing non-conforming home. The existing home comes within 16.8' of the easterly side boundary, which is up to 8.2' closer to the side boundary than current ordinances require. The proposed addition will add a second floor to the existing structure. A new second floor deck on the rear of the new space would come within approximately 20.5 feet of the side boundary at its closest point, which is up to approximately 4.5 feet closer to the side boundary than current ordinances require.

The Chairman stated for the record that the applicant submitted a plan prepared by Norway Plains several years ago, and Norway Plains has nothing to do with the current proposal. He asked the applicant to present the case.

Steven Myers indicated that the proposed second floor is an addition to a previously approved single story addition to the existing residence, which will expand the second story master bedroom. The existing deck with entry from the master bedroom on the back of the residence will be removed, and a new deck will be constructed with entry from the proposed second floor addition. The Chairman asked Mr. Myers to show the Board how the original February 2022 Zoning Sketch and the drawing of the proposal correlate, and to specifically determine the location of the new deck. It was determined that the placement of the new deck would make the structure more non-conforming, which would require a Variance rather than a Special Exception. The second floor addition, however, qualifies for a Special Exception, because it does not make the structure more non-conforming. The applicant decided to keep and refurbish the existing deck rather than build a new one.

The Chairman opened the meeting for a Public Hearing at 6:41PM, and there being no comments, closed the Public Hearing. The proposal met the Special Exception criteria, and he asked for a motion to approve the Special Exception for the second story addition with the existing deck remaining in place and without construction of the proposed new deck. Jean Ewen made the motion, which was seconded by Aaron Leff and voted upon verbally in the affirmative by all voting Board members. The motion passed.

163 Brown's Pasture Road (Tax Map 33, Lot 10). The Charles R. Masiello Family Trust is requesting a Special Exception under Article 1.7.1 (Non-Conforming Use) of the Zoning and Land Use Ordinances in order to replace and expand a one-story non-conforming structure and a non-conforming septic tank located on a non-conforming parcel. The replacement two-story structure, not including a proposed new deck, would come .06 feet closer to the easterly side boundary than the existing structure. The proposed new structure would be located .34' further from the westerly boundary and 3.5' farther from the shore of Bow Lake than the existing structure. The proposed new septic tank would be located in the same place as the existing septic tank.

Chris Berry of Berry Surveying and Engineering, representing the applicant, briefly described the property as a family compound with several structures. The proposal is to remove and replace one of

the structures with a less non-conforming footprint and still conform with all the existing setbacks. He addressed the Special Exception criteria as follows:

1. The use, lot, or structure has not been made more non-conforming because:
The new structure will not be more non-conforming, remains within the existing structure footprint, and is setback further from Bow Lake.
2. The change or expansion of the use is not detrimental or offensive to the owners of adjoining property or to the Town, does not adversely affect nearby property values, does not cause any hazard to health or safety, and does not adversely affect the character of the area in which the use will be located because:
The newly constructed home will be sandwiched between other structures on the property, and residential construction on a residential lot does not create any undo hazards.
3. The use conforms to all other applicable regulations governing the district:
The applicant will apply for Shore Land Protection and Sub-Surface permits. The septic disposal system will be new and the holding tank will be placed further from the lake shore, which results in a positive impact on the lake. The parking area will feature a porous surface, and the structure will have a common drip edge and infiltration control.
4. The use has an adequate water supply and sewerage system and meets all other applicable requirements of the State of New Hampshire because:
Septic system design will be submitted to NH DES.

Katrina Labrecque joined the meeting at 6:49PM. Jean Ewen asked how the impervious surfaces were going to be maintained. Mr. Berry indicated that the materials used are maintenance free due to their design and configuration. The Chairman opened the meeting for a Public Hearing at 6:51PM, and there being no comments, closed the Public Hearing. He asked for a motion to approve the Special Exception, which was made by Jean Ewen, seconded by Aaron Leff, and voted upon verbally in the affirmative by all voting Board members with Katrina Labrecque abstaining. The motion passed.

163 Browns Pasture Road (Tax Map 33, Lot 10). The Charles R. Masiello Family Trust is requesting Variances to Article 1.4.4, Section 3 (Wetland Buffer Areas) and Article 1.4.1, Section C (Side and Back Yards) of the Zoning and Land Use Ordinances to construct a new approximately 10' by 14' deck and 4' wide stairs on a non-conforming lake shore home. The proposed deck would come within 33' of the shore of Bow Lake, which is up to 17' closer than current ordinances require, and the access stairs would come within 26.6' of Bow Lake, which is up to 23.4' closer to Bow Lake than current ordinances require. The new deck would also come within approximately 16.25' of the easterly side boundary, which is up to 8.75' closer to the side boundary than current ordinances require.

Chris Berry of Berry Surveying and Engineering, representing the applicant, described the proposal and noted that NH DES would permit a 10-foot wide deck on the entire lake-front side of the structure. The proposed deck length will be less than half the width the the structure. The deck surface will allow storm water to pass through to a crushed stone porous surface under the deck and stairs. Mr. Berry addressed the criteria for granting a Variance as follows:

1. Granting of the Variance would not be contrary to the public interest.
The public interest, with respect to these sections are to ensure structures are as conforming as possible while maintaining a reasonable use of the site. Though the project proposes a deck and stairs closer to the reference line, the primary structure is moved away and the site

improves storm water from the impervious surfaces. The improvements are accessory to the primary use and will have the required storm water mitigation required to ensure the lake is not impacted.

2. Granting the Variance would be consistent with the spirit of the Ordinance.

The spirit of the ordinance is to ensure a reasonable use of the water front. In this case the addition of a deck and a set of stairs will not alter the essential character of the neighborhood or the water's edge. In fact, many of the abutting structures contain the same attributes that are being proposed.

3. Granting of the Variance would do substantial justice.

The benefit to the applicant far outweighs any potential detriment to the ordinance by allowing the applicant to build a reasonable size deck with access stairs. It is reasonable to think that these attributes are affixed to a lake side home, while maintaining the most reasonable distance practical.

4. Granting the Variance will not result in diminution of surrounding property values.

The surrounding properties will not be diminished in value by the re-construction of the project site with a deck and stairs. In fact, the abutting parcels contain decks and stairs that are closer to the reference line and do not contain the LID that this project is proposing.

5. Special conditions exist such that literal enforcement of the Ordinance will result in unnecessary hardship to the applicant as defined under applicable law.

In this case the special condition of this parcel is the existing infrastructure that is to remain in conjunction with the existing non-conforming lot and general home placement against the existing lot lines. There is no reasonable alternative to this request and therefore denial will cause an unnecessary hardship to the applicant. The site is special given the existing non-conformity. It is reasonable to expect someone could re-build a 90-year-old structure in approximately the same location with large improvements being made in water quality to the protected resource.

The Chairman noted that buildings of this age are entitled by right from a State prospective, under State law, to a ten-foot wide deck no matter how close it is to the shore. A Variance would still be needed if setbacks are not met. The plan depicted the deck stairs as projecting straight out toward the lake from one side of the deck. The Board asked if the stairs could be modified to reduce the setback encroachment. Mr. Berry proposed a 90 degree turn in the stairs, which would increase the setback distance by approximately six feet.

The Chairman opened the meeting for a Public Hearing at 7:09PM, and there being no comments, closed the Public Hearing. He asked for a motion to approve the Variance contingent upon the applicant providing State approved Shore Land plans that reflect the deck stairs folding back in a northeasterly direction along the face of the deck. Aaron Leff made the motion, which was seconded by Jean Ewen and voted upon verbally in the affirmative by all voting Board members. The motion passed.

Other Business

The Board had previously questioned if alternate Board members who don't attend meetings should be removed. The Chairman indicated that he'd sent a letter to the Selectmen requesting removal of an

alternate. The Selectmen decided to wait until the alternate's term expired in March 2025, rather than proceed with removal, which would require a Public Hearing.

The Chairman introduced Owen Corcoran as the new Strafford Regional Planning Commission (SRPC) representative. Mr. Corcoran is a 20-year veteran of the U.S. Coast Guard, a former land-use clerk in Kensington, and currently a Public Administration graduate student at the University of New Hampshire. He began work with SRPC on August 26, 2024.

Jean Ewen would like to see additional requirements be met for approval of Special Exceptions that do not result in more non-conformity. Currently, she believes it's "any thing goes" with no limits on what can be done when a non-conforming structure modification is not more non-conforming, and "bulking", or additional volume, should be considered. The Planning Board would be responsible for adding this requirement to current Ordinances. The Chairman, personally, was not in favor of including volumetrics into non-conformity considerations; however, if the Board, by vote, supported this change, the Board could present regulatory examples from neighboring towns to the Planning Board for consideration. Lacking Board support, any Zoning Board member, as a concerned Town resident, has the right to address this individually with the Planning Board.

The Chairman asked the Board to review the minutes from the August 15, 2024 meeting. Jean Ewen made a motion to accept the minutes as written, which was seconded by Aaron Leff and voted upon verbally in the affirmative by all Board members in attendance at the meeting. He asked the Board to review the minutes from the July 18, 2024 meeting. Katrina Labrecque made a motion to accept the minutes as written, which was seconded by Jean Ewen and voted upon verbally in the affirmative by all Board members in attendance at the meeting. The motion passed.

There being no further business before the Board, the Chairman called for a motion to adjourn. Jean Ewen moved to adjourn, which was seconded by Aaron Leff and voted on in the affirmative by all Board members. The meeting adjourned at 7:33PM.