

Zoning Board of Adjustment Meeting Minutes

Location: Strafford Town Hall Conference Room

Date & Time: October 17, 2024 6:30PM

Board Members Present:

Ashley Rowe – Chairman
Aaron Leff
Katrina Labrecque

Alternate Board Members Present:

Charlie Burnham
Alan Williams

Others Present:

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

The Chairman called the meeting to order at 6:37PM and indicated the closing date for new applications to be filed for the agenda for the regular November 21, 2024 meeting is Thursday, October 31, 2024. He stated that two alternate Board member positions are currently unfilled with another one opening up in March 2025. The Board of Selectmen have interviewed two Town residents and have recommended them as alternates. One of them, Alan Williams, was present at the meeting, and the Chairman asked him to introduce himself. Mr. Williams grew up in Strafford, recently moved back to Strafford, and is a builder by trade. His expertise would be a welcome addition to the Board. Charlie Burnham made a motion to appoint Mr. Williams as an alternate Zoning Board of Adjustment member, which was seconded by Aaron Leff and voted upon verbally in the affirmative by all voting Board members. The motion passed. He left the meeting to be sworn in by the Town Clerk.

Mr. Williams returned, and the Chairman recognized Board members Aaron Leff, Katrina Labrecque, Charlie Burnham, and Alan Williams as present. He appointed both Charlie Burnham and Alan Williams as voting Board members for the meeting.

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.

The Chairman briefly stated that the authority for the merger of lots rests with the Town Planning Board, and that Board is prohibited from allowing the merger because it will create a sub-standard lot due to a road frontage of less than 200 feet. In order for the Planning Board to address the merger, a Variance to the frontage requirement is needed. The Zoning Board's role is to weigh the merits of the case and determine if it meets the criteria for the proposal to qualify for the granting of a Variance.

The Chairman asked Chris Berry of Berry Surveying and Engineering, representing the applicant, to present the proposal. Mr. Berry stated that the lots proposed for merger were part of an October

1975 approved subdivision, and located on the portion of Leavitt Lane that was not built to completion. The applicant proposes the merger of nine lots into one lot with access from the completed portion of Leavitt Lane, and the subsequent construction of one structure with one septic system on the single lot. The structure would be outside the Shore Land Protection Zone associated with the Isinglass River. He emphasized that the proposed location of the structure on the plan was not part of the Variance the applicant is requesting. A limited survey of the site has been completed, and deed/road record research indicates the applicant owns the road bed right-of-way from the paved Leavitt Lane terminus through all the lots to be merged. In addition, records indicate that the Town has accepted maintenance responsibility for Leavitt Lane up to its terminus. Therefore, the applicant has 50 feet of frontage for access to Lots 54 through 62, which would provide driveway access to the proposed structure.

The Chairman questioned the applicant's intended use of the structure with respect to a single or multiple family dwelling. Mr. Berry indicated that a single family dwelling is planned due to current subdivision's protective covenants which are binding; however, structure use is not part of the Variance request, and the applicant wants to reserve the right to develop the property that is consistent with the covenants, which may change in the future. Katrina Labrecque asked if the applicant would be able to bring the road up to Town specifications to access the original lots. The Chairman indicated that the applicant has the option to upgrade the road or grant right-of-way to the lots, which would then become buildable lots if a septic design is approved. The only requirement for road construction would be that it meet fire code.

The Chairman opened the meeting for a Public Hearing at 7:05PM.

Don Clifford, Tasker Hill Road, stated that he is a current member of the Planning Board. Another party interested in buying the property met with the Planning Board to determine what could be done with the property. The Chairman asked if there was an active application before the Planning Board, and Mr. Berry indicated there wasn't one. Mr. Clifford continued and indicated that a road build-out would need to be within the confines specified in the original subdivision. Any roadway construction outside these parameters would then require two acre lots with 200-foot minimum frontage. He would like to see this applicant come before the Planning Board and probably work with him to do a conservation subdivision. The Chairman stated that the Zoning Board is only addressing the Variance request, and if granted will allow the applicant to address the lot merger with the Planning Board.

Tony Spadafora, 38 Leavitt Lane, indicated that where the paved road ends there is no place for vehicles to turn around and Town snow plows do not have adequate space to pile snow. He would like to see a cul-de-sac placed at the end of the road to eliminate these problems. The Chairman stated that the Town does not have the right-of-way needed for a cul-de-sac. Land owners would need to give up land to provide right-of-way, and this would result in loss of grandfathered status for the sub-standard lots. Therefore, a cul-de-sac is not an option. When asked by the Chairman, Mr. Spadafora indicated that the roadway ends about 20 feet after his property boundary, and he has paved a portion of the unimproved roadway to meet his driveway, which is also paved. Mr. Barry pointed out that an additional driveway to a structure on the applicant's property would alleviate some of the plowing concerns, because that resident would have to plow their driveway. He also confirmed that the unimproved roadway bordering Mr. Spadafora's property is owned by the applicant. The Chairman suggested the two parties might agree to share the maintenance of the shared portion of the

driveway; however, the Planning Board would need to address this as a condition of the merger approval along with a location for emergency vehicle turn-around.

Mike Harris, 29 Leavitt Lane, also expressed concern about Town snow plowing with a driveway continuation and no place to push the snow. Mr. Barry indicated that any resident occupying a residence on the applicant's property will want to be part of the neighborhood community and not be plowed in any more than other residents. He believes there would be adequate space to pile snow along the 50-foot right-of-way, because the driveway would only be 20 feet wide. The property site plan includes a driveway hammerhead turn around near the proposed structure location. The Chairman emphasized that these concerns should be addressed by the Planning Board.

Cody Zane, 24 Leavitt Lane, asked if the Board denies the Variance, could the applicant build on all the lots on a dead end road. Don Clifford offered the opinion that the road would have to ~~go through~~ be built to connect on the other end. The Chairman stated, and Mr. Barry agreed, that under RSA 6-74 the original lots are entitled to building permits even if the road is upgraded and is a dead end. Proceeding with completion of the roadway would not be a request for a subdivision. Therefore, subdivision requirements would not apply, and the Planning Board would not have jurisdiction.

Tony Spadafora, 38 Leavitt Lane, restated the right-of-way issues preventing completion of Leavitt Lane connection to Birch Road, and expressed displeasure that this uncompleted subdivision has been in existence for a very long time. He stated that he has been using the unimproved right-of-way for his driveway for over 40 years, and believes he is legally entitled to its continued use. The Chairman suggested Mr. Spadafora seek legal counsel regarding a claim for adverse possession. He did indicate that land owners in the subdivision and members of the subdivision association may have the right to access on the right-of-way even though the applicant owns the property.

Don Clifford, Tasker Hill Road, expressed concern regarding the number of structures allowed on the property. Mr. Barry clarified the applicant's intention to build one structure if the Variance is granted and the lots are merged. However, an Accessory Dwelling Unit may be authorized with Zoning Board approval.

Amanda Zane, 24 Leavitt Lane, asked if merging the lots into one lot supersedes the subdivision lots and can no longer be broken apart for individual houses. The Chairman stated that the applicant is seeking a voluntary merger of lots which is irreversible. Any attempt to re-subdivide the property would need to comply with current subdivision requirements, which could not be met for this property.

Don Clifford, Tasker Hill Road, stated that he was not against the applicant coming to the Planning Board and asking to do a conservation subdivision to allow additional structures on the property. The Chairman cautioned Mr. Clifford regarding his statements. Although he is entitled to speak as a member of the public, as a Planning Board member, he may be prejudicing himself against the application when the Planning Board addresses it, and the applicant may request he be recused as a Board member. Mr. Clifford indicated that the property is in the part of town where development is encouraged.

Tony Spadafora, 38 Leavitt Lane, asked what the required radius for a cul-de-sac to handle emergency vehicles. The Chairman was not sure of the Town requirement, and Mr. Barry stated that they were not proposing a cul-de-sac for turn-around capability, but planned on the use of a hammerhead turn-around located on the driveway access to the structure on the property.

There being no further comments or questions from public, the Chairman closed the Public Hearing at 7:38PM.

The Chairman asked Mr. Berry if he had any comments before addressing the criteria to be met for a proposal to qualify for the granting of a Variance. Mr. Berry noted the need to address an emergency vehicle turn-around and snow management with the Planning Board if the Variance is granted. He provided responses to the five criteria as follows:

1. Granting of the Variance would not be contrary to the public interest.

The public interest, with respect to these sections is to ensure that the general space and bulk standards are adhered to utilizing the road frontage as a way of creating uniformity and separation. This is done for the purposes of keeping Strafford rural in nature. In this case however the constructed status of Leavitt Lane is unknown, so it is unlikely the lot has 200' of frontage on a road meeting the requirements of the Town of Strafford. However, the zoning regulations do allow the creation of back lots which permit 50' necks to be created to rear lands, again in the spirit and public interest of keeping a rural nature. The request to allow access into the property over the frontage afforded to the lot and the known access into the lot for the purposes of building on one parcel is in keeping with the back lot provisions and keeps the rural nature of the area. The alternative to granting this Variance, which is the build-out of the subdivision lots, would result in more non-uniformity than the lot merger proposal.

The Chairman suggested that the Board vote on the merit of criteria separately and asked for a motion to reflect if the applicant met the criteria. Aaron Leff made a motion to affirm that the applicant met the criteria, which was seconded by Katrina Labrecque and voted upon verbally in the affirmative by all voting Board members. The motion passed.

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

The spirit of the ordinance is to ensure uniformity with the abutting lots as they pertain to space and bulk standards. The request provides an opportunity to develop the lot in a reasonable way that does not change the character of the neighborhood in a marked way and therefore meets the spirit of the ordinance. The alternative is to review the construction of Leavitt Lane to develop the remaining non-conforming lots in the subdivision.

The Chairman asked for a motion to reflect if the applicant met the criteria. Aaron Leff made a motion to affirm that the applicant met the criteria, which was seconded by Katrina Labrecque and voted upon verbally in the affirmative by all voting Board members. The motion passed.

3. Granting of the Variance would do substantial justice.

The benefit to the applicant far outweighs any potential detriment to the ordinance, abutting land owners, and the Town in general by allowing the applicant to build on the merged lots. Though developing Leavitt Lane to its logical conclusion would be in keeping with the remainder of the neighborhood, the proposed alternative is likely less impactful for all and has less environmental impact on the area.

The Chairman asked for a motion to reflect if the applicant met the criteria. Aaron Leff made a motion to affirm that the applicant met the criteria, which was seconded by Katrina Labrecque and voted upon verbally in the affirmative by all voting Board members. The motion passed.

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

The surrounding properties will not be diminished in value by the construction of the merged one lot. This is a residential area and the proposal is for a residential use.

The Chairman asked for a motion to reflect if the applicant met the criteria. Aaron Leff made a motion to affirm that the applicant met the criteria, which was seconded by Katrina Labrecque and voted upon verbally in the affirmative by all voting Board members. The motion passed.

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 which was allowed to started and not completed at the time. The sale and construction of other lots in the subdivision without the requirement for the completion of Leavitt Lane is not the fault of the current land owner, who has offered to merge the lots into one lot for construction. Denial of the variance would require the construction of roadway infrastructure that is unnecessary but for the frontage requirements. These area requirements that are unnecessary for access into the property as demonstrated by the allowance of back lots.

The Chairman asked for a motion to reflect if the applicant met the criteria. Aaron Leff made a motion to affirm that the applicant met the criteria, which was seconded by Katrina Labrecque and voted upon verbally in the affirmative by all voting Board members. The motion passed.

The Chairman stated that the applicant met all the criteria for a proposal to qualify for the granting of a Variance. However, the Board briefly discussed additional conditions as part of a granted Variance to address property abutter's concerns expressed earlier. Katrina Labrecque confirmed that the granting of this Variance would not limit the applicant in pursuing alternate use of the property if the Planning Board denied the lot merger proposal. The Chairman asked for a motion to grant the Variance with the condition that the proposed merger includes all the lots depicted on the proposed plan (Lots 54 through 62) and the undeveloped portion of Leavitt Lane titled to the applicant, and that any proposed development, now and in the future in perpetuity, be in harmony with the subdivision Homeowners Association Protective Covenants and By-Laws. Aaron Leff made a motion to grant the Variance with conditions as stated, which was seconded by Katrina Labrecque and voted upon verbally in the affirmative by all voting Board members. The motion passed. The Chairman urged the abutters to attend the Planning Board meeting when the lot merger proposal is addressed.

New Business

Case #465, 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 24' by 24' foot attached garage to an existing non-conforming structure. The new garage would extend within approximately 34' 3" of the front boundary and 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 approximately 5' 9" closer to the front boundary and 16' 2" closer to the side boundary and approximately 35' closer to a structure on an abutting property than current ordinances require.

A member of Wilcox & Barton, representing the applicant, presented the proposal. She provided the Board with the proposed garage plan and briefly restated setback distances that do not meet current requirements. The Chairman confirmed that the structures the garage would be closer to were sheds, not permanent structures. The garage will provide adequate space for vehicles and eliminate the need for a shed on the property. She addressed the criteria to be met for a proposal to qualify for the granting of a Variance as follows:

1. Granting of the Variance would not be contrary to the public interest.

The Proposed garage is aligned with east façade of the current structure, We've discussed our plans with the abutting neighbor (Cindy Lavigne), and she has indicated support. Adding a

garage enhances the property and fits the neighborhood as the houses on the island (and the trend from a camp to year-round neighborhood) have changed dramatically from when the house was first built in 1966.

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

The proposed garage is extended from the front of the existing house, in straight line, towards the road. On the abutter's property to the east, there is an existing structure (garage) a similar distance to the lot line. Placement of the garage in this location provides privacy to both abutting neighbors. Also, with the addition of the garage, storage capacity is increased, negating the need for multiple sheds on the property, common in this neighborhood. Lastly, most of the garage extension would be adjacent to the neighbor's driveway rather than their house.

3. Granting of the Variance would do substantial justice.

With the density of pine trees on the property, cars are often covered in sap. By enabling us to build the garage, we could use the house as a year-round property more readily. Many other houses on the island have changed from summer camps to year-round residences and now include garages as a matter of practicality.

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

Surrounding property values could potentially increase with the addition of the garage and improvement of the house from a camp to a year-round residence. The proposed garage does not impinge on anyone's view nor would negatively impact the abutters property or enjoyment of the neighborhood or lake.

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

The existing home was built in 1966/67 prior to the adoption of the Zoning Ordinance. The home was built off center and within the side setbacks. Had the home been centered on the lot, adding a garage that meets the dimensional requirements would have been possible. The proposal to put a garage on a single family lot is a reasonable one for the purpose of vehicle maintenance and household storage. It does not diminish the rural appearance of the town, nor effect the health, safety or general welfare of the community. Since neighboring lots have structures similarly placed, property values are maintained, if not increased by the addition of a garage on this property. Based on information provided above, the narrowness of the lot and placement of the original camp does not allow for a garage to be placed on the property within the side yard setbacks. Constructing a garage for the purposes mentioned above is a reasonable request.

The applicant presented letters in support of granting the Variance, which the Chairman read into the record as follows:

- Letter, dated September 12, 2024, from Mark and Karen Stark, residing across the street. "We, Mark and Karen Stark, residing at 127 Bow Lake Estates Rd have been in contact with Michael Twomey regarding his request to build a garage. We have reviewed what he has submitted to the town as well as preliminary elevation images. We are fine with the plans as proposed by Michael."
- Email, dated September 23, 2024, from Charlie Lanza, residing across the street. "Hi Mike, I apologize for the delay in getting back to you. We reviewed your plans and at this time have no issues with what you're proposing. Thank you again for allowing us to review ahead of time."

- Letter, dated September 12, 2024, from Cindy Lavigne, a direct abutter to the east. “I, Cindy Lavigne, residing at 134 Bow Lake Estates Rd, Strafford, NH have been in contact with Michael Twomey regarding his request to modify his home and add a garage. I have reviewed what he has submitted to the town as well as preliminary elevation images. Although I will not be able to attend the September 19, 2024 Zoning Board meeting, I am fine with the plans as proposed by Michael.”

The Chairman questioned the use of the small “L” portion of the garage connecting to the side of the house. The applicant indicated that it was a “mud room” for entry into the house. The Chairman confirmed with the applicant’s representative that she was confident that the distances specified on the plan were accurately depicted, because town certification of proper placement of the garage foundation according to the plan would be required. Allan Williams asked if any living space over the garage was planned, and the applicant indicated it was not. Charlie Burnham confirmed that the new driveway would be paved and the old vehicle gravel parking area would be removed.

The Chairman opened the meeting for public comments at 8:16PM, and there being none, closed the meeting for public comments. The Board determined that the applicant met the criteria for the proposal to qualify for the granting of a Variance. The Chairman asked for a motion to grant the Variance contingent upon a State approved Shore Land Plan with storm water management, as necessary, and removal and restoration of the old gravel driveway area. Aaron Leff made a motion as stated by the Chairman, which was seconded by Katrina Labrecque and voted upon verbally in the affirmative by all voting Board members. The motion passed.

All the Board member had not reviewed the minutes from the September 19, 2024 meeting. The Chairman tabled acceptance of the meeting minutes until the November 21, 2024 meeting.

There being no further business before the Board, the Chairman called for a motion to adjourn. Katrina Labrecque moved to adjourn, which was seconded by Aaron Leff and voted on in the affirmative by all Board members. The meeting adjourned at 8:18PM.