

**TOWN OF NEW HAMPTON
ZONING BOARD OF ADJUSTMENT
MEETING MINUTES**

Site Visit - 152 West Shore Road

**Public Safety Building, Fire Dept Training Room
26 Intervale Drive, NEW HAMPTON, NH 03256**

April 14, 2021

- MEMBERS PRESENT** Regular members: Mr. Tierney, Mrs. Arsenault, Mr. Newman, and Mr. Livernois (4:07 pm).
- OTHERS PRESENT** Administrative Assistant Mrs. Vose, Carl Knowlton, Atty Boldt, and Ms. Roseberry
- CALL TO ORDER** Mr. Tierney called the meeting to order at 4:05 PM.
- SITE VISIT**
152 West Shore Road Ms. Roseberry showed the stakes that represented where the garage would be located (N side, with one corner not being staked as it would be in the existing shed), where the front of the house would be in relation to the road, pointing out that the house would meet the side setbacks of 20 feet. Atty. Boldt said there is a marking on the existing deck showing how the house would be moved back further from the lake. Everyone determined where the septic tank and leach field would be located. Ms. Roseberry showed the flagging to reflect the southern property line. Ms. Roseberry advised the board of what trees may be taken but they would meet NHDES requirements but plantings will be installed to reconstruct some of vegetation that would be removed. The board saw that the side where the garage would be constructed within the side setback, did not encroach the abutters developed property. It was only raw land, with the abutter's cottage being across the street. Members walked down to the lakeside of the existing home where the pins for the side property lines could be seen.
- RECESS** Mr. Livernois made a motion, seconded by Mr. Newman to recess the meeting at 4:23 pm and continue the hearing at the Fire Dept training room when everyone arrives there. Vote was unanimous.
- RECONVENE** The meeting was reconvened at 4:51 pm and everyone present at the site visit was present for this portion of the hearing.
- PUBLIC HEARING (cont)**
Carl Jr. & Camille Knowlton, 152 West Shore Road, Tax Map U-14, Lot 29, for a Special Exception - Article V, Section D, and a Variance – Article IV, Section A.4(ii), (iii), and (v) of the New Hampton Zoning Ordinance. Atty Boldt reminded the board the issues are with the garage to the side and front setback and the septic area to the side and front setback. The impervious area, currently at 22.3% would remain at the same percentage.
- Mr. Newman confirmed that the abutters, the Emersons, did send an email expressing their support, which Mrs. Vose read into record.
- Mr. Tierney advised the board would now go into deliberations, coming out of deliberations if any questions need to be asked of others present.

Mr. Tierney suggested the board consider all variances together under the criteria.

The variance will not be contrary to the public interest and the spirit of the ordinance is observed – Mr. Livernois said these meet the criteria as the garage is what is partially intruding into the setbacks and will likely improve this lot, is not doing any harm to the neighborhood or property values, and that a literal enforcement of the ordinance would do an injustice in this case and feels the variances should be granted. Mrs. Arsenault and Mr. Newman expressed agreement with Mr. Livernois' statement.

Mr. Tierney said he did not disagree and pointed out that the abutters nearest the proposed garage, have a .21 acre lot, as their home is across the street, which they use for lake access. Mr. Tierney advised that due to the small lot size and topography it is very unlikely any home could be constructed there. And while the setback is being encroached upon there is a buffer between the proposed garage and the next house. Mr. Tierney said relative to the spirit of the ordinance being observed he pointed out that one reason for the regulations is to prevent overcrowding and that when he looked at the proposed plans on paper, he was concerned at how large the home would be. He said the garage will be no closer than 19' to the right-of-way and with the road being private, it was unlikely the road would ever be widened. Mr. Tierney advised the impermeable area would not increase as the driveway will become permeable and the proposed plan is a good and proper use of the lot. Mr. Livernois agreed with the concern about overcrowding and density being an issue but that this will fit into the character of the neighborhood.

Substantial justice is done – Mr. Livernois agreed justice would be done as there is currently a substandard septic system in place and this would be improved, with the home being moved slightly further from the lake. Mr. Newman agreed with the improvement to the septic system. Mrs. Arsenault agreed.

The values of surrounding properties are not diminished – Mr. Tierney said this would improve the area and the members expressed agreement.

Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because special conditions of the property distinguish it from other properties in the area – Mr. Tierney said the application states several conditions of the property to make it different from the others, and agrees to some of those conditions, but not all listed. He said with the substandard lot and slope it is difficult to find room to construct a garage, and that in NH, a garage can be considered necessary. The other members expressed agreement.

Mr. Livernois made a motion, seconded by Mrs. Arsenault to approve the applicant's request for the variances as submitted. Vote was unanimous.

Relative to conditions, Mr. Tierney pointed out that the applicant requested the board add some conditions. The first being approval by NHDES for the shoreline impact permit. Mr. Tierney proposed the condition that there

be no additional impervious surface created on the lot, not to exceed the 22.3%. Mr. Livernois suggested the condition that the applicant file “as-built” plans once the project is complete.

Mr. Livernois made a motion, seconded by Mr. Newman to add the three conditions as discussed. Vote was unanimous.

Mr. Tierney reviewed criteria relative to the Special Exception on septic system being within the front and side setback to the property lines.

The specific site is an appropriate location for such use: Mr. Livernois said it as far away from the water as possible while maintaining 10 feet from abutter’s lot.

There is adequate area for safe and sanitary sewage disposal: the board agreed.

The use will not adversely affect the adjacent area: Mr. Livernois said this would improve the area.

There will be no nuisance or hazard created: Mr. Livernois said the state will ensure this does not happen when they review the septic design.

Adequate and appropriate facilities will be provided for the proper operation of the proposed use: The board agreed with this criterion.

The use will not impair the aesthetic values exhibited by the surrounding neighborhood: The board agreed.

The development of any lot including any building or impermeable area will not exceed the maximum percentage of lot coverage in the applicable zoning district: Mr. Tierney said the variance approved addresses this criterion.

Relative to the Agritourism criteria the board agreed this did not apply.

Mr. Livernois made a motion, seconded by Mrs. Arsenault to approve the Special Exception to construct the septic system within the setback distance to the right-of-way and side property line as requested. Relative to conditions a NHDES approval for construction should be required. Mr. Livernois made a motion, seconded by Mr. Newman to approve with the condition that a state approval for construction of the septic system be obtained. Vote was unanimous.

ADJOURNMENT

Mr. Tierney made a motion, seconded by Mr. Newman, to adjourn at 5:15 pm. Vote was unanimous.

Respectfully Submitted,

Pam Vose, Administrative Assistant