



Zoning Board of Adjustment Members

George Bailey, Acting Chair
Ray Desmarais, Vice Chair
Tracy Hardekopf
Paul Thibodeau
David Whitten

Meeting Minutes
Zoning Board of Adjustment (ZBA)
(Approved June 15, 2022)
April 20, 2022 at 7:00p.m.

CALL TO ORDER

R. Desmarais called the meeting to order at 7:00 p.m.

ROLL CALL

Members Present: George Bailey, Paul Thibodeau, Tracy Hardekopf, Dave Whitten, Ray Desmarais

Staff Present:

Town Administrator: Conner MacIver, Town Planner: Vanessa Price, Code Enforcement Officer: John Huckins

ACTION ITEMS

2. [121-30-GR-22-Var \(Owner: Richard Townsend\)](#) Request by applicant for a variance from Article 4, Section 4.1.1 Table 2 to allow setbacks from two road frontages 18.7' and 27.3' from Hall Road and 27.3' and 21.8' from Rosemary Lane where 40' is required and 23.2' from the side where 30' is required on a .24-acre lot in the General Residential Zoning District.

R. Desmarais gave a brief description of the application.

Richard Townsend of 119 Hall Road represented himself and gave diagrams to the Board. Mr. Townsend explained to the Board that he was to supply the Board with answers for the nonconforming lot along with the 5 criteria for the request for the variance was justified. Mr. Townsend explained that at the last meeting the Board heard from 3 neighbors they argued about all the surrounding development.

Mr. Townsend read the following:

PART IV – If this is a JUSTIFICATION FOR VARIANCE

The Zoning Board of Adjustment may not authorize a zoning ordinance variation unless ALL of the following criteria are met. Please provide evidence that the requested Variance complies by addressing the issues below.

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

Limited to a very old, deficient misplaced architectural design, not conforming to the area

- ☐ 2. Granting the variance would be consistent with the spirit of the Ordinance.

Conforming in size and angle that is conducive and protective in all aspects.

- ☐ 3. Granting the variance will not result in diminution of surrounding property values.

A conforming design will reduce values while proposed will increase values, and tax base.

- ☐ 4. Granting of the variance would do substantial justice.

As seen in my adjacent improvement, will enhance the visual and value to the town.

- ☐ 5. Granting of the variance would not be contrary to the public interest.

Conforming, enhancing and improving as well as providing future options cannot contradict the fair and logical minded public interest.

Mr. Townsend explained that he was asked why he would put this house on a angle. Mr. Townsend explained that Rosemary Lane comes up and there's a visual angular. Mr. Townsend explained that the safety of egress to and from Rosemary Lane to Hall Road. Mr. Townsend explained that the lot on the left was owned by Mrs. Pantano and her pavement was on his parcel. Mr. Townsend explained that they could always grant easement to make things easier for Mrs. Pantano. Mr. Townsend explained that if the house was square on that lot possible. Mr. Townsend explained the differences from the angles that demonstrates 2 house lots side by side and the angles are sideways on the road.

R. Desmarais explained to the applicant that he needs to address the variance not the other information that does not apply to this application.

D. Whitten explained that he was friends with one of the surveyors on this project and felt that it was a conflict.

G. Bailey explained that he used one of the surveyors last year for personal use and does not plan on using the surveyor again and felt that he would be impartial with his decision.

T. Hardekopf explained that the nonprofit that she was the CEO Executive Director of received a very large gift of donated in kind service to construct a \$1.7 million shelter.

R. Desmarais explained that D. Whitten and T. Hardekopf would be recusing themselves.

R. Desmarais explained that they still have two surveys that are in conflict and explained that if the Board uses the most conservative where does that put the set back on the plan that show that. R. Desmarais

expressed to the Board that he felt it was difficult to hear the case without this being resolved. R. Desmarais explained to the Board that the case should be continued until this surveying issue was resolved.

Mr. Townsend read that boundary disputes are not to be adjudicated by local Zoning Boards and should not be discussed in any great length at these meetings. Mr. Townsend explained that he has a boundary survey by a local professional that they are required to reply on.

T. Hardekopf explained that her understanding that when there are two submitted survey plans you must use the more conservative of the two plans.

R. Desmarais explained that was a choice the Board could make and he still had a concern with two surveyed plans and having to decide. R. Desmarais expressed that he would like to continue the case and give them the opportunity to resolve among themselves.

Chris Berry, President of Berry Surveying and Engineering explained to the Board that there are two individuals that disagree. Chris explained that there was no way to determine the time it's going to take for two people that disagree to agree. Chris explained that there was no time to determine for Mr. Townsend or Mrs. Pantano to determine on their own where they might agree with the boundary was or agree on some different terms. Chris expressed that he didn't think that it was a fair question to ask how much time they need to agree on a boundary line. Chris explained that if the Board was to continue the applicant would ask for a 30-day extension to a date and time with the understanding that they may come back and ask for additional time. Chris asked the Board if the applicant was going to ask for a variance showing the distances to both boundary lines would the Board entertain an application that would show that.

G. Bailey expressed that he would want to see an agreement between the two attorneys.

T. Hardekopf stated that she has recused but her understanding that based on the evidence that you look at the most conservative of the two plans and that would likely deny.

D. Whitten expressed that the two parts of the conservative setting here one side being used of this application and on the other side it's not.

T. Hardekopf explained that it would be in Mr. Townsend's best interest to continue.

John Huckins explained to the Board that they should give the applicant direction on what the Board was looking for.

G. Bailey expressed that he would like to see a letter from both attorneys that they agree.

A motion was made by G. Bailey and seconded by P. Thibodeau to continue the application until May 18, 2022.

3. A. Board to vote for Chair and Vice Chair

A motion was made by T. Hardekopf and seconded by P. Thibodeau to nominate Tracy Hardekopf as chair of the Zoning Board of Adjustment. Vote 3/2

Roll Call:

D. Whitten-abstained

T. Hardekopf-Aye

P. Thibodeau-Aye

G. Bailey-Aye

R. Desmarais-Nay

A motion was made by T. Hardekopf and seconded by G. Bailey to nominate George Bailey as Vice-Chair of the Zoning Board of Adjustment. Vote 4/1

D. Whitten-abstained

T. Hardekopf-Aye

P. Thibodeau-Aye

G. Bailey-Aye

R. Desmarais-Aye

4. REVIEW AND APPROVAL OF MINUTES

A. Review and approve minutes of the March 16, 2022, 7:00 pm meeting.

A motion was made by D. Whitten and seconded by P. Thibodeau to accept the meeting minutes as written. The motion carried unanimously.

D. Whitten-Aye

T. Hardekopf-Aye

P. Thibodeau-Aye

G. Bailey-Aye

R. Desmarais-Aye

5. 5. OTHER BUSINESS THAT MAY PROPERLY COME BEFORE THE BOARD

A. Staff updates from Town Planner, Vanessa Price.

- 2022 Draft of updated ZBA Rules of Procedure from 1992 by-laws.

V. Price explained that there needs to be updating to the Rules of Procedure from a staff point of view and from the Board. V. Price explained that they should talk about having site walks if they are needed. V. Price explained that the site walks could be an hour before the scheduled meeting so that its fresh information.

D. Whitten asked if this was common practice for every case by the Zoning Board.

Conner MacIver explained that at the training Attorney Buckley explained that he's on their Zoning Board. Conner explained that not only would the Board benefit from but all of you could include in the abutter notice that there's going to be a site see and hear from the abutters at a site visit.

R. Desmarais explained to the Board that you don't talk at the site visits.

G. Bailey expressed try it for 6 months then revisit the situation.

T. Hardekopf expressed that they have been presented with two Rules of Procedures and asked if it would be appropriate to if coming back together and on the agenda for the next meeting go down the line with proposed changes and vote.

6. ADJOURN

Without objection the meeting adjourned at 7:45 p.m.

The next meeting will be held May 18, 2022, at 7:00 p.m. at the ECLC 77 Ramsdell Lane.

**** Please note that all votes that are taken during this meeting shall be done by Roll Call vote. ****

Visitor Orientation to the Zoning Board of Adjustment Meeting

Welcome to this evening's Zoning Board of Adjustment meeting.

Copies of agendas and a sign-in sheet are available for visitors.

Meeting Access

In-Person

Early Childhood Learning Center (ECLC)
Multi-Purpose Room
77 Ramsdell Lane, Barrington, NH 03825

Remote Meeting Participation

Video: barrington.nh.gov/zbmeeting
Call in: [+1 603-664-0240](tel:+16036640240) and Conference ID:
874 769 462#

Meeting Materials

Additional details regarding each agenda item and all supporting documentation can be found online at <https://www.barrington.nh.gov/zoning-board-adjustment>. Please contact the Land Use department with any questions via phone at (603) 664-5798 or email at planning@barrington.nh.gov. Files on the applications and items, above, including the full text of any proposed ordinances, regulations, or other initiatives are available for inspection in the Land Use Department Office, Monday through Thursday from 8:00 a.m. to 3:00 p.m.

Special Accommodations

The Town of Barrington requires 48 hours' notice if the meeting must be modified for your participation or if special communication aides are needed. Please submit requests to the Land Use Department office via phone at (603) 664-5798 or email at planning@barrington.nh.gov.