



MEETING MINUTES
Zoning Board of Adjustment (ZBA)
June 21, 2023, at 7:00 P.M.
(Approved July 19, 2023.)

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Members Present: Tracy Hardekopf, Paul Thibodeau, Cheryl Huckins, Alexandra Simocko

Staff Present: Town Planner: Vanessa Price, Zoning Administrator: John Huckins

4. ACTION ITEMS

- A. 111-6-GR-23-Var (Owners: P & P Real Estate Management)** Request by applicant for a variance from Article 4, Section 4.1.1 Table 2 to allow side setbacks of 12.16' and 11.49' where 30' is required and front setback of 35.76' where 40' is required on Flower Drive (Map 111, Lot 6) in the General Residential Zoning District.

The case file 111-6-GR-23-Var was moved up in the agenda as the applicant/owner was not present due to a travel issue. The applicant's engineer, not authorized to act on behalf of the applicant, stated this issue to the board.

The Board decided and made a motion to continue the case file to the July 19, 2023, meeting at 7:00 PM.

A motion was made by T. Hardekopf and seconded by P. Thibodeau to continue the case file to the July 19, 2023, meeting at 7:00 PM.

Vote: 4/0

Roll Call:

A. Simocko-Yay
C. Huckins-Yay
P. Thibodeau-Yay
T. Hardekopf-Yay

- B. 234-6-V/SDOA-23-Var (Owners: Joseph Sweeney)** Request by applicant for a variance from Article 4, Section 4.1.1 Table 2 to allow a front setback of 27.8' and 19.5' where 40's required at 14 Kelly Lane (Map 234, Lot 6) in the Village Zoning District.

T. Hardekopf read the application description. She stated to the applicant, Mr. Sweeney, that the zoning board of adjustment for the town of Barrington typically has five members present. However, at this time

only has four seated members, as the fifth member has moved. She went on to explain that should the owner choose to have the case heard, three votes out of the four would either approve or deny a request for variance, but you have the right to continue your case.

Mr. Sweeney stated he would like to proceed with his case.

T. Hardekopf stated please proceed with your case.

Mr. Sweeney described his site stating at present we have single wide trailer on the site. There's an addition to that and the edge of the addition comes within 27 feet from the front of the property and the size of the property is 1.7 acres. There is a great deal of wetlands around there and to move the proposed structure away from the road would impact wetlands. He further went to explain that they have is essentially a structure would like to demolish and rebuild that likely would have rectangular structure that builds in the area and the the design that marked on our on our survey.

T. Hardekopf stated to Mr. Sweeney there's five criteria for filing a zoning variance. She asked for him to read those five criteria.

Mr. Sweeney read the justification for a variance into the record.

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.

Existing Footprint has Limited Building Area

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

Yes by Hardship

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

NO

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

Yes by improving property value and erecting habitable accommodations

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

NO

T. Hardekopf addressed staff asking if there is anything else we should know in relation to this case? Either following state regulation on or in reference to the history and this particular case and its regulations?

John Huckins replied that the existing building within the buffer area may be repaired or replaced by the newer repaired structure including the site.

T. Hardekopf addressed the board if there were any questions, comments or concerns for the application.

P. Thibodeau stated he had a couple of questions. He first asked the owner how long has the property been vacant?

Mr. Sweeney answered about two years.

P. Thibodeau asked the owner if the replacement is going to put on a slab?

Mr. Sweeney answered yes, what we want to put in there is a double wide.

P. Thibodeau asked the owner if he was going to put it back on an existing slab?

Mr. Sweeney answered no, there is not a slab there.

P. Thibodeau stated he checked on the septic with zoning administrator earlier today and said he understand that he has a septic design that's been approved for three bedrooms, and that would be installed once the two bedroom (current) septic fails.

Mr. Sweeney answered that is correct.

T. Hardekopf opened public comment.

Rich Seneschal, 19 Kelley Lane, stated they support the project. This is good for us as well as him. He stated that personally he thinks it's good for the town as well. We live on a private way that the town has nothing to do with, other than when something comes out. But this thing because it would be a great improvement to our to our neighborhood.

T. Hardekopf closed public comment.

T. Hardekopf made the motion and seconded by A. Simocko to grant the variance application. The case meets all of the criteria that special conditions do exist in such that literal enforcement would be a hardship for the owner that granting the variance would be consistent with the spirit of the ordinance that granting the variance would not result in the the diminution, say it one more time. Diminution, diminution of surrounding property values didn't just say degrees it sounds like, and that granting the variance would do substantial justice in this case. Granting the variance would not be contrary to the public interest here in Barrington.

Vote: 4/0

Roll Call:

A. Simocko-Yay

C. Huckins-Yay

P. Thibodeau-Yay

T. Hardekopf-Yay

- C. [253-22-RC-23-Var \(14 Winkley Pond Road LLC-members: Clint Gendreau & Daniela Moebius\)](#) Request by applicant for a variance from Article 3, Section 3.3.5 (3) (a) to permit residential use within 500' from the centerline of Calef Highway (aka: Route 125) at 14 Winkley Pond Road (Map 253, Lot 22) in the Regional Commercial Zoning District.

T. Hardekopf read the application description. and stated to the owner/applicant that the zoning board of adjustment for the town of Barrington typically has five members present. However, at this time only has four seated members, as the fifth member has moved. She went on to explain that should the owner choose to have the case heard, three votes out of the four would either approve or deny a request for variance, but you have the right to continue your case.

Ms. Moebius stated he would like to proceed with his case.

T. Hardekopf stated please proceed with your case and read the five criteria for a variance.

Ms. Moebius explained they are representing their own request to grant a variance of section 3.83 point 5 and what we would like to do is renovate the existing legal single-family home on the property into two family. Their goal is to provide a single level living opportunity on the ground floor and then to create a second unit above. She stated that the parcel contains a farmhouse from around the 1700s, a timber frame barn as well on the property and a shed and as stated before it is an existing legal residence. She explained the residence is in compliance with the RC District regulations as outlined in Section 5 through 2 unknowns and forming structures. They are proposing to maintain that residential use and is also in the same IRC building code. We're not changing the type of the building, but the units to two. Ms. Moebius also continued to explain that it also pertains to section 5.3 in regard to nonconforming juices. The parcel and measure it wants to be 6 feet 3,382 square feet, which exceeds the minimum lot size requirements and of Article 4 in terms of the dimensional requirements for two dwelling units on the site. They made sure that value is in accordance to the requirements and the proposed modifications, the renovation that they do not involve any enlargement or expansion or alterations that would decrease compliance from what it currently is.

Ms. Moebius described the survey and the location of the building and the required set back, from Calef Highway it should be 75 feet. The existing structure been there well before the zoning ordinance was put into place. The house and the additional variance for the relief that we're seeking from the variance is from the center line of Route 125 to 500 feet. The ordinance does not allow for residential uses, so they understand they currently have this existing legal use that because we are proposing to change it to a duplex. Ms. Moebius sated they are not changing the footprint aside from constructing 2 unenclosed Stoops, which are permitted under section 5.2.1. They also verified to make sure that the required clearances are adhered to and regard to the setbacks and the main change that they are proposing is planning on installing a new septic system.

Ms. Moebius continued to explain for the single floor living opportunity, one of the goal is to have Clint's parents move in and it's a great opportunity to have one apartment on a lower level where there's steps. She stated regarding the justification for variances special conditions, it is an existing structure which we cannot very easily move away from that pipeline. The other thing that makes this site very unique is the fact that it's very narrow. It has two frontages, so in in that itself it is very unique. She stated that they do want to recognize that the lot is zoned regional commercial and because this is an existing residence, this has some historic value. With the barn with the existing historic farm and everything else around it, they really wanted to preserve that. The structure itself does not lend itself to commercial uses, it has low ceilings and accessibility would be very challenging as well.

Ms. Moebius moved into reading the justification for a variance into the record.

PART IV - JUSTIFICATION FOR VARIANCE

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

- a. **Special Conditions and Unnecessary Hardship:** The existing non-conforming status of the property creates a unique situation and special conditions that justify a variance. Literal enforcement of the Ordinance would impose unnecessary hardship on the property owner, as it would restrict the reasonable and appropriate use of the house for residential purposes. Denying the modification would unfairly burden the owners, as the current large house lacks practical functionality in its current form.
- b. **Existing Structure Preceding the Ordinance:** The house is an existing structure that predates the implementation of the current zoning Ordinance. As such, it was legally established as a residential property before the regulations came into effect.
- c. **Preservation of Residential Use:** The house has been consistently used for residential purposes, maintaining its residential character and function. The physical attributes and layout of the property are best suited for residential use and do not lend themselves to non-residential uses.
- d. **The structure was historically used as a farmhouse.** Farmhouses of its vintage typically housed large multi-generational families. Current trends in housing, development changes in the area, as well as the significant investments necessary to repair the neglected structures, point towards utilizing the structure as a duplex versus one large single-family house.

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

- a. Granting the variance would align with the spirit of the Ordinance, specifically its provisions for existing nonconforming structures and uses (Sections 5.2 and 5.3). The proposed plans adhere to the parameters of the Ordinance, as the footprint will remain unchanged with no increase in any dimensional nonconformity or expansion.
- b. Additionally, the integration of code, energy, and accessibility upgrades supports the Ordinance's objectives of enhancing health, safety, and welfare for the community.
- c. Converting the property into a duplex would contribute to neighborhood stability by ensuring its continued occupancy. This proactive measure eliminates the risk of the house sitting vacant or falling into disrepair, which could negatively impact the neighborhood's aesthetics and vitality.
- d. **Increased Housing Options:**
 - i. **Diverse Housing Stock:** The conversion to a duplex adds to the diversity of available housing options within the town. It provides an alternative housing type, accommodating different household sizes, lifestyles, and preferences.
 - ii. **Addressing Housing Demand:** The creation of a duplex can help meet the demand for housing in the area. By utilizing an existing structure, it provides an additional housing opportunity without significantly altering the existing character of the lot.

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

- a. Renovating, restoring, and updating the existing farmhouse not only preserve a small piece of the town's heritage and character but would breathe new life into the house and gardens, which have fallen into disrepair during the last few years.
- b. Single-family homes and duplexes exist under the same umbrella of the residential code. Introducing duplexes into existing neighborhoods can increase housing diversity without significantly altering the character of the area.
- c. Duplexes offer several advantages in terms of town development as well as both spatial and energy efficiency compared to single-family homes:
 - i. Developing duplexes in existing neighborhoods can help maximize existing infrastructure investments, such as roads, and utilities. This can lead to cost savings compared to expanding infrastructure to accommodate a larger number of single-family homes.
 - ii. Energy Efficiency: Shared walls between the units can provide insulation benefits, reducing heating and cooling requirements. More compact layouts can contribute to improved energy efficiency by minimizing heat loss and optimizing energy usage.
 - iii. Shared Resources: In a duplex, some resources can be shared between the two units. I.e. wells, driveways, septic systems, and shared outdoor spaces, such as yards or common areas can promote a sense of community and provide cost-effective access to shared amenities.
 - iv. Housing Options: By providing two dwelling units on a single property, duplexes allow for greater flexibility in housing arrangements, accommodating different family sizes, and multigenerational living, which is highly beneficial to communities.

4. Granting of the variance would do substantial justice.

- a. Granting the variance would achieve substantial justice by enabling the renovation of the existing house to maximize the property's utility and functionality. Converting the house into a duplex maximizes the utilization of the existing structure. This efficient land use eliminates the need for additional greenfield development for new construction.
- b. In summary, granting the variance recognizes the pursuit of substantial justice by enabling the owners to make the most advantageous use of their property. The conversion ensures optimal use of the existing structure, promoting efficient land utilization and eliminating the need for additional construction.

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

- a. While the site is zoned commercial, allowing the conversion of the existing house into a duplex continues its existing residential use and maintains the historical character of the lot.
- b. No Negative Impact on the Surrounding Neighborhood: The conversion to a duplex does not introduce a new or incompatible land use. It maintains the existing residential use and does not disrupt the neighborhood's overall character.

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Ms. Moebius described that with renovating this and changing from a single family to two family there is not going to be a lot of change visible on the exterior. She described the photographs of the site and the proposed elevations.

P. Thibodeau asked the applicant to repeat what their hardship is.

Ms. Moebius answered the hardship is that they have an existing structure that cannot move, and it is a very it's a large single-family home right now and the way it is, it's almost a six-bedroom house. To really make that practical, in the location where it is with that kind of square footage, it doesn't really calculate for a large single-family home.

T. Hardekopf addressed Town staff to answer if they have any state regulations or historical information to add.

John Huckins answered he reinforces what was said about the legally existing use. It is allowed to continue with their single-family residential home. Also, the expansion of non-conforming use is not allowed. This is not going to be an ADU, it going to be a rental. If they were going to do an ADU they wouldn't have to be in front of the Board.

Clint Gendreau stated that are not asking for an ADU.

T. Hardekopf opened public comment.

Brian Weeden, 63 Winkley Pond Rd, I am not an abutter, but I am on the road they are developing on, and I like to say since they moved in the the improvements done a great job. I am impressed.

Richard Ward, from Portsmouth, NH. He stated his grandmother was born there with his three sisters. He stated this is a great idea and my family would have approved of it, instead of letting it go.

T. Hardekopf closed public comment.

T. Hardekopf addressed the board for further comments or questions.

P. Thibodeau asked the applicant the condition of the barn.

Mr. Gendreau answered that it is in good conditions and as a passion project for us, but the barn is in great shape. He stated that he also bought the 97 acres across the road. The barn is surprisingly straight and square and cleaned it out. And want to keep the barn.

P. Thibodeau asked if you were to put some sort of commercial enterprise there, you could do this without even coming in front of this board, right? Have you considered doing something in the barn?

Mr. Gendreau stated they do have goals for the property. It is zoned commercially. He stated that anything that we would grow on the on the Beauty Hill side currently the way the easements written would need to be sold not from that property but out of the 14 Winkley Pond Road He stated they definitely can envision vegetable stand or interactive with other farmers who we actually sell. There's a lot in the opportunity there and but we got to start somewhere and then that's where the house is, just our first step.

John Huckins discussed the mixed-use possibility on site. If it's mixed-use a legally, existing residential structure can be used as part of the mixed use. It doesn't define exactly what has to be, but if you have a house that is a house that's in usable condition with a little bit of renovation so they could use that while they work on trying to establish the business. Right now, it's just to keep the house usable and to try to keep things moving forward.

P. Thibodeau asked if they would have to go before the planning board.

John Huckins stated yes for the mixed use.

Ms. Moebius also stated that the barn would have to meet the commercial code and parking, and they would have to go through the engineering process and site plan review for the rest of the site. That portion isn't feasible at the moment.

P. Thibodeau asked the applicant that they don't have any substantial plan to do commercial on that lot currently.

John Huckins answered that the agricultural sales the applicant mentioned and selling other product that if they start bringing in people into a retail establishment and all those building requirements for that would have to be met.

Mr. Gendreau stated that it would be a long-time vision, agriculturally would be longer than five years.

T. Hardekopf asks that my question is simply that the unnecessary hardship that you're saying is that in order to utilize the property going forward, having the ability to transform the current structure into a two family versus a single family would allow you to future growth. I'm asking you to restate your hardship.

Ms. Moebius answered by the existing condition of the site, the historic structure wanting to do the best we can to really preserve a historic structure, which counterintuitively actually costs more often than taking it down and building a cookie cutter structure. It's something that requires a little more creativity to utilize the space and a very space efficient and unique way and to not be able to do that. The two-family seems to be very much in alignment with the overall vision of the zoning in that area as well.

T. Hardekopf addressed the board for further questions, comments or concerns.

A. Simocko asked the applicant to go to the map. She stated ultimately that you're really asking for is regarding that set back from the center of 125. Then asked if that is marked anywhere on the map. She stated it's a narrow property. She did a drive by the property, but asked the applicant where would that put you if you had? It would put you across the street.

Mr. Gendreau answered that there is no language on that, but yes.

C. Huckins made the motion and seconded by A. Simocko to grant the variance application. The justification as literal enforcement would result in unnecessary hardship to the applicant; the special conditions on the lot of the historical home as an iconic structure in the community and it is a better use for the renovation of the home and it would be consistent with the spirit of the ordinance, it would not diminish surrounding property values as it is preserving a historic home, it would do substantial justice and that it is not contrary to public interest.

Vote:3/1

Roll Call:

A. Simocko-Yay

C. Huckins-Yay

P. Thibodeau-Nay

T. Hardekopf-Yay

5. REVIEW AND APPROVAL OF MINUTES

A. Review and approve minutes of the May 17, 2023, meeting.

A motion was made by T. Hardekopf and seconded by A. Simocko to approve the minutes of the May 17, 2023, meeting, as amended to line 29. The motion passed unanimously.

Vote: 4/0

Roll Call:

A. Simocko-Yay

C. Huckins-Yay

P. Thibodeau-Yay

T. Hardekopf-Yay

6. STAFF UPDATES -TOWN PLANNER

A. TRAINING OPPORTUNITIES

New Hampshire Municipal Association is hosting its annual Local Officials Workshop. Date moved to June 29,2023.

V.Price encouraged the Board members to sign up if they have the time. It can also be a refresher course as there might be different speakers. If interested, please sign up online before the deadline.

7. OTHER BUSINESS THAT MAY PROPERLY COME BEFORE THE BOARD

(None presented.)

8. ADJOURN

A. Adjourn the Zoning Board of Adjustment (ZBA) Meeting. Next ZBA meeting date is July 19, 2023, at 7:00 P.M.

A motion was made by P. Thibodeau and seconded by T. Hardekopf to adjourn the meeting at 7:44 PM. The motion passed unanimously.

Vote: 4/0

Roll Call:

A. Simocko-Yay

C. Huckins-Yay

P. Thibodeau-Yay

T. Hardekopf-Yay