

MINUTES

FOR

ZONING BOARD OF ADJUSTMENT

As Chair of the Zoning Board of Adjustment, due to the COVID-19/Coronavirus crisis and in accordance with Governor Sununu's Emergency Order #12 pursuant to Executive Order 2020-04, this Board is authorized to meet electronically.

Please note that there is no physical location to observe and listen contemporaneously to the meeting, which was authorized pursuant to the Governor's Emergency Order. However, in accordance with the Emergency Order, this is to confirm that we are:

We are utilizing the Microsoft Team for this electronic meeting. All members of the Board have the ability to communicate contemporaneously during this meeting through the Microsoft Team, and the public has access to contemporaneously listen and, if necessary, participate in the meeting through dialing the following phone #1-603-664-0240 and Conference ID: 332788257#

OR Call 603-664-0330 or email: jhuckins@barrington.nh.gov

OR

bit.ly/BarrZB200520

(Approved June 17, 2020)

Wednesday, May 20, 2020

7:00 p.m.

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

K. Forbes read the notice from the Governor.

Roll Call

Karyn Forbes, Chair

Meri Schmalz

Cheryl Huckins

Raymond Desmarais, Vice Chair

Member Absent

Dawn Hatch

Alternate Member Present

George Bailey

G. Bailey sat for D. Hatch

M. Gasses, Town Planner

J. Huckins, Zoning Administrator

ACTION ITEM CONTINUED FROM April 15, 2020

1. 261-39-GR-20-ZBA Appeal (Owner: Richard Kelsey) Request by applicant under RSA 674:41 relief under section II to appeal of administrative decision not to issue a permit to renovate existing structure on an island at Mendums Pond 1.64-acre (Map 261, Lot 39) in the General Residential (GR) Zoning District.

The Kelsey application had been continued from the April 15, 2020 meeting. The case was the appeal of an administrative decision for the issuance of a building permit for a structure located on Mendum's Island by Stephen Jeffrey.

The Board discussed information regarding the case. Two letters had been submitted and there was an opinion from the Town Attorney.

K. Forbes asked for public comment.

Stephen Jeffrey argued against the issuance of the building permit. He expressed the law does not provided for the issuance of building permits on islands.

K. Forbes closed public comment.

The board discussed the appeal, referencing 674:41.

R. Desmarais pointed out that roman numeral II applied, and it was up to the ZBA to decide this with provisions. R. Desmarais expressed he did not agree with Mr. Jeffrey. It was a Zoning Board call. There were two ways that this could be dealt with; either going through the Zoning Board or a change by a Town ordinance. He believed it was up to the ZBA.

K. Forbes expressed that she agreed. The next step was to decide if it complied with 674:41 II and apply provisions.

The Board discussed the provisions.

R. Desmarais expressed the structure must remain a seasonal camp, no insulation shall be installed, nor shall electricity, sewer or water shall be provided without further approval from this board. The applicant must provide for sanitary sewage disposal at the property (for example, a composting toilet). The decision shall be recorded at the Strafford Country Registry of Deeds.

K. Forbes expressed there would be no sewer or water, no septic, cabin is to remain rustic. The decision would need to be recorded at the Registry of Deeds.

M. Schmalz agreed.

K. Forbes discussed the hardship was that the building had been on the island for years. There would be a hardship if the building was allowed to decay and rot. She asked if anyone disagreed. K. Forbes went on to express if the provisions of the section would entail practical difficulty or unnecessary hardship and when the circumstances of the case do not require the building, structure or part there of to be related to existing or proposed streets.

G. Bailey asked if the Board had discussed power.

K. Forbes expressed the Board had expressed that they did not want to have power because it was a rustic cabin.

G. Bailey agreed.

C. Huckins expressed unless there was a safety issue.

K. Forbes went on to express the rest of the standard included the issuance of the permit or erection of the building would not distort the official map or increase the difficulty of carrying out the master plan upon which it is based, and if

erection of the building or issuance of the permit will cause hardship to future purchasers or undue financial impact on the municipality.

R. Desmarais made a motion that the board approves the permit for the construction of walls and the roof of the existing camp, replacement of the vandalized gas stove.

K. Forbes read the conditions of the approval. The structure must remain a seasonal camp. No insulation shall be installed, nor shall electricity, sewer or water be provided to the structure without further approval of this board. The applicant must provide for sanitary sewer disposal at the property such as a composting toilet. The decision shall be recorded at the Strafford County Registry of Deeds.

The Board discussed the installation of solar panels.

John Huckins expressed that the solar panels were something Mr. Kelsey had expressed a desire to install 12-volt solar panels.

The Board agreed no solar panels.

K. Forbes reread the conditions. R. Desmarais motioned seconded by G. Bailey. *The Board approves the building permit for the reconstruction of walls, and the reconstruction of the roof, replacement of the vandalized gas stove and any other work the building inspector deems necessary on the island lot identified as Map 261-Lot 39. Granting the building permit will not tend to distort the official map or increase the difficulty of carrying out the master plan; nor will it cause hardship to future purchasers or undue financial impact to the town.*

1) The structure must remain a seasonal camp. No insulation shall be installed, nor shall electricity, sewer or water shall be provided to the structure without further approval of this board.

2) Applicant must provide for sanitary sewage disposal at the property (for example, a composting toilet)

3) This decision shall be recorded at the Strafford County Registry of Deeds

Roll call vote

R. Desmarais aye

M. Schmaltz aye

C. Huckins aye

G. Bailey aye

K. Forbes aye

The motion passed.

ACTION ITEMS

2. [239-105-V-20-Var \(Owners: Kelsey & Leonard Fowler\)](#) Request by applicant for a variance from Article 4.1.1 (Table 2) minimum standards to allow a front setback of 36.9' where 40' is required to build a farmers porch with steps on a 1.30-acre lot (Map 239, Lot 105) 72 Mallego Road in the Village (V) Zoning District.

The Board moved ahead to the Kilpatrick's.

The Board voted to continue the application to the next meeting because the applicants were not present.

A motion was made by R. Desmarais and seconded by M. Schmaltz to continue.

R. Desmarais aye

M. Schmaltz aye

G. Bailey aye

C. Huckins aye

K. Forbes aye

The motion carried.

The Fowlers were able to access the meeting following efforts by the Town Administrator.

Mike Drew the contractor for the applicant explained they wanted to put a 6-foot farmers porch on the house. They needed approximately 1.5 feet to make it 6' wide.

K. Forbes expressed they have to have special conditions that exist. K. Forbes mentioned the house already exists and is in the corner.

Mike Drew expressed the current location restricts where the porch can be located. The home already exists. The porch would increase the value of the home.

K. Forbes expressed the plan does not show the distance from the porch to Mallego Road. The Board needed the distance from the porch to the road and they need the surveyor to note it on the plan.

R. Desmarais expressed the numbers were going to change because they would be closer to the road. The numbers needed to be updated.

K. Forbes expressed the well and septic needed to be shown on the plan.

A motion was made R. Desmarais and seconded by M. Schmaltz to continue the application to June 17, 2020. The motion carried unanimously.

G. Bailey aye
M. Schmaltz aye
C. Huckins aye
R. Desmarais aye
K. Forbes aye

The motion carried.

3. **124-21-GR-20-VarZBA (Owners: Gary & Jane Kilpatrick)** Request by applicant for a variance from Article 4.1.1 (Table 2) minimum standards to allow a front setback of 17.4' where 40' is required to new residence on a .21-acre lot (Map 124, Lot 21) at 723 McDaniel Shore Drive in the General Residential (GR) Zoning District. BY: Tobin Farwell, Farwell Engineering Services, LLC; 265 Wadleigh Falls Road; Lee, NH 03861

Jane Kilpatrick was present. Tobin Farwell was supposed to present the application. Jane Kilpatrick expressed she would take a stab at it.

Gary Kilpatrick was present.

K. Forbes expressed they needed to go through the criteria. She asked that they start by explaining what they planned to do.

Jane Kilpatrick explained the existing residence will be torn down and a new residence constructed. The proposed house will be no closer to the pond. There is an addition to the original footprint adjacent to the ROW. The addition is within the 40 ft setback. The addition will be 17.4 ft from the front property line. The new structure will have a foundation.

K. Forbes expressed the new structure would be 17.4 feet from the property line. There were no dimensions to show how close they were on the lake side.

K. Forbes expressed that they needed to explain how they address the criteria for a variance.

Jane Kilpatrick explained.

1. The lot is grandfathered and is too small for a reasonable sized residence.
2. The variance would allow for the residence in a residential zone. The addition will be further from the property line than on the existing residence of 13.7 feet.
3. The new residence will be of higher value than existing residence.
4. Granting the variance will allow a reasonable use in a residential zone.
5. This project will not be contrary to the public interest. The septic system will be part of this project.

The Kilpatrick's explained the decks had been there for at least 25 years.

G. Bailly asked if the deck was for the roadside.

The Kilpatrick's said yes.

G. Bailly asked why they needed a foundation under it.

The Kilpatrick's expressed they would like to use it more than seasonally.

K. Forbes asked if there was anyone to speak in favor or had concerns. No one spoke.

K. Forbes closed the public portion of the meeting.

M. Schmaltz expressed that it was fine, she had no problem.

R. Desmarais expressed there were a lot of homes closer, he did not have an issue.

K. Forbes expressed it was an odd shaped lot.

G. Bailey had no concerns.

C. Huckins had no concerns.

A motion was made by M. Schmaltz and seconded by C. Huckins to approve the application.

R. Desmarais aye

G. Bailey aye

C. Huckins aye

M. Schmaltz aye

K. Forbes aye

The motion carried unanimously

MINUTES REVIEW AND APPROVAL

4. Approval of April 15, 2020 meeting minutes.

A motion was made by G. Bailey and seconded by R. Desmarais to approve the minutes of April 15, 2020.

R. Desmarais Aye
C. Huckins Aye
M. Schmalz Aye
G. Bailey Aye
K. Forbes Aye

The motion Carried.

ADJOURNMENT

A motion was made by R. Desmarais and seconded by G. Bailey to adjourn at 8:00 p.m.

M. Schmaltz aye
R. Desmarais aye
G. Bailey aye
C. Huckins aye
K. Forbes aye

The motion carried unanimously

Respectfully Submitted,

Cheryl Huckins
Marcia J. Gasses, Town Planner