

**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: 445751693#

Call 603-664-0195 or email: [mgasses@barrington.nh.gov](mailto:mgasses@barrington.nh.gov)

OR  
[bit.ly/BarrZB210519](https://bit.ly/BarrZB210519)

Wednesday, May 19, 2021  
7:00 p.m.

Please note that all votes that were taken during this meeting were done by Roll Call vote.

Vice Chair R. Desmarais read from the Governors Order

Roll Call

Members Present

Cheryl Huckins  
Raymond Desmarais, Vice Chair  
George Bailey  
Dave Whitten

Member Absent

Karyn Forbes, Chair

**ACTION ITEM CONTINUED FROM APRIL 21, 2021**

1. **126-12.1/12.2-GR-21-3Var (Owners: Stephen & Joy Porter)** Request by applicant for variances from Article 4 Dimensional Requirements: Section 4.1.1 Minimum Standards to allow a 5' setback on right side and a 19.02' setback on the right side where 30' is required. Also, a variance under Article 5 Section 5.1.1 (2) and 5.1.1 (3) to allow the well on a different lot (Map 126, Lots 12.1 & 12.2) on Jillette Road in the General Residential Zoning District. BY: Matthew J. Peterson, Keach Nordstrom Associates; 10 Commerce Park North, Suite 3B; Bedford, NH 03110.

R. Desmarais expressed that the Board had made some requests regarding information at the prior meeting for this application.

M. Peterson with Keach Nordstrom Associates represented the Porters. They had appeared at the April 21 meeting and presented their arguments. They had reduces the Variance request by eliminating 5.1.1(2) and placed the well on the lot. They asked for the variance that was in two placed in the ordinance 4.2.1 and 5.1.1(3). The land had been in the Porters family for about 100 years located on North River Pond that was about 50' wide.

The applicant had discovered they had multiple lots after investigating a possible ADU. They had originally proposed a structure approximately 19.2' off one side and 5' off the right side. They had addressed the comments from the Board and located the well on the property, the building was centered, the driveway was located along the property line so they would have a shared driveway access as per the regulations.

R. Desmarais expressed he was good with not rereading the criteria.

G. Bailey expressed he was satisfied the way the site was set up.

C. Huckins expressed she was satisfied.

R. Desmarais asked if there was anyone to speak in favor.

No one spoke.

R. Desmarais asked if there was anyone to speak in opposition.

No one spoke.

R. Desmarais closed the public portion of the meeting and the Board had discussion. R. Desmarais expressed that the applicant had done just what they had asked.

*A motion was made by C. Huckins and seconded by G. Bailey to approve the Variance request.*

#### Roll Call

C. Huckins	aye
G. Bailey	aye
D. Whitten	aye
R. Desmarais	aye

The motion carried 4-0

#### ACTIONS ITEMS

- 2. 101-56-GR-21-ZBAVar (Owner: Matthew Castonguay)** Request by applicant for a variance from Article 4 Dimensional Requirements: Table 2 to allow a front setback of 21.2' where 40' is required and a side setback of 28.8' where 30' required on Long Shores Drive (Map 101, Lot 56) in the General Residential (GR) Zoning District. BY: Chris Berry, Berry Surveying & Engineering; 335 Second Crown Point Road; Barrington, NH 03825.

C. Berry of Berry Surveying and Engineering represented the applicant. He described the location of the lot not far from the location of the entrance to Long Shores Drive, across the street from Berry River Road. The applicant was proposing a structure that was within the 40' setback. With stoop and steps, it was about 21 feet from the front boundary. The structure was proposed to be 32' X 28'. The closed point to the overhang was 28.8'. The lot was considered a double lot. There was a large outcrop of ledge on the site. They were trying to keep as much vegetation as possible on site. The structure was pushed forward and that was the reason for the variance request.

The driveway was proposed to the northern side and was not a shared driveway. The well location was shown on the septic plan. The topo on site was pretty rocky and ledge with an area that sloped off that was suitable for the septic. The foundation would be on a slab to limit disturbance.

The size of the structure was modest and would not tower over the other structures in the area.

R. Desmarais asked that C. Berry read through the criteria.

G. Bailey made a statement regarding having utilized Berry Surveying and Engineering for work, but at no time was the project before the Board discussed.

Article 4-Dimensional Standards Table 2, front setback 40' within the general residential zone.

1. Special conditions exist such that literal enforcement of the Ordinance will result in unnecessary hardship to the applicant as defined under applicable law.  
The lot has two special conditions which make compliance with the ordinance not practical. The first is that it is a non-conforming lot of record prior to the ordinance that happens to be standard in width and oddly shaped. The second is the existing subsurface and exposed ledge on site. Literal enforcement of the Ordinance will result in unnecessary hardship on the applicant by requiring them to build the proposed house on or in an existing ledge knob. This would require blasting and greatly increase the overall disturbance of the site as well as the abutters. In review of the closest abutting structure, the proposed home is generally in line with the setback used on the abutting home.
2. Granting the variance would be consistent with the spirit and intent of the Ordinance.  
The spirit of the ordinance is to create a uniformity of nature within the Town. Given this lot is pre-existing, non-conforming, and contains a ledge outcropping it is our assessment that the spirit of the ordinance is observed with the proposal's general adherence to the immediate neighborhood's uniformity.
3. Granting the variance will not result in diminution of surrounding property values.  
New residential construction increases surrounding property values, and the proposed project will take an underutilized parcel and provide reasonable development for a use that is permitted in the underlying zone.
4. Granting the variance would do substantial justice.  
Granting the variance would do substantial justice because it will allow the applicant to reasonably develop the lot with a use that is allowed in the zone. A modest sized home is proposed with the largest request for reduction being for the front stoop and steps. The proposed structure is to be 28' from the front boundary line. The benefit to the applicant far outweighs any potential detriment to the surrounding abutting landowners or neighborhood as a whole given the fact that many of the surrounding structure also do not meet the front setback.
5. Granting the variance will not be contrary to the public interest.  
Granting the variance would not be contrary to the public interest because it will allow for residential development within a residential zone that is congruent with abutting development on the same roadway. Given the special circumstances of the parcel, granting this variance will not erode the public interest within the zoning ordinance.

Article 4-Dimensional Standards Table setback of 30' within the general residential zone.

1. Special conditions exist such that a literal enforcement of the Ordinance will result in an unnecessary hardship to the applicant as defined under applicable law.  
The lot has a special condition which makes compliance with the ordinance not practical. This lot is a non-conforming lot of record created prior to the ordinance that happens to be substandard in width and oddly shaped. Due to this special condition the sideline setbacks cannot be met, and the literal enforcement of the Ordinance will result in unnecessary hardship on the applicant by requiring the house to be constructed so narrow that the use an functionality would be severely limited. Due to the existing ledge on site, a narrower, longer footprint is not practice on this particular parcel.
2. Granting the variance would be consistent with the spirit and intent of the Ordinance.  
The spirit of the ordinance is to create a uniformity of rural nature within the town. Given this lot is pre-existing, non-conforming, and contains a ledge outcropping, it is our assessment that the spirit of the is observed with the proposals general adherence whereas it more complies with the setbacks when compared to the closest abutting structure.

3. Granting the variance will not result in diminution of surrounding property values. Granting the variance will not result in diminution of surrounding property values. New residential construction increases surrounding property values, and the proposed project will take an underutilized parcel and provide reasonable development for a use permitted in the underlying zone.
4. Granting the variance will do substantial justice. Granting the variance would do substantial justice because it would allow the applicant to reasonably develop the lot with a use that is allowed in the zone. A modest sized home is proposed with the largest request for a reduction being for the side stoop and steps. The proposed structure is to be 28.8' from the closest sideline boundary line. The benefit to the applicant far outweighs any potential detriment to the surrounding abutting landowners or neighborhood as a whole given the fact that the surrounding structures also do not meet the setbacks prescribed in the ordinance.
5. Granting the variance would not be contrary to the public interest. Granting the variance would not be contrary to the public interest because it will allow for a residential development within a residential zone that is congruent with abutting development on the same roadway. Given the special circumstances of the parcel, granting this variance will not erode the public interest within the zoning ordinance.

The Board did not have any questions.

D. Whitten asked what was across the street from the property.

C. Berry expressed it was another lot currently under development for a single-family home.

R. Desmarais asked if there was anyone in opposition.

Roberta Pigott expressed she was an abutter to the property, and she was in opposition to it because it was too close to her leach field and septic. A historic stone wall on the property as well as a wildlife crossing. She expressed she needed the required setbacks and in light of the requirements she was in opposition of the variance being approved.

Benjamin Oquendo expressed he was an abutter. The reason that the rules existed was to take into consideration the health and welfare of the people living in the structure as well around the structure. He expressed people in the area valued privacy, and this would take a lot of privacy away. There would be an additional driveway on a bad corner. It was going to be an overpowering structure.

R. Desmarais asked if there was anyone in favor of this case.

R. Desmarais closed the public section of the application.

G. Bailey expressed he had no comments.

C. Huckins expressed he had done a very good job at placing the house on a very difficult lot.

R. Desmarais agreed based on what they had seen in the past. This was actually a double lot. He agreed this was a reasonable plan.

*A motion was made by G. Bailey and seconded by C. Huckins to approve the variance requests for 101-56-GR-21-ZBAVar.*

#### Roll Call

C. Huckins        aye

G. Bailey         aye

D. Whitten aye  
R. Desmarais aye

The motion carried 4-0

3. [235-1,2,3/239-2-TC-16-VarianceExt \(Owners: Dove Development Group LLC\)](#) On July 20, 2016 the Zoning Board of Adjustment granted a variance on the below case. The applicant's variance expires on July 20, 2021 and they are, asking for a 4-month extension. SEE BELOW:  
[235-1,2,3/239-2-TC-16-Variance \(Owners: John & Linda Svenson, Garth & Elizabeth Svenson & 1962 Real Estate, LLC\)](#) Request by applicants for variances under Article 16 Planned Unit Development (PUD), Article 16.3.2, Minimum Lot Size/Lot Area, Article 16.3.2(2) Residential Uses proposing to permit the net density for a single-family dwelling to be based upon 16,250 sq. ft. rather than 40,000 sq. ft. per dwelling. 16.5.2 Commercial Component Requirements, where the applicant is proposing 26.5% when, 50% of the total development tract is required to be commercial on Christmas Lane and Franklin Pierce Highway (Map 239, Lot 2 and Map 235, Lots 1, 2,3) in the Town Center (TC) Zoning District. By: Kenneth A. Berry, PE LLS; Berry Surveying & Engineering; 335 Second Crown Point Road; Barrington, NH 03825

C. Berry represented the applicant. He explained the ZBA had granted a variance 5 years ago for a mixed-use development to take place on multiple sites around the Christmas Dove. The variance was set to expire on July 20, 2021. They were on schedule to be on the Planning Board Agenda on July 6, 2021 for acceptance of an application, but in the event that meeting does not take place, or the Board needs for time they were requesting an extension to allow the Planning Board to review their application and move forward. Were moving forward expeditiously and spending large amounts of money for engineering for the site. Infrastructure had been built to get to the project. They were in the middle of well permitting. They were asking for a 4-month extension. (November 20<sup>th</sup>2021)

R. Desmarais asked if anyone was there to speak in favor.

No one spoke.

R. Desmarais asked if anyone was there to speak against.

No one spoke.

R. Desmarais closed public testimony.

*A motion was made by D. Whitten and seconded by C. Huckins grant the extension to November 20, 2021*

#### Roll Call

C. Huckins aye  
G. Bailey aye  
D. Whitten aye  
R. Desmarais aye

The motion carried 4-0

4. [118-90-GR-21-ZBAVar \(Owners: Alicia M & James M Beaulieu\)](#) Request by applicant for a variance from Article 4 Dimensional Requirements: Table 2 to allow 37.7" where 40' is required and a side setback of 10.3' where, 30' is required at 350 Mica Point Road (Map 118, Lot 90) in the General Residential (GR) Zoning District. BY: Scott D. Boudreau, LLS Boudreau Land Surveying; 2 Beatrice Lane; Newmarket, NH 03857

S. Boudreau represented the applicant. The applicant was preparing to upgrade the existing camp that was on the site into a full-time dwelling. The septic and shoreland permits had been approved. They were holding the side setback at 10.3'. They were exceeding the current setback of the existing building. They were at 37.7 on the front setback. They were making the structure more conforming.

R. Desmarais asked the applicant to read the criteria into the record.

Variance Justification.

1. Special conditions exist such that literal enforcement of the ordinance will result in unnecessary hardship to the applicant as defined under applicable law.  
The proposed dwelling would need to be reshaped to fit the minimum standards to be unaesthetic.
2. Granting the variance would be consistent with the spirit of the Ordinance.  
The proposed dwelling meets or exceeds the setbacks of the existing dwelling.
3. Granting the variance will not result in diminution of surrounding property values.  
The dwelling is being upgraded along with the septic system.
4. Granting the variance would do substantial justice.  
The owners would be able to update and modernize the dwelling for year-round occupancy.
5. Granting the variance would not be contrary to the public interest.  
A house, well and septic system already is on this lot. The house and septic system are being upgraded and should improve the public interest.

R. Desmarais asked why they needed the variance is it was the same location.

M. Gasses expressed it was not in the exact same location.

Board member did not have further questions.

R. Desmarais asked if there was anyone to speak in opposition.

No none spoke.

R. Desmarais asked if there was anyone to speak in favor.

No one spoke.

R. Desmarais closed the public portion of the meeting.

D. Whitten expressed that they appeared to be doing everything they could to improve the systems. It was an upgrade to the water on Swains Lake.

G. Bailey had no issues.

C. Huckins was good.

*A motion was made by G. Bailey to approve 118-90-GR-21-ZBA-Var and seconded by C. Huckins*

C. Huckins        aye

G. Bailey aye  
D. Whitten aye  
R. Desmarais aye

The motion carried 4-0

**MINUTES REVIEW AND APPROVAL**

5. Approval of April 21, 2021 meeting minutes.

*A motion was made by G. Bailey and seconded by D. Whitten to approve the minute or April 21, 2021.*

**Roll Call**

C. Huckins aye  
G. Bailey aye  
D. Whitten aye  
R. Desmarais aye

The motion carried 4-0

**ADJOURNMENT**

*A motion was made by G. Bailey and seconded by D. Whitten to adjourn at 8:00 p.m.*

**Roll Call**

C. Huckins aye  
G. Bailey aye  
D. Whitten aye  
R. Desmarais aye

The motion carried 4-0

Respectfully submitted,

Marcia J. Gasses  
Town Planner