

SWANZEY ZONING BOARD OF ADJUSTMENT MINUTES  
APRIL 21, 2008

*Minutes are not final until reviewed and approved by the Board. Review and approval of minutes generally takes place at the next regularly scheduled meeting of the Board.*

ATTENDANCE

Keith Thibault, Charles Beauregard, Sr., Jennifer Gregory  
Alternate Bob DeRocher  
Town Planner Sara Carbonneau also was present.

Vice-chairman Keith Thibault called the meeting to order at 7:05 p.m. Thibault read the agenda for the evening's meeting. The Board addressed the following items.

MINUTES

Motion by Gregory to approve as written the minutes of March 17, 2008.  
Second by Beauregard, Sr. All in favor.

1. PUBLIC HEARING: AREA VARIANCE APPLICATION

Applicant: W.S. Hattendorf, Jr. and Sheila L. Heffernon

Property location: 7 Houghton Point South Tax Map18, Lot 173

Zoning District(s): Residence, Shorelands Protection

Request: area variance from Section XI.B.2. to permit the expansion of a non-conforming structure.

Seated were Keith Thibault, Charles Beauregard, Sr., Jennifer Gregory, and alternate Bob DeRocher.

Representing the application was W.S. Hattendorf, Jr.

Thibault opened the public hearing.

Noting the presence of only four regular members of the Zoning Board, he explained to the applicants that a zoning board is made up of five people, and requires a minimum of three votes to approve an application. Applicants have option of requesting that the Board defer its decision until a full board is present.

Hattendorf, Jr. chose not to request the Board to defer its decision, requesting that a vote be cast at the current meeting.

## DISCUSSION

The applicants propose to remodel the existing house by expanding two small upstairs bedrooms (the larger of which is approx 8' x10') in the rear of the structure, extending them over existing space. The roof height would remain the same, as would the footprint of the building. The house is about 20 'x 30' and was built circa 1918, likely as a camp. It is on a double lot.

The existing footings are capable of supporting the second story. A center stairway provides egress. The applicants plan no expansion of the number of bedrooms; the existing bathrooms and kitchens would be unchanged.

Abutters Barbara Groom and Ginnette Groome (6 Houghton Point South) were present to support the application. Carbonneau stated that two other abutters came to Town Hall to review the plans, and had no issues with the proposal.

Thibault, citing Section XI. B. 2. of the Zoning Ordinance, explained that alterations of existing non-conforming structures are permitted without an area variance, so long as the alteration does not exceed the existing footprint and existing height, and will have no greater cubic content. In this case, the only reason for an area variance is the requested increase in cubic content.

Carbonneau stated that recent changes in NH shoreland protection regulations now permit expansion "upwards" so long as there is no increase in septic loading. Public sewer and water serve the parcel in question. Expanding the footprint of the structure would require a variance from the State, which restricts impermeable lot coverage to 20%.

Board members agreed that the proposed change would make the bedrooms more livable and comfortable, and that the change is modest and reasonable. Similar variances have been granted to residents of properties on Swanzey Lake.

Thibault closed the public hearing at 7:28.

## REVIEW OF CRITERIA

Board members reviewed the criteria for granting the requested area variance.

1. Could the area variance be granted without diminishing surrounding property values?

Board members agreed that the proposal would not diminish property values. Furthermore, neighbors are in support of the application.

2. Could the area variance be granted without the proposed use being contrary to the public interest?

Board members agreed that the proposal is not contrary to the public interest, especially given the parcel's service by public sewer and public water

3. Owing to special conditions, would the denial of the area variance result in unnecessary hardship to the land owner, according to the *Boccia* test?

a. Is an area variance needed to enable the applicant's proposed use of the

property given the special conditions of the property?

Board members agreed that, given the location of the property and size of the bedrooms, the proposed change is modest and probably the best possible solution.

b. Is the benefit sought by the applicant one that cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than by an area variance?

Board members agreed that NH shorelands protection regulations limit the number of possible choices.

4. If the area variance is granted, would the spirit of the ordinance be observed?

Board members agreed the spirit of the ordinance would be observed, in addition to increasing health and safety by making rooms larger.

5. Would granting the area variance do substantial justice?

Board members agreed that the variance would do substantial justice.

Having found that the application meets all five criteria, motion by Beauregard, Sr. to approve the area variance requested by W.S. Hattendorf, Jr. and Sheila L. Heffernon. Second by DeRocher. All in favor.

## 2. PUBLIC HEARING: AREA VARIANCE APPLICATION

Applicant: Guy Gaffney

Property location: 45 Pasture Road Tax Map 18, Lot 99-1

Zoning District(s): Residence

Requests: Area variance from Section XI.B.2. to permit the expansion of a non-conforming structure. (After the application was submitted, it was determined that the structure is not a non-conforming structure. Therefore, this variance is not required.)

Area variance from Section IV.B.3., because the proposed construction encroaches upon the required setback.

Seated were Keith Thibault, Charles Beauregard, Sr., Jennifer Gregory, and alternate Bob DeRocher.

Representing the application was Guy Gaffney.

No abutters were present.

Thibault opened the public hearing at 7:45.

Noting the presence of only four regular members of the Zoning Board, he explained to the applicant that a zoning board is made up of five people, and requires a minimum of three votes to approve an application. Applicants have option of requesting that the Board defer its decision until a full board is present.

Gaffney chose not to request the Board to defer its decision, requesting that a vote be cast at the current meeting.

## DISCUSSION

The applicant proposes to build a 12' deep deck along the 59' length of the back of his home and carport. The edge of the proposed deck would be 41' to the rear property line, 22' to the side property line, and 10' to the other side property line.

Ten years ago, Gaffnery applied for a special exception from setback requirements to allow construction of the carport 10' from his property line. Because the special exception was granted, the carport now is a conforming structure. Gaffnery's current requested variance from Zoning Ordinance section IV. B. 3. would allow the 12' edge of the deck to line up with the outside edge of the carport, and extend 10' into the District's required 20' side setback.

Gaffnery would like to construct the deck to make better use of the back yard of his property, which has challenging topography (illustrated with photographs provided by Gaffnery). The deck will not be covered.

Thibault closed the public hearing at 7:50.

## REVIEW OF CRITERIA

Board members reviewed the criteria for granting the requested area variance.

1. Could the area variance be granted without diminishing surrounding property values?

Board members agreed that the proposal would not diminish surrounding property values.

2. Could the area variance be granted without the proposed use being contrary to the public interest?

Board members agreed that the proposed use would not be contrary to public interest.

3. Owing to special conditions, would the denial of the area variance result in unnecessary hardship to the land owner, according to the *Boccia* test?

a. Is an area variance needed to enable the applicant's proposed use of the property given the special conditions of the property?

Board members agreed that the slope of the property restricts its use, and that the area variance would help to remedy the situation.

b. Is the benefit sought by the applicant one that cannot be achieved by some other method reasonably feasible for the applicant to pursue, other than by an area variance?

Board members agreed that no other method was reasonably feasible. do this anywhere else that makes sense

4. If the area variance is granted, would the spirit of the ordinance be observed?

Board members agreed that the spirit of the ordinance would be observed. Furthermore, no abutters had expressed concerns.

5. Would granting the area variance do substantial justice?

Board members agreed that the variance would do substantial justice.

Having found that the application meets all five criteria, motion by DeRocher to approve the area variance requested by Guy Gaffney. Second by Gregory. All in favor.

ADJOURNMENT

Motion by Beauregard, Sr. to adjourn. Second by DeRocher. All in favor.

Meeting adjourned at 7:55.

Submitted by

Victoria Reck Barlow  
Recording Secretary