

**SWANZEY ZONING BOARD OF ADJUSTMENT MEETING
DECEMBER 20, 2010**

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

William Hutwelker, Chair, Keith Thibault, Vice Chair, Charles Beauregard, Sr., Bob Mitchell, Jerry Walker; alternate John Arnone. Town Planner Sara Carbonneau also was present.

Chairman Hutwelker called the meeting to order at 7:00.

MINUTES

Motion by Beauregard to approve the minutes of the November 15, 2010 meeting. Second by Walker. All in favor.

1. (Public Hearing) Variance

Applicant: Justin & Leneille Howe

Property owner: Justin & Leneille Howe

Property location: 10 Spring St Tax Map 57, Lot 54

Zoning District(s): Residence

Request: Variance from Section IV.B.3. to permit the construction of a shed/sauna consisting of 144 s.f. that does not meet the required setbacks.

Members seated: Hutwelker, Thibault, Beauregard, Mitchell, Walker

Representing the application: Justin Howe

Abutters present: Paul Haynes

Hutwelker called the public hearing to order at 7:05.

DISCUSSION

Members received a December 13, 2010 application summary from Town Planner Carbonneau. Carbonneau reviewed the summary with the Board, and stated that she has received no feedback from heads of Town departments. Carbonneau said that Howe's building permit application has been approved with the required setback of 20 feet. Carbonneau stated that the Code Enforcement Officer was aware that Howe planned on submitting this variance application seeking permission to place the shed/sauna 10.5 feet from the property line. Carbonneau advised Board members that a proposal to locate a structure (regardless of size, use or permanence) within a setback triggers the requirement for a variance.

Howe presented a site plan for the proposed sauna, stating that he seeks to position the sauna 10.5' from the back property line. On the site plan, Howe indicated the 25' band of land that remains after front and rear setbacks are deduced from the 75' deep lot, which is 290' long and runs parallel to Spring

Street and the Ashuelot River. Rather than position the sauna in the middle of the yard, Howe said, he wishes to place it in proximity to the house yet towards the back property line, encroaching into the rear setback by 9.5 feet. Howe said that the sauna would be portable (built on pressure treated skids) so that he can transport it to a new home when his family outgrows their current residence.

Howe said that water and electric service would be temporary, for use only while the sauna is in use. He said that a wood stove (to be filled from outside the building) would heat the sauna; he has discussed the installation with Fire Chief Skantze.

Howe submitted letters of support from the three neighbors who would most likely be able to see the sauna. On his cell phone, Howe showed Board members photographs of his yard to illustrate the physical constraints of the property relative to his preferred location of the sauna. Howe said that he hopes to enhance the yard, and avoid making the sauna placement look “odd” or not aesthetically pleasing. Abutter Haynes said that putting the sauna 20’ from the boundary would make it “stick out like a sore thumb.” The neighborhood is tight, said Haynes; placement of sauna is important to maintain the aesthetics of the area.

Howe agreed with Board members that the property has a special condition is that it is a long, narrow lot in a compact neighborhood that does not allow for a lot of flexibility. Board members agreed that few other lots in the neighborhood are parallel to the Ashuelot River.

Hearing no further comments or questions, Hutwelker closed the public hearing at 7:31. Members reviewed the criteria for granting the requested variance.

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

Members discussed this criterion at length. Mitchell noted that the Board rarely reviews applications that require the Board to balance the public interest in honoring the ordinance’s setbacks with testimony from an applicant and an abutter that the neighborhood would be better served by locating a structure in the setback. Thibault said that typically the Board considers “passive” accessory buildings that are proposed to encroach into a setback– storage sheds, for example, that see infrequent use. Because the proposed sauna would generate a lot of “comings and goings,” said Thibault, and because space does exist on the lot, Thibault said that he felt compelled to respect the setbacks so that the proposed use does not intrude on neighbors’ properties. Arnone felt that frequent family use would lead to a higher level of maintenance than a storage shed, as well as less of a tendency to accumulate clutter. Beauregard said that he feels the portable design of the sauna makes a big difference. Walker said that Howe’s photographs illustrate pride in home maintenance. Hutwelker said that he found the testimony of abutter Haynes persuasive: within the environment of this particular neighborhood, not meeting the setback would be better for the neighborhood. After more discussion, most members agreed that they also were persuaded that the proposed use would not be contrary to the public interest.

2. Would the spirit of the ordinance be observed if the variance is granted?

Members agreed in the affirmative, referencing their discussion of the first criterion.

3. Would granting the variance do substantial justice?

Members agreed that the benefit to the landowner would not cause a detriment to others in the neighborhood.

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

Members agreed that the abutters' testimony supports an affirmative response.

5. Do special conditions of the property distinguish it from other properties in the area?:

Members agreed in the affirmative, citing the lot's unique shape and orientation, as well as its 290 feet of frontage.

A. Owing to the property's distinguishing special conditions,

(i) Is there a fair and substantial relationship between the general purposes of the ordinance and the specific application of that provision to the property?

Members agreed in the affirmative.

AND

(ii) Is the proposed use a reasonable one?

Members agreed in the affirmative.

B: Owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of the property, for the following reasons:

Members agreed in the affirmative.

Motion by Mitchell to approve the variance from Section IV.B.3. to permit the construction of a shed/sauna consisting of 144 s.f. that does not meet the required setbacks. Second by Walker. Mitchell, Beauregard, Sr., Hutwelker, and Walker in favor. Thibault opposed. Motion carries.

2. (Public Hearing) Variance

Applicant: CO Britt, LLC

Property owner: CO Britt, LLC

Property location: 48 Old Homestead Hwy Tax Map 18, Lot 229

Zoning District(s): Business

Request: Variance from Section V.B.3. to permit the demolition of an existing structure on a non-conforming lot, and the construction of a new structure that does not meet required setbacks.

Members seated: Hutwelker, Thibault, Beauregard, Mitchell, Walker

Representing the application: Brian & Gary Coburn

Abutters present: Stephen Bedaw

Hutwelker called the public hearing to order at 7:52.

DISCUSSION

Members received a December 13, 2010 application summary from Town Planner Carbonneau. Carbonneau reviewed the summary with the Board, and

stated that she has received no feedback from heads of Town departments. Carbonneau said that the .17-acre lot is served by public sewer and water from the North Swanzey Water & Fire Precinct.

B. Coburn presented the application, stating that the existing 22' x 32' structure is on a 60' x 120' lot. Coburn said that he had proposed a 24' x 36' building in the application. He said that he increased the proposed size to 24' x 36' so as to make better use of standard lengths of building materials. This evening, Coburn stated that he would prefer increasing the size of the structure to 24' x 40' - the size of a standard ranch. Carbonneau advised Board members that the request for a variance on setbacks would not be affected by a change in size of the proposed structure.

Coburn said that he proposes to center the structure relative to the side lot lines, and to move the structure closer to the road than the previous house, so as to create a deeper back yard and better align the proposed house with others on the road. As proposed, the house would be 18' from both side property lines, and 50' from the front property line (noting that the application shows the house being located 54 feet from the front property line - since the applicant amended his application to show at 24' x 40' ranch, he also moved the proposed house to 50 feet from the front property line).

Coburn presented photographs of the existing house, and members acknowledged their familiarity with its long-standing deteriorated condition. Coburn referenced a letter of support from abutters Robert and Rhonda Bowen, included in his application materials. Speaking in favor of the proposal, abutter Bedaw said that the existing building has been an eyesore for many years. Centering the proposed new house, he said, would move it away from his property.

Hearing no further comments or questions, Hutwelker closed the public hearing at 8:10. Members reviewed the criteria for granting the requested variance.

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

Members agreed in the affirmative, stating that centering the proposed house appears to be in the best interests of everyone and that siting the house closer to the road would be more in keeping with the existing neighborhood.

2. Would the spirit of the ordinance be observed if the variance is granted?

Members agreed in the affirmative.

3. Would granting the variance do substantial justice?

Members agreed in the affirmative.

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

Members agreed in the affirmative.

5. Do special conditions of the property distinguish it from other properties in the area?:

Members agreed in the affirmative, stating that the existing building does not meet setbacks and, by virtue of its poor condition, the lot is distinguished from other properties in the area in a negative way.

A. Owing to the property's distinguishing special conditions,

(i) Is there a fair and substantial relationship between the general purposes of the ordinance and the specific application of that provision to the property?

Members agreed in the affirmative.

AND

(ii) Is the proposed use a reasonable one?

Members agreed that the proposed use is reasonable.

Motion by Thibault to approve the variance from Section V.B.3. to permit the demolition of an existing structure on a non-conforming lot, and the construction of a new 24' x' 40' structure that does not meet required setbacks (specifically, with a 50' front setback and approximately 18' side setbacks). Second by Beauregard. All in favor.

3. Other matters as may be required

2010 Annual Report: Members reviewed the ZBA's page from the 2009 Annual Report, and requested that the 2010 page include a tally of types of applications reviewed during the year. Carbonneau said that the report also should note that public hearing notices now are posted on the Town's web site. The report should also indicate that Charles Beauregard, Jr. is an alternate member of the Board.

Zoning amendments: Carbonneau said that three zoning amendments will be on the 2011 ballot. Proposed are

1. The creation of a Village District 2 that would encompass Homestead Woolen Mill.
2. Re-zoning (at the request of Martha Henry) to Business District the property on the southeast corner of Route 10 and Sawyers Crossing (Map 56, Lot 3 - owned by Henry/Wyman and Map 56, Lot 4 - owned by the Town of Swanzezy).
3. Re-zoning the former Braley property (Map 18, Lot 185), now split by a district, so as to make the property entirely within the Business District.

ADJOURNMENT

Motion by Arnone to adjourn. Second by Mitchell. All in favor. The meeting adjourned at 8:30 p.m.

Respectfully submitted,

Victoria Reck Barlow
Recording Secretary