

Town of Swanzey, New Hampshire
Swanzey Zoning Board of Adjustment
Meeting Minutes – September 15, 2014

Note: Draft Minutes are subject to review, correction and approval by the Board. Review and approval of Minutes generally takes place at the next regularly scheduled meeting of the Board.

The regular meeting of the Swanzey Zoning Board of Adjustment (ZBA) was called to order at 7:02 p.m. by Vice Chair Keith Thibault. Present were Vice Chair Thibault, Bob Mitchell, Sarah Tatro, Alternate Shane Bryant, Alternate Bryan Rudgers, Alternate Marty Geheran and Beverly Bernard, Recording Secretary. The Recording Secretary called the roll and the Agenda for the meeting.

Absent: Chair William Hutwelker, Charles Beauregard, Jr., and Alternate Charles Beauregard, Sr.

Others Present: Director of Planning and Community Development Sara Carbonneau, Edward Grant

Minutes:

- The Minutes of June 16, 2014 were deferred to the next meeting.
- The Minutes of August 18, 2014 were considered. There was a motion by Rudgers and second by Mitchell to approve the minutes of August 18, 2014. Rudgers withdrew the motion and a decision was made to defer the minutes until the next meeting.

PUBLIC HEARINGS

Public Hearing (Variance Applications)

Edward Grant requests variances from Section V.B.3. and XI.B.1. to permit the construction of an addition that does not meet required setbacks and to expand a non-conforming structure. The property is located at 209 Old Homestead Highway and is situated in the Business District. The property is shown at Tax Map 36, Lot 9.

Vice Chair Thibault seated Geheran for Hutwelker and Rudgers for Beauregard Jr. and seated himself, Mitchell, Tatro, Rudgers, and Geheran for this hearing.

Public Hearing opened at 7:06 p.m.

Carbonneau listed the public notices published and notices sent to Department Heads. She said there was no feedback from Department Heads. She noted the property is connected to public water and sewer. Carbonneau also said that the 24' x 24' addition for great room and 24' x 6' covered porch was granted an area variance and special exception in 2005. The property does not meet the required 75 foot setback from the road. The dimensions of the existing house are non-conforming.

Discussion:

Grant said he wants to put in a bedroom, walk-in closet and bathroom on the lower floor because of difficulty to get up and down stairs and it will make it easier in their later years. He said the addition is planned for the side of the property where there is plenty of room. The addition will bring the setback to approximately 58.5 feet from the road. Carbonneau passed out color photos of the property.

It was noted that there is currently a bathroom in the great room. The new bath is a shower stall with a vanity with sink and toilet. There is also a bathroom upstairs.

Carbonneau asked about a full bathroom in the great room, constructed in 2005 and Grant confirmed that there is a bathroom in the great room. Currently there are three bedrooms upstairs.

Adrian Pinney was present. He owns the next lot to the south of Grant's property. He expressed no concerns regarding the request by Grant. Thibault asked for further questions. There were none.

Public Hearing closed at 7:18 p.m.

Reopened the public hearing at 7:19 p.m. Mr. Grant wished to add one more comment for the record. Grant said that the nearby properties in the business zone are not meeting setback requirements.

Public Hearing closed at 7:20 p.m.

There was a brief discussion regarding changes in the ordinance with respect to neighboring properties.

Vice Chair Thibault considered the request for variance from Section V.B.3 first. He reviewed the Checklist for Granting a Variance for the setback with the members of the Board

1. *Could the variance be granted without being contrary to the public interest?*
Members said: Geheran said there is plenty of room on the side and the surrounding properties are right on the road. Building was there long before the zoning laws. Given the type of neighborhood, it won't be contrary to public interest. Mitchell said that the 75 feet is an aesthetic requirement rather than a safety requirement. The sign company is right on the corner. Not contrary to the public interest. Rudgers agreed. More to the center of the property than rest of the house, further back from the road. Tatro agreed. Thibault agreed.
2. *Would the spirit of the ordinance be observed if the variance were granted?*
Members said: Mitchell, "yes" – not a safety issue; Rudgers "yes"; Tatro "yes"; Geheran said "yes".
3. *Would the granting the variance do substantial justice?*
Members said: Rudgers yes, Geheran yes because people have the right to use their property and he doesn't think that any injustice will be done to neighbors or the Town; Tatro yes; Mitchell yes;
4. *Could the variance be granted without diminishing surrounding property values?*
Members said: Tatro yes; Rudgers, yes; Geheran yes; Mitchell yes; Thibault yes – there is no evidence to the contrary
5. *Do special conditions of the property exist that distinguish it from other properties in the area?*
Members said: Mitchell said it is a homestead that has been there for a very long time and the neighborhood has changed and gotten more commercial. Rudgers agreed; Geheran agreed; Thibault

agreed, Tatro agreed.

- a. *Owing to the special conditions of the property that distinguish it from other property in the area, there is not a fair and substantial relationship between the general public purpose of the ordinance and the specific application of the provision to the property?* **Geheran agreed ; Mitchell said safety and aesthetics are the purposes of the ordinance; Tatro agreed; Rudgers agreed; Thibault agreed.**
 - b. *Is the proposed use a reasonable one?* **All agreed that it is a large enough piece of land, on public water and sewer and reasonable type of house for the area.**
6. *If the criteria in subparagraph a. and b. are not met, an unnecessary hardship will be deemed to exist if, and only if: Owing to the 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 necessary to enable a reasonable use of the property*

The Chair reported that “**yes**” prevailed and he entertained a motion to approve the request for Variance from Section V.B.3.

Motion was made by Mitchell to grant the variance to Section V.B.3 to Edward Grant to permit the construction of an addition that does not meet required setbacks and to expand a non-conforming structure located at 209 Old Homestead Highway and situated in the Business District because the vote was affirmative, second by Rudgers. No further discussion. All were in favor, and none opposed. **Motion passed.**

Vice Chair Thibault considered the request for variance from Section XI.B.1 next. He reviewed the Checklist for Granting a Variance for the setback with the members of the Board.

As the Thibault began to go through the questions for the second variance, Mitchell said that he believes the responses would be similar to the responses to the questions for the first ordinance. Expansion is to the side and there is enough space for the addition. Rudgers agreed that the 308 square foot addition to the building is a modest addition. Geheran said his answers to the questions won't change. The addition is as far back as it can be from the road and it was a homestead, really old property, and has been there since 1880. He noted the addition cannot be positioned any better for the homeowner. Thibault agreed. Geheran said this part of the ordinance has to do with building superstructure in a place where it doesn't belong. But this addition is not doing any harm to that part of the ordinance. Thibault added that having a first floor bedroom from a health and safety perspective is a reason for allowing for a modest addition. The use is reasonable being a bedroom.

1. *Could the variance be granted without being contrary to the public interest?*
2. *Would the spirit of the ordinance be observed if the variance were granted?*
3. *Would the granting the variance do substantial justice?*
4. *Could the variance be granted without diminishing surrounding property values?*
5. *Do special conditions of the property exist that distinguish it from other properties in the area?*
 - a. *Owing to the special conditions of the property that distinguish it from other property in the area, there is not a fair and substantial relationship between the general public purpose of the ordinance and the specific application of the provision to the property?*
 - b. *Is the proposed use a reasonable one?*

The Chair reported that “yes” prevailed to all the questions and he entertained a motion to approve the request for Variance from Section XI.B.1.

Motion was made by Geheran to grant the variance to Section XI.B.1 to Edward Grant to permit the construction of an addition that does not meet required setbacks and to expand a non-conforming structure located at 209 Old Homestead Highway and situated in the Business District because the vote was affirmative, second by Rudgers. No further discussion. All were in favor, and none opposed. **Motion passed.**

Grant left at 7:41 p.m.

OTHER MATTERS

Main Street Improvement Project Plans

Carbonneau mentioned the Selectmen’s meeting on Tuesday, September 16, 2014 when Rob Hitchcock will be presenting Main Street improvement project plans.

Capital Improvements Program (CIP) Committee Recommendations

CIP Committee will also be at the Selectmen’s meeting on Tuesday September 16, 2014 with recommendations for Town facilities.

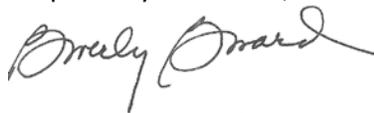
State Route 12 Roundabout Update

Rudgers asked about the roundabout project on NH State Route 12. Carbonneau said it is scheduled to go out to bid in January 2015. Carbonneau mentioned the dig on Lake Street. The property owner dug up a brick lined well, and removed it. Now the State won’t need to do an archeological study in preparation for road work at the site.

Thibault was congratulated on the status of his hair by Geheran.

Motion to adjourn was made by Mitchell, seconded by Geheran and all were in favor. **Motion passed.** Adjournment occurred at 7:48 p.m.

Respectfully Submitted,



Beverly Bernard, Recording Secretary