

Town of Swanzey, New Hampshire
Swanzey Zoning Board of Adjustment
Meeting Minutes – December 1, 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.

A meeting of the Swanzey Zoning Board of Adjustment (ZBA) was called to order at 7:00 p.m. by Chair W. William Hutwelker, III. Present were Chair Hutwelker, Vice Chair Keith Thibault, Bob Mitchell, Bryan Rudgers, Alternate Marty Geheran, Alternate Mathew Rodeck and Beverly Bernard, Recording Secretary. The Recording Secretary called the roll and the Agenda for the meeting.

Absent: Member Sarah Tatro, Alternate Shane Bryant, and Alternate Charles Beauregard, Sr.

Others Present: Director of Planning and Community Development Sara Carbonneau, Herbert K. Smith, Sr. and Maureen and Michael Conboy, daughter and son-in-law of Mr. Smith.

Minutes:

- Minutes were not considered.

PUBLIC HEARINGS

Public Hearing (Variance Applications)

1. Variance Applications – Herbert K. Smith, Sr. requests variances from Section XI.B.1. and IV.B.3. to permit the construction of buildings that do not meet required setbacks and/or to replace and expand non-conforming structures destroyed by fire. The property is located at 422 Homestead Ave. and is situated in the Residence District. The property is shown at Tax Map 70, Lot 4.

Carbonneau noted that the site plan supplied to the Board for review was a pre-fire site plan. The Board took some time to also review the comments of Code Enforcement Officer Michael Jasmin pertinent to the applicant's requests.

Chair Hutwelker seated himself, Thibault, Rudgers, Mitchell and Geheran for Tatro for the public hearing.

Continued Public Hearing opened at 7:05 p.m. - continued from November 17, 2014

Carbonneau said the two-bedroom house being proposed by Smith would be built on the existing footprint but she said she didn't have any information in regard to plans for garage. She said that the any building permit extended would be for a two-bedroom home. She noted that in the future the applicant could attempt to get a three-bedroom septic designed for the site, but that hasn't been done as yet. Carbonneau said that there are safeguards in place so that if

the applicant wanted to add a third bedroom, he would need to get a building permit, and it would require a three-bedroom septic system at that time. Carbonneau reminded the Board that they previously approved the septic for a two-bedroom home and the setback for the septic system.

Carbonneau said the applicant is increasing the cubic volume of the home because of the roof pitch; it is non-conforming lot and structure and therefore needs a variance but the footprint is the same. She noted that there is a plan for a full basement and an unfinished second story but no plans at the moment for a porch or garage. Carbonneau explained that national building codes now require the additional cubic volume with higher sidewalls in the attic area of the building. He is also increasing cubic volume by building a basement since the home was on a partial foundation prior to the fire.

Hutwelker asked for input from Smith about a prospective garage and porch. He suggested that if Smith was not prepared to discuss the garage tonight, he might come back at a later date to apply for a variance for the garage. Thibault made it clear that the porch must be 8' X 21' and no larger since that was the size of the porch on the home prior to the fire.

Carbonneau suggested continuing the variance request for the garage to a later date; March 16, 2015 was considered. Smith said he was comfortable with that date.

Public Hearing closed at 7:23 p.m.

Chair Hutwelker considered the request for variance from Section XI.B.1. and IV.B.3. for the house. He reviewed the Checklist for Granting a Variance with the members of the Board:

1. *Could the variance be granted without being contrary to the public interest?*
Members said: yes – applicant has done everything in his power to build on the existing footprint and only need for variance is to comply with increased national building code requirements.
2. *Would the spirit of the ordinance be observed if the variance were granted?*
Members said: yes
3. *Would the granting the variance do substantial justice?*
Members said: yes -
4. *Could the variance be granted without diminishing surrounding property values?*
Members said: yes – new home will enhance the value of the neighborhood
5. *Do special conditions of the property exist that distinguish it from other properties in the area?*
Members said: yes – it is a small lot and suffered a fire
 - 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?* **Members said: yes**
 - b. *Is the proposed use a reasonable one?* **Members said: yes**

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 grant the request for Variance from Section XI.B.1. and IV.B.3.

Motion was made by Mitchell to grant the request for variance from Section XI.B.1. and IV.B.3. to permit the construction of a single family home with 2 bedrooms with a basement that does not meet required setbacks to replace and expand a non-conforming structure destroyed by fire on property located at 422 Homestead Avenue and shown at Tax Map 70, Lot 4. There was a second to the motion by Thibault. All were in favor, and none opposed. **Motion passed.**

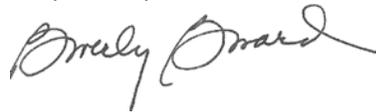
Motion was made by Geheran to continue the public hearing to March 16, 2015 at 7:00 p.m. for a variance from Section XI.B.1, and IV.B.3. to permit the construction of a garage to replace a non-conforming garage destroyed by fire on property located at 422 Homestead Avenue and shown at Tax Map 70, Lot 4. There was a second by Rudgers, and all were in favor. **Motion passed.**

OTHER MATTERS

Carbonneau said there will not be a meeting on December 15, 2014 as there are no applicants. She noted that the January meeting will be held on January 12, 2015 instead of the 3rd Monday, and the February meeting will be held on February 9, 2015.

Motion to adjourn was made by Mitchell, seconded by Rodeck and all were in favor. **Motion passed.** Adjournment occurred at 7:34 p.m.

Respectfully Submitted,



Beverly Bernard, Recording Secretary