Minutes of the
Zoning Board of Adjustment
Meeting of March 3, 2020

A meeting of the Zoning Board of Adjustment was held on March 3, 2020 in the Knightly Meeting Room of the Municipal Office Building, Geremonty Drive, Salem, NH.

PRESENT: Bernard Campbell, Chair; Bonnie Wright, Vice-Chair; Jeff Hatch; Claire Karibian, Alternate; David Bruce, Alternate; Ross Moldoff, Planning Director; and Jacob Lafontaine, Assistant Planning Director.

The meeting was called to order at 7:00 p.m. Chairman Campbell introduced the board members and explained how the meeting will proceed. The ZBA is a quasijudicial board, and all testimony should be truthful and accurate. Per the Statute, all the board members have visited all the sites.

REVIEW OF MINUTES

1. February 4, 2020

MOTION by Mr. Hatch to accept the minutes of the February 4, 2020 meeting.
SECOND by Mrs. Wright.

VOTE ON MOTION: 4 – 0 – 1 (Mr. Bruce abstained.)

PETITION # 1 – Map 65, Lot 2649

R. Paul Marchand & Kathy Ewing, Trustees of the KP Trust, and Roger Marchand hereby request a Variance from Article III, Section 490-301C(1), and asks that said terms of the Zoning Ordinance be waived to permit the conversion of an existing seasonal dwelling to year round occupancy on a lot with a lot size of 5000 sq. ft., frontage of 50 ft., front setbacks of 22.3 ft. to steps & 28.0 ft. & 6.3 ft. to building, and side setbacks of 14.4 ft., where lot size of 35,500 sq. ft. by soils, frontage of 150 ft., front setback of 30 ft. and side setback of 15 ft. is required in the Residential District.

Property Location: 37 Car-Mar Lane

Abutters: There were no abutters present.

Kurt Meisner, with Meisner Brem Corporation is here with Paul and Roger Marchand, the trustees of the trust that owns this property. This property is located on the southwest side of Car-Mar Lane. There is an existing building on the property. We are applying to convert the existing dwelling from seasonal to a year round property. The site is currently serviced by an onsite well and an onsite septic system that are both in good working condition and in good shape. We have a new State approved septic system and shoreland impact plan so NHDES is all set with the
conversion. There are no planned changes to the structure. Everything that you see there today is what you will see there after. It will be exactly the same as what you see now. He then read through the criteria

**PUBLIC INTEREST:** Request is consistent with other properties in the area. A new septic system design (attached) has been completed, and local and State approval secured and it will be installed. New construction will enhance tax valuation and tax revenue. Applicant will be required to pay impact fees for new development.

**SPIRIT OF ORDINANCE:** Proposed use is an allowed use for this district. The purpose of the dimensional requirements is to avoid overcrowding and provide adequate space for wastewater disposal. A NH approved septic design has been obtained (permit attached) and the system will be installed. The water quality of Arlington Lake will be protected by the requirements of a NH Shoreland Impact Permit (attached). The septic system will only be required to be installed when this existing system goes into failure.

**SUBSTANTIAL JUSTICE:** Granting the variance would allow the applicant to improve their property to its fullest extent. Property was laid out for residential development and it will be used residually. There is no proposed change in the physical features of the structure.

**DIMINUTION:** The upgraded septic system will greatly enhance the value of the property thereby increasing the value of the neighborhood. Upgraded property will be of equal or greater value than surrounding properties. The existing building will appear the same as it exists now.

**HARDSHIP:**

**Special Conditions:** Parcel is an existing lot of record which was originally created prior to adoption of the current ordinance regulating lot size, frontage and setbacks (see attached deed & subdivision plan of record). Subdivision was created in 1950 and dwelling was built in 1971 (see attached tax card).

**A.**

i. Denial of the variance does not result in any gain for the town. The proposed use is common to the area (see attached tax map). Property is currently seasonal in an area where numerous conversions have already occurred.

ii. Lot will be used in the same manner as immediately adjacent lots (i.e. residually). Dwelling will have similar setbacks to property lines as immediately adjacent lots. Property has similar dimensional characteristics as immediately adjacent lots (see attached tax map).

**B.** Dimensional restrictions on lot were adopted after lot was created. Without the variance the property has no available reasonable permitted use for year round occupancy.
Mr. Hatch asked, the septic system it has now, that’s in the same place where the replacement will go? Mr. Meisner said, the tank is in the driveway. The leachfield is just off the right side of the driveway. Mr. Hatch asked, is it currently a two bedroom system? Mr. Meisner said, it is an old system, and has a 1,000 gallon tank. He wouldn’t rate it by the number of bedrooms, but the square footage is about the same as what is proposed. Mr. Hatch asked, so it has longevity to it still? Mr. Meisner said yes.

Mr. Hatch mentioned the dug well. How secure is the cap on the well? Is there anything we can do better than what is there? Right now it is at ground level. Is there anything we can do to make it better than what it is? Mr. Meisner said, it is an older well system. You could probably replace that with a newer reinforced concrete cover. Maybe you could put something over it. That is what he would suggest. Mr. Hatch asked, that is the industry standard? Mr. Meisner said yes.

Mrs. Wright asked, is it the original septic? Mr. Meisner said he doesn’t know. It had been used as a camp. There are very sandy soils, so if they were using it for a couple months during the year, it could last. The tank was replaced in 1986, so maybe they did a little replacement of the leachfield. Mr. Bruce asked, you commented that the new septic system won’t be used unless the current one fails? Mr. Meisner said, that’s correct. Mr. Bruce asked, will they construct it? Mr. Meisner explained what the State prefers, and that it is a contingency plan. You have to renew it every four years.

Chairman Campbell asked for public input, either in favor or opposed. There was none. He then closed petition # 1.

**MOTION by Mr. Hatch to grant.**

Mr. Hatch said, they are not making any physical changes to the building itself. It is staying on the footprint. They are not making it larger. They have a working system now and a contingency plan for a new system. Making it a full year round home, they will probably fix it up and will make the area better than what it is now.

**SECOND by Mr. Bruce.**

| Mr. Bruce | In favor |
| Mr. Hatch | In favor |
| Mrs. Wright | In favor |
| Ms. Karibian | In favor |
| Chairman Campbell | In favor |

**VOTE: 5 – 0 MOTION PASSES. PETITION # 1 GRANTED.**

**PETITION # 2 – Map 40, Lot 5299**

Matthew & Elaine Lyons hereby request a Variance from Article III, Section 490-303C(1) & 490-804, and ask that said terms of the Zoning Ordinance be waived to permit additions to an existing dwelling with a front setback of 24.9 ft. to stairs, and setback to the high water mark of
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25.6 ft. to a proposed deck, where a minimum of 30 ft. to the front setback and 50 ft. to the high water mark is required in the Recreational District.

**Property Location: 8 Wreck Avenue**

**Abutters:** There were no abutters present.

Kurt Meisner, with Meisner Brem Corporation is here to represent Matt and Elaine Lyons. They live in this property at Wreck Avenue. We are proposing an addition, or there is an addition to the left side of the property. It is 40.4 feet from the high water mark, and 32 feet from the roadway. That section doesn’t require a variance. We are looking to put a proposed deck on the back of the house, and currently the front stairs of the house run parallel to Wreck Avenue, and they want to turn that landing perpendicular to Wreck Avenue. The stairs end up at 24.9 feet. Due to the grading of what happens in the front yard, the elevation of the stairs is only about a foot and a half above grade. Then you come up into the landing of the house. He explained the reason they want to do this. It is to open up an entryway of the house. There is a small landing out back for a stairway that goes down to the side of the property. There is a drive under garage. They are looking to put a deck on the back, that is located 25.6 feet from the high water mark. We have a shoreland impact plan approved. That permit is in place for everything on this plan.

We have shown it to DES. The Lyons are proposing to put plantings at the edge of the property at the request of the DES. We do have a permit to do everything that we see on this plan. He then read through the criteria.

**PUBLIC INTEREST:** Request is consistent with other upgrades in the area. New construction will enhance the appearance of the existing building and be more typical of a residential property. It will also be a more common use of the building.

**SPIRIT OF ORDINANCE:** Proposed use is an allowed use for this district. The purpose of the dimensional requirements is to avoid overcrowding and provide adequate space for drainage. The water quality of Arlington Lake will be protected by the requirements of a NH Shoreland Impact Permit (under review by the NH Shoreland Protection Bureau at time of application). The setback difference at the front property line is minimal (4.8”) and only a height of 1.2’.

**SUBSTANTIAL JUSTICE:** Granting the variance would allow the applicant to improve their property to its fullest extent. Property was laid out for residential development and it will be used residentially.

**DIMINUTION:** The upgraded dwelling will greatly enhance the value of the property thereby increasing the value of the neighborhood. Upgraded dwelling will be of equal or greater value than surrounding properties. A deck is a common appurtenance on lake front homes.

**HARDSHIP:**
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Special Conditions: Parcel is an existing lot of record which was originally created prior to adoption of the current ordinance regulating setbacks (see attached deed & subdivision plan of record). Subdivision was created in 1950 and dwelling was built in 2000 (see attached tax card).

A.

i. Denial of the variance does not result in any gain for the town. The proposed use is common to the area (see attached tax map).

ii. Lot will be used in the same manner as immediately adjacent lots (i.e. residentially). Dwelling will have similar setbacks to the high water mark as immediately adjacent lots. Property has similar dimensional characteristics as immediately adjacent lots (see attached tax map). A variance for setback to the proposed primary addition is not necessary per the provisions of Article VIII, Section 490-810.

B. Dimensional restrictions on lot were adopted after lot was created. Without the variance the property has no available reasonable permitted use for expansion.

Mr. Meisner explained that we are 40.4 feet from the high water mark, and the existing dwelling is 32.6 feet, so we are further away than the existing dwelling.

Chairman Campbell asked if there were any abutters to speak in favor or opposition of this petition. There was none.

Mr. Meisner said, regarding the septic system, there are no changes. The proposed addition would be a swap of a bedroom in the house to a larger bedroom. Chairman Campbell asked, there won’t be a total increase in the number of bedrooms? Mr. Meisner said, there will be no increase in the amount of bedrooms.

Chairman Campbell then closed petition # 2.

Ms. Karibian mentioned the layout of the land. Where is the well located? She was out there, and there were two markers out there. One had a red flag. What does the red flag mean? Mr. Meisner said that those are general survey control points. He explained that is how we can find them when there is snow on the ground. Ms. Karibian asked, the building won’t go up to that flag?

Mr. Meisner said, he is not sure which one you saw. The building is 22 feet out from the existing dwelling. He explained where the control points are on the plan. Ms. Karibian said, it appeared to her that the addition seemed to be close to the well. Chairman Campbell said, you may have seen a set point for the survey work that is unrelated to the shape of the addition. Ms. Karibian said there is not much room between the building and the edge of the property. The drawing is deceiving. Chairman Campbell explained that the addition is well within the building envelope.

MOTION by Mr. Hatch to grant.
SECOND by Mrs. Wright.
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**VOTE: 5 – 0 MOTION PASSES. PETITION # 2 GRANTED.**

**PETITION # 3 – Map 34, Lot 5345**

Rory and Donna Neubauer hereby request a Variance from Article III, Section 490-303C(1), and ask that said terms of the Zoning Ordinance be waived to permit construction of a year round, single family dwelling on a lot with 24.05 ft. of frontage and lot size of 17,011 sq. ft., where a minimum of 100 ft. of frontage and lot size of 44,500 sq. ft. by soils is required in the Recreational District.

**Property Location:** 37 Cove Road

**Abutters:** There were no abutters present.

Kurt Meisner, with Meisner Brem Corporation, is representing Rory and Donna Neubauer. Mr. Neubauer is in the audience. This property is located at 37 Cove Road. It was previously occupied by a structure and we have photos in the file. There was a single family home and a large 2 car garage. That building was burned and razed in 1993. We are looking to get a variance to reconstruct a building, not the same building as the one that was previously there, but a smaller building. We have all State permits. We have a shoreland impact permit that’s been issued and we have an individual septic system design which has been issued and is in place for this property. He then read through the criteria.

**PUBLIC INTEREST:** Request is consistent with other properties in the area. A new septic system design (attached) has been completed, and local and State approval secured and it will be installed. New construction will enhance tax valuation and tax revenue. Applicant will be required to pay impact fees for new development.

**SPIRIT OF ORDINANCE:** Proposed use is an allowed use for this district. The purpose of the dimensional requirements is to avoid overcrowding and provide adequate space for wastewater disposal. A NH approved septic design has been obtained (permit attached) and the system will be installed. The water quality of Arlington Lake will be protected by the requirements of a NH Shoreland Impact Permit (attached).

**SUBSTANTIAL JUSTICE:** Granting the variance would allow the applicant to improve their property to its fullest extent. Property was laid out for residential development and it will be used residually. Proposed dwelling replaces a dwelling that was destroyed by fire in 1992 and demolished in 1993.
DIMINUTION: The new dwelling will greatly enhance the value of the vacant property thereby increasing the value of the neighborhood. New dwelling will be of equal or greater value than surrounding properties.

HARDSHIP:

Special Conditions: Parcel is an existing lot of record which was originally created prior to adoption of the current ordinance regulating lot size (see attached deed & subdivision plan of record). Subdivision was created in 1970 and original dwelling was built in 1973 (see attached tax card).

A.

i. Denial of the variance does not result in any gain for the town. The proposed use is common to the area (see attached tax map).

ii. Lot will be used in the same manner as immediately adjacent lots (i.e. residentially). Dwelling will have similar setbacks to property lines as immediately adjacent lots. Property has similar dimensional characteristics as immediately adjacent lots (see attached tax map).

B. Dimensional restrictions on lot were adopted after lot was created. Without the variance the property has no available reasonable permitted use for year round occupancy.

Chairman Campbell said, we have elevations of the right, front, rear and left and the garage shows all the living space on second floor. Mr. Meisner said that’s correct. Chairman Campbell said we are missing the second floor plan. Mr. Meisner said its residential. It is a two bedroom. Chairman Campbell asked, is there attic space? Mr. Meisner said, there is no attic space. The second floor is the top floor. It’s a dwelling with garage underneath. It is a two bedroom dwelling.

Mr. Hatch asked, does the Fire Department have input about the shared driveway? Is it wide enough? Mr. Moldoff said, we can ask that question or you can make a stipulation. They are sent copies of the agenda. Mr. Hatch said, that’s his only concern is the shared driveway, as far as the Fire Department is concerned. Mr. Bruce said, most roads there aren’t wider than driveways. Mr. Hatch mentioned that the U shape is the shared driveway, but he doesn’t know how much room they need. Mr. Meisner said, the Fire Department can turn around at the boat ramp. Their requirement is, when a driveway is over 250 feet, that you have a 70 foot area that you can turn around in and we certainly meet that requirement.

Chairman Campbell asked if there were any abutters to speak either in favor or opposition to this petition.

Mr. Neubauer is in favor.

Chairman Campbell then closed petition # 3.
MOTION by Mr. Hatch to grant.
SECOND by Mrs. Wright.

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VOTE: 5 – 0 MOTION PASSES. PETITION # 3 GRANTED.
Chairman Campbell recognized Mr. Hatch for his service to our community and thanked him for his many years of service to the town on the ZBA, and wished him well on future endeavors.
Next Tuesday is the municipal Election Day. Please go out and vote.

MOTION TO ADJOURN: by Mr. Hatch. Second by Mrs. Wright.
MEMBERS IN FAVOR: All were in favor.
The meeting adjourned at 7:42 p.m.

Minutes by: Susan Strugnell
Approved: Zoning Board of Adjustment
Date: