

**Zoning Board of Adjustment**

**May 5, 2016**

**Memorial Building**

**7:00 p.m.**

***These minutes are to be considered draft minutes only until approved by the board at their next meeting.***

**Members Present:** Sue Chiarella, Peter Abair, Rick Corbett, Bryan O'Day, Justin Hastings, and alternate Josh Worthen

**Planning Members Present:** Kevin Lee, Ken Jacques, Don Hill, Bryan O' Day and Mike Howard

Others Present: Leigh Callaway, Susan Hankin- Burke, Arlene Wheeler, Tom Duling, George McCusker, Lou Senatore, Kevin Roberts, Jen Roberts, Joseph Miller, Janet Roberts and Tamara Butcher

Susan called the meeting to order at 7:00 P.M.

Approval of April 5<sup>th</sup> minutes- Bryan makes a motion to accept, second by Pete and all in favor

April 9<sup>th</sup> minutes- Bryan motions to approve with corrections, second by Justin all in favor and unanimously approved

April 21<sup>st</sup> minutes- ZBA portion- Justin motions to approve the minutes, second by Rick an all in favor and unanimously approved.

Susan opens the hearing for a request for a variance from Heather Moffitt, represented by Susan Hankin-Birke.

Susan asked the board if they had a chance to look over the application and if they felt it was complete. The board all agreed that the application was complete.

Susan approaches the board stating that her client is asking for a 10' variance. She states the sideline set back is 35' from sideline and the proposed garage will be 25'.

Susan Hankin Birke approaches the board and goes over the conditions that need to be met when applying for a variance and in granting one. She states there is no visual separation. There is no structure on the Heath property which abuts this property. She feels that 10' towards the boundary will have no negative impacts. She feels the garage is a positive thing as there will be a place to store toys, snowmobiles, accessories, etc..... instead of them being on display. She also states that salt from the roads falls off vehicles onto the soil. With a garage that would not happen. She feels that there will be zero gain to the public by denying this request for a variance. She states they would maintain a sideline buffer and it would not diminish the surrounding property values at all. She states that she was not aware of any objections to her client's request. She also feels the use for this property is a reasonable

one. There will be no water or septic in garage. Joseph Miller, an abutter to the property spoke up and said he was completely in favor of this.

Susan Chiarella asks the board if they feel they need to look at property. The board does not feel it is necessary. Bryan motions to close the hearing and go into deliberation, Peter seconds all in favor.

The board goes over the finding of the facts:

1. **Granting the Variance would not be contrary to the public interest because:** The proposed request would be far from public view and the proposed garage would not be near public right of way. Construction of the garage at 25 feet from the side-line still creates substantial distance from the abutting property.
2. **If the variance were granted, the spirit of the ordinance would be observed because:** The proposed garage would have minimal impact on the Lake. It has the potential to create a location to keep and store items out of view creating a more orderly look to the property. It is also providing an area to store vehicles (which could pollute) in a covered and contained building.
3. **Granting the variance would do substantial justice because:** Having a garage is a reasonable request in New England where weather plays such a part in life.
4. **If the variance were granted, the values of the surrounding properties would not be diminished because:** A garage creates a more orderly environment whereby equipment, toys, and vehicles are stored undercover. The only abutter present (who lives next to the subject property) was not opposed to the construction and in fact, supported the request. The property abutting the affected sideline is a large parcel (of about 10 acres) and the construction of a garage would not interfere with that property.
5. **Owing to special conditions of the property that distinguish from other properties in the area, denial of the variance would result in unnecessary hardship because:**

**ii no fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:**

The subject lot is a substandard lot and has many physical restrictions which prohibit building the garage in another location. Furthermore, the lot is encumbered by wetlands. The proposed location seems to be the most reasonable for the area in questions.

**iii The proposed use is a reasonable one because:** A garage is a reasonable addition to a property in New England.

Justin makes a motion to grant the variance of 10', second by Rick, all in favor and unanimously approved. Variance granted.

8:00- Roberts joint hearing for special exception for an in-law apartment joint with planning board

Kevin Lee calls meeting to order and hands the meeting over to Susan to do the ZBA portion for the special exception.

Kevin Roberts approaches the board and states he would like to put an in law apartment in for his mother n law beside his garage. He has enough property and only one abutter. Susan asked the board if they felt the application was complete all was in favor.

Susan added that in 2016 the State is changing the statue regarding the in law living arrangements so she would find it very difficult to not grant this special exception.

Justin makes a motion to close the hearing and go into deliberation, second by Rick all in favor.

The board goes over the facts:

a. The proposed use would not be detrimental to the character or enjoyment of the neighborhood by reason of undue variation from the character or appearance of the neighborhood because: ***The board felt it was far enough from the road***

b. The proposed use will not be injurious, noxious, or offensive, and thus detrimental to the neighborhood because: ***The use would not support any more traffic coming or going from property***

c. The proposed use will not be contrary to the public health, safety or welfare by reason of undue traffic congestion or hazards, undue risk to life or property, unsanitary or unhealthful emissions or waste disposal, or similar adverse causes or conditions because: ***They have enough space, land, state approved septic on the property***

d. The location and size of the proposed use, the nature and intensity of the operations involved, the size of the site in relation to the proposed use and location of the site with respect to the existing or future street giving access to it shall be such that it will be in harmony with the orderly development of the District because: ***They have enough space with only one abutter and will have zero impact on the district***

e. The operations in connection with the proposed use will not be more objectionable to nearby properties by reason of noise, fumes, odor, or vibration than would be the operation of any permitted uses in the District which are not subject to Special Exception procedures because: ***Only one abutter which is family and use does not create noise, fumes, odor, etc...***

Susan Chiarella makes a motion to grant special exception to construct an in-law dwelling, second by Peter all in favor and unanimously approved.

Kevin re-opens the planning board portion of the meeting and explains to Kevin and Jenn that it would be best to come before the board at their next meeting for their site plan and this would be including. Ken Motions to continue the Roberts Hearing until their next scheduled Planning board meeting of May 19<sup>th</sup>, at 7:05 pm, Don seconds all in favor and unanimously approved.

#### **Amber/Wells Hearing for a Variance represented by Ralph Beard:**

Ralph Beard approaches the board and states that they would like to expand and existing deck and it would be within the 35-foot setback from road. He said that in doing this it would be an upgrade to the existing deck. He states there are no buildings right next to it, and that it would not affect anyone. The lot is .34 acres.

Justin makes a motion to close the hearing and go into deliberation, second by Justin all in favor and unanimously approved.

The board reviewed maps and the finding of the facts.

1. **Granting the Variance would not be contrary to the public interest because:** The proposed request is upgrading and enhancing an existing deck and the construction and would make little change to the residential look of the property.

2. **If the variance were granted, the spirit of the ordinance would be observed because:** The proposed enhancement and expansion from 7'6" X 16' to 10' X 16" is an improvement to the property and creates a more useable area.

3. **Granting the variance would do substantial justice because:** Having a useable deck is a reasonable use of a residential property at the location.

4. **If the variance were granted, the values of the surrounding properties would not be diminished because:** The enhanced deck is an improvement to the property. No abutters were present to object.

5. **Owing to special conditions of the property that distinguish from other properties in the area, denial of the variance would result in unnecessary hardship because:**

ii **no fair and substantial relationship exists between the general public purposes of the ordinance provision and the specific application of that provision to the property because:**

The subject lot has no other place that a deck could be located. Given the difficulty of pinpointing the exact location of the right of way of Deer Hill it is difficult if not impossible to determine the footage needed for a variance. Therefore, it is reasonable to grant the variance allowing the expansion to be 2.5 closer to the right of way than exists presently.

iii **The proposed use is a reasonable one because:** A useable deck to enjoy the out of doors is a reasonable use for a property in New England.

Justin makes a motion to grant the variance stating the deck should not be closer than 25' from the edge of the road, second by Rick all in favor and unanimously approved.

Meeting adjourned at 9:20

Minutes submitted by,

Susan Abair