

BOARD OF ADJUSTMENT

MAY 4, 2021

MEMORIAL BUILDING

7:00 P.M.

The following are to be considered draft minutes until approved by the Board.

Members present in the room: Justin Hastings, Cody Patten, Tanner Jacques, and Bryan O'Day.
Members present via ZOOM: Susan Chiarella.

Others present in the room: Whit Smith, Amy Lewis, and Leah Greene.

Meeting began at 7:01.

Discussion regarding continued use of masks at meetings. Susan spoke in favor of continuing the use of masks at meetings. Not knowing vaccination status and to continue protecting the public as much as possible until getting into the summer when windows can be opened. Tanner was in favor of continuing, until Friday when "best practices" are due to be announced. He would like to go month to month. Bryan stated he is not in favor of a mask requirement. Justin stated he would wear a mask if mandated, but he does not care to wear one. His concern is how public attendees would feel. Cody is not in favor of mask requirement. A motion was made by Tanner that month to month the board decide about wearing masks, and requiring masks be worn this month and reconsider monthly. Susan seconded the motion. Justin, Cody, Bryan voted no. Motion failed.

Continued hearing for Sara Gilbert for a Special Exception from Article III, section 3.13b of the Zoning Ordinance seeking relief from the 35' setback requirement to construct a garage no less than 8' from the side lot line on a pre-existing non-conforming lot of .69 acres at 256 Philbrick Hill Road. Sara Gilbert and Ryan Gatchel were present via ZOOM. The board reviewed the minutes from the Site Visit of April 12th. Tanner, Susan, and Justin were at the site visit. Susan moved to accept the April 12, 2021 minutes as written, seconded by Tanner. Justin, Susan, and Tanner agreed.

Susan asked the applicant if there were any additional information before the hearing was closed for deliberations. No one else was present to speak to this case. Justin moved to close the public hearing, seconded by Tanner and unanimously approved,

Justin noted the ordinance states a proposed structure shall not be any closer than 10' on any setback on a non-conforming lot as per Article 8.11. Tanner stated after going out there his initial concern is with the shed and garage overloading the garage, but even with removing the entire shed, and putting the garage in the middle of the lot it would still involve setbacks on the sides, so no matter what there will be infringement on a setback. There is no location on the lot where setbacks can be met. He does not necessarily think the loading is a problem, but he does feel the board needs to abide by the ordinance and he would like to see the garage moved closer to the center of the lot, so it is at least 10' from the lot line. Justin stated or make the garage 2' narrower. Tanner does not think the garage is out of character with the neighborhood, or obnoxious in any way. The abutters do not seem to mind since they have not spoken in any way.

There are going to be multiple structures on the lot and in the past the Board has said this is a lot that is basically built-out much like with the former Rice case, and he would favor stating no further building on that property. From a storage standpoint there is enough there with a 16 x 12 shed and a two-car garage. Bryan noted his interpretation of 8.11 is it speaks to existing non-conforming structures. The garage does not exist. This is a new structure and does not exactly comply to what is happening now. The house is not non-conforming. The Board discussed articles 8.11 or 8.12. Susan stated the applicant can ask for the relief, and it is up to the Board to determine whether to grant it. Tanner commented it would be safer to grant the garage at 10' versus 8'. Based on what they are asking he 2' should not make that much difference in his opinion. Susan stated proposal was for 28' x 32' garage, 32' runs parallel with the lot line, and if the board decides on 10' they can reduce the size of the garage. Tanner stated he does not think they have to reduce the size of the garage; he thinks they can still move the garage two feet towards the shed. (overhangs count as well). They are removing part of the shed anyway, so they are not losing any storage if they move the garage 2' closer to the shed. Having been to the site it allows for room between the two. Justin stated he agrees 10' stuck out to him and he thinks this is reasonable. Cody stated looking at the mapping there appears to be plenty of room to accomplish what the Board is concerned about.

The Board reviewed the criteria for a Special Exception. (See Zoning Ordinance Article 11.42)

- A. It is not out of character for the neighborhood to have a garage.
- B. The garage lends itself to a residential use in the neighborhood.
- C. Not Applicable. This is a residential garage.
- D. There are no opposition to a garage; this is not changing the nature of the neighborhood.
- E. Not Applicable. This is a residential garage.

Susan has no issues with the garage. Tanner stated he sees no issues with the proposal other than the structure should be no closer than 10' to the line and given the size of the lot perhaps saying a condition is it is built out.

Sarah had an additional comment she wished to make. (As a note of procedure, it was not made clear when closing the hearing that no further comments from anyone could be made). Susan asked how the Board felt. Justin stated he was not sure that any comments would make and difference on the findings in that there would be options left on the table with the findings. Susan stated she feels if the applicant has something she wishes to state. Bryan moved to close the deliberations and reopen the hearing to allow the applicant to make a comment, motion seconded by Susan. Tanner stated the board had a clear look and they have a plan, and the plan leaves some ambiguity as to where they could place things, and he does not think the hearing should be reopened. Susan stated that she feels the applicant is owed the opportunity to speak since it was not made clear at the beginning. The Board voted unanimously on the motion.

Sarah stated the concern with bumping the garage two more feet and with including the overhangs of the garage it would impinge that much more on the septic system. Ryan noted the NE corner of the garage and the SW corner of the leach field is tight at 8' so 10' is respectable.

but is cramping the leach field. Tanner noted it appears the garage could move forward a bit so it is not infringing on the septic and then over 2', it is a challenge, and it is a small lot but the 10' is something that could be done. Keeping a 10' buffer to the side of the property is important in his opinion and is very tight. Justin is in favor of the 10' buffer. Another option is the garage could be 2' narrower.

Susan asked if Sara if there were any other concerns before they re-enter deliberations. Susan stated deliberations mean they discuss the case between the Board and do not open it up to anyone else, including people in the audience. Sarah thanked the Board for considering their concerns. Susan moved to close the hearing and reopen deliberations, Justin seconded, and unanimously approved. The Board deliberated on language for the motion.

Motion by Tanner to grant a Special Exception of no more than 25' of relief to construct a 32' x 28' garage and with the condition that there shall be no further construction or accessory buildings on the property. The motion was seconded by Justin. Discussion: Susan stated she feels it is easier to state the structure should be no closer than 10' rather than doing no more than 25'. Tanner retracted the above motion.

Susan suggested: Special Exception granted to construct a garage no closer than 10' to the South Easterly Boundary of the property and shall be no further buildings constructed on said property. Tanner likes to know what is granting so he would like to see the 25' in there.

Bryan stated he does not think the Board can tell someone they can never build anything else on their property. Tanner agreed with Bryan and if they want to build anything they would most likely need to come back to the board because setbacks are an issue on this lot.

Tanner agreed to withdraw his former motion.

Motion by Tanner to grant a Special Exception with no no more than 25' of relief; no closer than 10' to the south east boundary of the property to construct a garage. Motion seconded by Justin. Justin, Tanner, Cody, and Susan voted in favor. Bryan abstained.

Minutes of April 6, 2021: Tanner moved to accept the minutes as written, seconded by Justin. Tanner, Justin, Cody, and Susan voted in favor. Bryan abstained.

Hearing concerning a request by Leah Greene for a Variance from Article 3, Section 3.13B of the Zoning Ordinance. Applicant is seeking relief from the 35' setback requirement to construct a garage no less than 20' from the rear lot line, (15' of relief). Property is located at 1327 Stoney Brook Road in the Rural Residential Zone. Tax Map # 10, Lot 316-418; 5.01 acres.

The hearing started at 7:45 p.m. Leah Greene was present. Justin moved to accept the application as complete, seconded by Bryan and unanimously approved. Abutters had been notified, and notices were posted and published as required. Leah presented their request looking to add a garage and mud room to the existing home, and a rear corner of the garage encroaches on the rear lot-line of about 15'. The proposed garage is 26' x 26' and the mudroom of 12' x 16' from the garage to the house. Tanner noted there was a letter from a wetlands

scientist. He asked if there were any place on the maps where there are wet areas. He interprets the letter as there being pockets or hollows that limit construction. He asked if there were areas of wetlands, as the information would be useful to understand what the other limits there are on the property. He would like to go on a site visit to understand where hardships might be. Whit stated the well is located behind the house and the house is in the western half of the overall lot, the driveway comes up that side the proposed location is the most logical for the garage. The 12 x 16 mudroom is to be attached to the house, and the garage is 26' x 26' feet. The driveway is complete and in place and is crushed gravel. The garage would push back 12' to 14' feet into the setback, a good 20' from the lot line. The Board questioned where the waterline is and other features of the lot that were not clear on the plan (s) presented. Justin pointed out a discrepancy in the application, on page 2 # 1 says 10' and should say _____, which is stated everywhere else. Whit stated that is a typo and therefore was amended at the meeting. Justin stated the letter from the wetlands scientist was in relation to before the house was built. Whit stated the ARC GIS map does not show wet in construction. Susan noted the Board has made a habit of going on site visits for these types of applications. The board discussed trying a change in procedure, so a decision may be granted timelier for applicants with this type of decision. Justin questioned whether the site visit required ZOOM. The Board addressed this hearing is publicly noticed and there are no abutters or public in attendance. Leah noted the abutter in question is located way up on the other side of their lot, accessed from Hogg Hill Road. That neighbor has stopped at her house and is ok with this. Justin asked if a decision could be made at the site walk. Following discussion Tanner moved to continue to a site visit on Tuesday, May 11 at 6:00 p.m. at the property on 1327 Stoney Brook Road. The hearing would then resume at the office at 7:00 p.m. to continue the public hearing and enable attendance via ZOOM. The motion was seconded by Justin and unanimously approved.

Tanner and Whit have signed up for the OSI seminar on Saturday. Tanner stated the sessions are being recorded so he will probably review them later.

Susan stated she has someone who may interested in being an alternate.

The meeting adjourned at 8:15 p.m.

Submitted by,

Janet Roberts,
Administrative Assistant

DRAFT