

**TOWN OF CHESTERFIELD, NH  
ZONING BOARD OF ADJUSTMENT**

**MINUTES  
September 13, 2016**

**Present:** Vice Chairman Harriet Davenport, Renee Fales and Alternate Roland Vollbehr. Also present was Lance Zinn to observe the process of a ZBA meeting.

**Absent:** Burt Riendeau, Lucky Evans, Kristin McKeon, Alternate Christopher Oot and Selectboard Representative Norman VanCor.

Davenport opened the meeting at 7:30 p.m. and explained the process of the meeting. She noted that the applicants have the choice of having their application heard at this meeting, with only three board members present, or request for the application to be heard at the ZBA meeting to be held on October 11, 2016. Davenport stated that there will be no further expense to the applicant, if their application is deferred to the October 11 meeting. No other notices will be mailed for the deferred hearing(s).

**Hearings:**

**Debra McQuade** requests a Special Exception from Article II Section 204.3 (E) of the zoning ordinance to permit a two family dwelling in a single family detached dwelling. The property is located at 113 Spaulding Hill Road, West Chesterfield, NH 03446 (Map 14C Lot D15) Rural/Agricultural District.

Present: Debra McQuade

McQuade requested that this application to be deferred until the meeting of October 11, 2016.

**Steven & Karen Sebastian** requests a Variance from Article II Section 204.4 (A) of the zoning ordinance to permit a side lot line adjustment between two lots that will result in Lot #2B A5 with the existing house having plus or minus 10.57 acres and Lot #2B A6 with the existing house having plus or minus 2.08 acres, each lot is presently nonconforming. The properties are located at 392 & 402 Streeter Hill Road, West Chesterfield, NH 03446 (Map 2B Lot A5 & Map 2B Lot A6) Rural/Agricultural District.

Present: Steven & Karen Sebastian

Sebastian requested that this application to be deferred until the meeting of October 11, 2016.

**Kim & Marina Perrin** requests a Variance from Article II Section 203.5 (B) of the zoning ordinance to permit a carport that crosses the side setback. The property is located at 438 North Shore Road, Spofford, NH 03446 (Map 5H Lot B3) Residential District.

Present: Kim Perrin

Perrin noted that the property has steep slopes and the house is just within the 50 ft setback. He noted that a car would not fit in the garage that was under the house. He requested approval to build a 22x22 ft carport within the size setback approximately 11 ft. from the abutting property owned by Scott Sampson. Perrin noted that the water well is located in the driveway and he has had his septic system replaced to the right side of the main house. The proposed carport will be approximately 4-1/2 feet away from the house for frost protection.

Perrin stated that the lot is conforming. Fales asked what the impermeable coverage is on his property. Perrin replied that he has 1.1 acres of land and the house is 48x28 sq. ft. Fales noted that Perrin needs to include his septic, deck, staircase and the driveway. Fales stated that Perrin is below the allotted 10% impermeable coverage.

Davenport stated that there seems to be some hardship in the land to make anything work. There were no abutters present and no letters received from abutters.

*Fales moved to close the public portion. Vollbehr seconded the motion.*

Vote called: Davenport – Yes, Fales – No, Vollbehr – Yes

*The motion passed by majority vote.*

Discussion: Fales stated that the board shouldn't have to do a site visit because the applicant has provided good pictures to prove hardship in the land. She added that having a carport for snow load is a reasonable thing to have, living in New Hampshire and the applicant is only asking for a carport and not a garage. Davenport stated that the applicant is trying to do something of a reasonable nature and the applicant has improved the property by putting a proper septic system in.

*Vollbehr moved to grant the variance for Kim & Marina Perrin of 438 North Shore Road, Spofford, NH 03446 involving the construction of a 22x22 ft size carport.*

Criteria for approval:

1. The variance is not contrary to the public interest. **The variance will improve the property and the neighborhood through its construction. It seems to be a very simple building that looks very utilitarian and attractive.**
2. The spirit of the ordinance is observed. **Yes. The Perrins are unable to construct such a structure anywhere else but that location that they have proposed, mainly because of problems with the terrain.**
3. Substantial justice is done. **Such a structure is needed for winter time so that the car can be safely stored in an area that is easily accessible.**
4. The variance will not diminish the values of surrounding properties. **The structure is attractive and necessary and it will improve the value of the property and the surrounding properties.**
5. Literal enforcement of the ordinance would result in unnecessary hardship. Because of the special conditions of the property that distinguish it from other properties in the area:
  - (a) There is no fair and substantial relationship between the general public purposes of the ordinance provision and the specific application of that provision to the property. **Because of special conditions of the property that distinguish it from other properties. There definitely is a hardship involved because of the terrain and the steepness of the slope leading to the house and in back of the house.**  
**And**
  - (b) The proposed use is a reasonable one. **Yes.**

The motion was seconded by Fales.

The vote was called: Davenport – Yes; Fales – Yes; Vollbehr – Yes

The motion passed unanimously.

John Koopmann raised his hand to speak and noted that the Vice Chair called upon abutters to speak and did not call upon anyone from the public to speak before closing the public portion. He noted that he had concerns of the surrounding properties around Spofford Lake pertaining to the steep slope issues and other elements of the design of concern with the run off issues. Fales noted that not all public testimony is taken during the hearings from anyone other than abutters because they are less relevant. Jeff Scott noted that this property is in the Spofford Lake district. Koopmann noted that the Planning Board deals with steep slope and run off issues. Vollbehr stated that the people who will have run off issues will be the town's highway department and that property produces the same amount of runoff with or without the carport.

**Deborah Metivier** requests a Variance from Article II Section 203.6b (B) the zoning ordinance to permit the construction of a 384 sq. ft. finished addition to replace the current open deck and a 98 sq. ft. screened in porch on back of house. The property is located at 818 Route 63, Spofford, NH 03462 (Map 5A Lot A3) Spofford Lake District.

Present: Deborah Metivier

Metivier requested that this application to be deferred until the meeting of October 11, 2016.

**Kenneth Bergmann** requests a Variance from Article II Section 204.5 (A) of the zoning ordinance to permit adding a mud room, enclosed 3-season porch and breezeway within the front setback. The property is located at 270 Pond Brook Road, West Chesterfield, NH 03446 (Map 2 Lot D19) Rural/Agricultural District.

Present: Kenneth Bergmann

Bergmann noted that the house is approximately 200 years old. He stated that there was a 20x30 ft. structure, approximately 41 feet from the road that was attached to the house when he purchased the property (in 1979). Bergmann stated that he is requesting to add one structure to the house in the same location that the barn used to be before he demolished it. He replaced the barn with a 10x12 ft. deck and a wheelchair ramp. The deck and ramp footprint was 17x15 ft. and will be replaced by a 18x14 ft. 3-season mudroom, including the steps, and it will be attached to the house. It will sit 41 feet in the front property line. The doorway will be on the side of the driveway and the stairway will come out approximately two feet from the new addition. Bergmann noted that the addition will sit on sonar tubes.

There were no abutters present and no letters received regarding this variance request.

*Fales moved to close the public portion. Vollbehr seconded the motion.*

The vote was called: Davenport – Yes; Fales – Yes; Vollbehr – Yes

The motion passed unanimously.

Discussion: Fales noted that the applicant already has a structure in place of where the mudroom is being proposed. The impermeable coverage is not going to change and the applicant is on 15 acres. The addition will be only 9 feet into the front setback. Vollbehr noted that the applicant's proposal is for 292 sq. ft. and the current deck is 120 sq. ft.

*Fales moved to approve the variance for a variance of Kenneth Bergmann for property located at 270 Pond Brook Road, West Chesterfield for a variance from Section 204.5 to allow the construction of a mudroom within the front setback. The mudroom, as proposed, is 14x18 ft., with 14 ft. along the house, the 18 ft. away from the house including the stairs going up to the mudroom.*

Criteria for approval:

1. The variance is not contrary to the public interest. **There previously had been a barn in that footprint, a 20x30 ft. and currently there is a deck that is 10x20 ft. along with a handicap ramp with a footprint of 10x12 ft. deck.**
2. The spirit of the ordinance is observed. **There had been a structure previously in the footprint and the structure being proposed is reduced in size from the original barn, however it is larger than the current deck, but within the footprint that includes a handicap access.**
3. Substantial justice is done. **A mudroom is beneficial to have in New Hampshire and this will allow egress and ingress into the house.**
4. The variance will not diminish the values of surrounding properties. **A mudroom is part of a house and it doesn't add any kind of height to disrupt any of the neighbors.**
5. Literal enforcement of the ordinance would result in unnecessary hardship.

Because of the special conditions of the property that distinguish it from other properties in the area: **The hardship for this property is that the house is already located within the front setback and the mudroom needs to be attached to the house in order to be useful.**

(b) There is no fair and substantial relationship between the general public purposes of the ordinance provision and the specific application of that provision to the property.

**And**

(c) The proposed use is a reasonable one. **Yes.**

The motion was seconded by Vollbehr.

The vote was called: Davenport – Yes; Fales – Yes; Vollbehr – Yes

The motion passed unanimously.

### **Review Meeting Minutes**

- **July 21, 2016 Nonpublic**– Voting will be Davenport, Evans, Fales & McKeon.
- **August 9, 2016** – Voting will be Riendeau, Davenport, Evans, Fales & McKeon.  
The board will review meeting minutes at the October 11, 2016 meeting.

### **Other Business**

#### **Notice of Decision – Robert C. Hodgkins et al v Town of Chesterfield ZBA**

The board received a decision from Cheshire Superior Court to grant the Town of Chesterfield a Motion to Dismiss: Granted for the reasons set out in the motion. No objection filed.

#### **Proposed Budget for ZBA 2017**

The board reviewed the ZBA draft budget proposal and made no changes.

*Fales made a motion to approve the proposed budget. Vollbehr seconded the motion.*

*The motion passed unanimously.*

The ZBA budget will be proposed to the Selectmen at their meeting of September 21.

#### **ZBA Decision Postings**

To be discussed at the October 11, 2016 meeting.

**Motion for Reconsideration/Rehearing (Mark Lanoue)**

The request for a Motion for Reconsideration/Rehearing was reviewed by the board from Steve Bonnette, Esquire, attorney for Mark Lanoue. The ZBA must make a decision as to whether the board wishes to grant the applicant a rehearing.

John Koopmann noted the original application was only for internet sales and there would be cars in the back of the building. The applicant has expanded the original request to servicing, car washing, maintenance and adding another row of cars. Koopmann added that power washing was carefully discussed, negotiated and agreed to between the board, the applicant and his attorney. The added line of cars was more than the applicant had initially requested in his application. Fales added that she recalls the power washing was a sticking point for the neighbor and the applicant was willing to accommodate the neighbor. Vollbehr noted that he was not a part of the decision that was made for Mark Lanoue at the August 9 meeting.

Jeff Scott has concerns as to where all the material is going when Lanoue is washing cars at his facility. Vollbehr replied that that will be a decision of the Planning Board. Fales added that the ZBA has put restrictions on his variance that he has to wash cars on the inside of his building and it will go into his septic system, if he has a drain.

Davenport stated that the decision of Lanoue’s request will be deferred to another meeting. *Fales made a motion to defer making a decision to rehear Mark Lanoue’s Reconsideration for a Rehearing until the October meeting. Vollbehr seconded the motion. The motion passed unanimously.*

**Next Meeting Schedule – October 11, 2016**

**Adjourn:** *Vollbehr moved to adjourn the meeting. Fales seconded the motion, which passed unanimously. The meeting adjourned at 9:13 p.m.*

Respectfully submitted,  
Patricia Grace, Secretary

Approved

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Harriet Davenport, Vice Chairman

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Date