



ZONING BOARD OF ADJUSTMENT BELMONT, NH

Wednesday, November 16, 2022
Belmont Mill & Zoom
Belmont, NH 03220

Members Present: Chairman Peter Harris; Vice Chair Norma Patten; Member Sharon Ciampi.
Alternates present: John Froumy
Absent: Mark Mastenbrook(E) and David Dunham (E)
Staff: Susan Austin and Sarah Whearty.

6:00 Public Meeting

The Chairman opened the meeting at 6:00 pm and welcomed those in attendance and announced that as Chairman of the Belmont Zoning Board of Adjustment, this public body is authorized to meet using electronic means. He said that the Board gave notice to the public of the necessary information for accessing the meeting using Zoom or telephone, and he announced that any party experiencing any difficulty in accessing the meeting at any point, should call 603-267-8300 x 101, and the meeting will be recessed until access can be restored for all parties.

Chairman Harris appointed John Froumy as a voting member.

ABUTTERS' HEARING – DAVID N. PAQUETTE: Request for two Variances of Article 5 Table 2 of the Zoning Ordinance to construct a garage:

A. Closer (8'9") to the side (east) property line than allowed (12.5'), ZBA #5022Z.

B. Closer (11'1") to the side (west) property line than allowed (12.5'), ZBA #5122Z.

Property is located at 9 Gilman Shore Road in the "RS" Zone, Tax Lot 111-063-000-000

David Paquette was present to discuss his application. He stated that he is proposing to install a two-car garage with living space above. The additional living space will consist of an additional bathroom, bedroom, and a media area. The existing one stall garage will be removed to allow for this garage to be built. He stated that his plans are in line with the surrounding properties. It will improve the appearance of the house and the worth of the neighborhood.

The Chairman stated the following definition will be used to determine if the applications before the Board tonight have a regional impact. He explained that in order to provide timely notice, provide opportunities for input and consider the interests of other municipalities, the Board shall act to determine if the development has a potential regional impact as defined by RSA 36:55. Impacts may include, but are not limited to: relative size or number of dwelling units as compared with existing stock; proximity to the borders of a neighboring community; transportation networks; anticipated emissions such as light, noise,

smoke, odors, or particles; proximity to aquifers or surface waters which transcend municipal boundaries; shared facilities such as schools and solid waste disposal facilities.

MOTION: P. Harris moved that the proposal does not have a potential regional impact. The motion was seconded by N. Patten and carried. (4-0)

Departmental Responses:

Land Use Technician: Shoreland permit approved 3/31/2022. Lot is undersize for the zone (RS) and very narrow creating a small building envelope. Garage (proposed) is aligned with the existing home and maintains front and rear setback requirements. No concerns at this time.

The Chairman opened the public comment. There were no questions or comments. The Chairman closed the public hearing.

MOTION: J. Froumy moved to approve the request for a variance of Article 5 Table 2 of the Zoning Ordinance to construct a garage closer (8'9") to the side (east) property line than allowed (12.5'). Property is located at 9 Gilmanton Shore Road in the "RS" Zone, as it meets the following criteria:

1. The variance will not be contrary to the public interest because: It does not conflict with the implicit or explicit purpose of the ordinance to not alter the character of the neighborhood, and does not threaten public safety or welfare. The applicant has a right to use his property in an appropriate fashion.
2. The spirit of the ordinance is observed because: It does not conflict with the implicit or explicit purpose of the ordinance to not alter the character of the neighborhood, and does not threaten public safety or welfare. The applicant has a right to use his property in an appropriate fashion.
3. Substantial justice will be done because: Substantial Justice means any loss to the individual which is not outweighed by a gain to the general public is an injustice. This request meets these criteria.
4. The variance would not diminish the value of surrounding properties because: Many surrounding properties have newer garages. There is a shed that will be removed and values will increase or stay the same.
5. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because of the following:
 - a) No fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because: Most surrounding homes have garages. If this is denied, the property could not be reasonably used.
 - b) The proposed use is a reasonable one because: Most surrounding homes have garages. If this is denied, the property could not be reasonably used.
6. Additional conditions:
 - (a) No other structures or additions (incl. decks, porches, landings, etc.) that do not meet setback are allowed by this approval.

- (a) All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
- (b) The applicant and owner are solely responsible to comply with the approved plan and conditions of approval. Contractors should be sufficiently warned regarding same.
- (c) Approval expires on 11/16/24 if use is not substantially acted on and if an extension is not granted. Approval also expires if use ceases for more than two years.

The motion was seconded by N. Patten and carried. (4-0)

MOTION: J. Froumy moved to approve the request for a variance of Article 5 Table 2 of the Zoning Ordinance to construct a garage closer (11'1") to the side (west) property line than allowed (12.5'). Property is located at 9 Gilmanon Shore Road in the "RS" Zone, as it meets the following criteria:

1. The variance will not be contrary to the public interest because: It does not conflict with the implicit or explicit purpose of the ordinance to not alter the character of the neighborhood, and does not threaten public safety or welfare. The applicant has a right to use his property in an appropriate fashion.
2. The spirit of the ordinance is observed because: It does not conflict with the implicit or explicit purpose of the ordinance to not alter the character of the neighborhood, and does not threaten public safety or welfare. The applicant has a right to use his property in an appropriate fashion.
3. Substantial justice will be done because: Substantial Justice means any loss to the individual which is not outweighed by a gain to the general public is an injustice. This request meets these criteria.
4. The variance would not diminish the value of surrounding properties because: Many surrounding properties have newer garages. There is a shed that will be removed and values will increase or stay the same.
5. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because of the following:
 - a) No fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because: Most surrounding homes have garages. If this is denied, the property could not be reasonably used.
 - b) The proposed use is a reasonable one because: Most surrounding homes have garages. If this is denied, the property could not be reasonably used.
6. Additional conditions:
 - (a) No other structures or additions (incl. decks, porches, landings, etc.) that do not meet setback are allowed by this approval.
 - (b) All representations made by the applicant during the public hearing are incorporated as a condition of this approval.

- (c) The applicant and owner are solely responsible to comply with the approved plan and conditions of approval. Contractors should be sufficiently warned regarding same.
- (d) Approval expires on 11/16/24 if use is not substantially acted on and if an extension is not granted. Approval also expires if use ceases for more than two years.

The motion was seconded by N. Patten and carried. (4-0)

ABUTTERS' HEARING – BOUCHARD HOLDINGS LLC: Request for a Special Exception of Article 11.A.3.c of the Zoning Ordinance to allow the creation of usable floor space in a nonconforming structure within the setback. Property is located at 78 Sunset Drive in the “RS” Zone, Tax Lot 107-150-000-001, ZBA #5222Z.

Chairman Harris stated that there were several considerations to look at.

The first consideration was that at least three members have viewed the property. S. Ciampi, N. Patten and J. Froumy stated that they have all viewed the property.

The second consideration was if the property meets the criteria for granting the Special Exception.

The third was if the property was located in the Aquifer Protection Zone. It is.

The fourth is if this development has Regional Impact.

The Chairman stated the following definition will be used to determine if the applications before the Board tonight have a regional impact. He explained that in order to provide timely notice, provide opportunities for input and consider the interests of other municipalities, the Board shall act to determine if the development has a potential regional impact as defined by RSA 36:55. Impacts may include, but are not limited to: relative size or number of dwelling units as compared with existing stock; proximity to the borders of a neighboring community; transportation networks; anticipated emissions such as light, noise, smoke, odors, or particles; proximity to aquifers or surface waters which transcend municipal boundaries; shared facilities such as schools and solid waste disposal facilities.

MOTION: P. Harris moved that the proposal does not have a potential regional impact.

The motion was seconded by J. Froumy and carried. (4-0)

Departmental Responses:

Land Use Technician: Does not increase footprint of structure. No concerns at this time

Jennifer Bouchard was present to discuss her application. She stated that they are asking for a Special Exception to allow the use of floor space inside the dormer area, as noted on the drawing as a master bedroom and bathroom. She stated that they have active permits for the driveway and kitchen renovation.

Chairman Harris opened the public hearing. There were no public questions or comments, so he closed the public hearing.

J. Froumy asked if the home was on the public sewer system. J. Bouchard stated that it was, but the water was a private well.

MOTION: J. Froumy moved to approve the request for a Special Exception of Article 11.A.3.c of the Zoning Ordinance to allow the creation of usable floor space in a nonconforming structure within the setback. Property is located at 78 Sunset Drive in the “RS” Zone, Tax Lot 107-150-000-001.

1. The proposal is specifically authorized as a Special Exception by the ordinance.
2. The Special Exception criteria set forth in Ordinance Article 13.F does not apply.
3. The proposal is not incompatible to other uses in the area through the creation of noise, fumes, dust, odor, lighting, smoke or other impacts. The applicant has made it clear that this is an addition of a bedroom in a pre-existing space in the home.
4. The proposed location is of adequate size. The proposed addition does not increase the footprint.
5. The proposal does not create undue traffic congestion or unduly impair vehicular or pedestrian safety. The application is for a bedroom and bath, which will not create additional traffic.
6. The proposal does not overload any existing water, drainage, sewer or other system, nor will there be any significant increase in stormwater runoff onto adjacent property or street. The footprint is not increasing. The property is served by public sewer and private water.
7. The proposal does not create excessive demand for municipal services and facilities. There is no reason to believe that this will create a need for more municipal services.
8. The proposal does not create hazards to the health, safety or general welfare of the public. The proposal is to modify the interior of the structure and should be no hazards to health or safety.
9. Additional conditions:
 - A. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
 - B. The applicant and owner are solely responsible to comply with the approved plan and conditions of approval.
 - C. Contractors should be sufficiently warned regarding same.
 - D. Approval expires on 11/16/24 if use is not substantially acted on and if an extension is not granted. Approval also expires if use ceases for more than two years.

Motion was seconded by N. Patten and carried. (4-0)

ABUTTERS' HEARING – AQUARION WATER COMPANY: Request for a Variance of Article 4 of the Wetland Ordinance to allow the installation of a tank, greater than 300 gallons (500 gallons), closer (27') to the wetland than allowed 250'. Property is located on South Road in the “RM” Zone, Tax Lot 235-027-000-000, ZBA #5322Z.

Chairman Harris stated that the applicant received approval for a conservation plan in April of 2018. He stated that this application does meet the criteria for granting a variance. The property is in the Aquifer Protection Zone.

The Chairman stated the following definition will be used to determine if the applications before the Board tonight have a regional impact. He explained that in order to provide timely notice, provide opportunities for input and consider the interests of other municipalities, the Board shall act to determine if the development has a potential regional impact as defined by RSA 36:55. Impacts may include, but are not limited to: relative size or number of dwelling units as compared with existing stock; proximity to the borders of a neighboring community; transportation networks; anticipated emissions such as light, noise, smoke, odors, or particles; proximity to aquifers or surface waters which transcend municipal boundaries; shared facilities such as schools and solid waste disposal facilities.

MOTION: J. Froumy moved that the proposal does not have a potential regional impact.

The motion was seconded by S. Ciampi and carried. (4-0)

Josh Davis from Aquarion Water was present to discuss his application. He stated that Aquarion Water has pump station located on the property; they would like to install a generator with a propane tank that feeds it. This will be an emergency power source. The property is remote, and if they lose power, the system will depressurize which will cause loss of water to people and will cause quality issues to the water. One thing to note is that he reached out to DES and learned that no wetland permit was required. Aquarion Water serves 22 houses on Tioga Drive and a few adjacent roads. This will build redundancy and keep their water reliable for that area.

S. Whearty explained that the reason that the applicant was in front of the Board tonight was that the ordinance specifies that the maximum size that a propane tank can be is 300 gallons, and above ground tanks have to be 250 feet from the wetlands. However, when you read this ordinance, it is clear that it is designed for liquids, such as heating oil or diesel, something that, if spilled, could contaminate the wetland.

J. Froumy asked why they chose a 500-gallon tank. J. Davis stated that they don't want to get below three days' worth of storage, and the 500-gallon tank at capacity would give five days, while the 300-gallon tank will give them three days.

P. Harris asked as far as safety, is a 500-gallon tank built with different safety chambers? J. Davis stated that they have several redundancies built in, there are two separate hoses that help prevent any accidents. They will also be physically monitoring it at least once a week, if not twice. S. Whearty stated that there are leak alarms that will alert them to leaks. J. Davis stated that they are still in the process of deciding what tank to buy, and one of their choices definitely offers that, and they are verifying that the other tank option has that as well.

Departmental Responses:

Land Use Technician: All above ground storage tanks shall be installed in accordance with State and Federal requirements and include a catch basin of at least 100% of total tank volume. (Per wetland regulations) Tank is for propane, any leak would be airborne and not a wetlands hazard (not a liquid spill). Disturbance for concrete pads should be kept as minimal a disturbance as practicable. Any NHDES Wetland permits (if applicable) to be obtained prior to the installation of pads, tank, and generator. No other concerns at this time.

J. Froumy stated that the motion will ask about public interest, the applicant has made it clear that this is to extend the amount of time after power loss. There are no residences in the immediate vicinity. A

deduction from 250 feet to 27 feet looks like a large request, but that request is reasonable based on the applicants.

MOTION: J. Froumy moved to grant the request for a Variance of Article 4 of the Wetland Ordinance to allow the installation of a tank, greater than 300 gallons (500 gallons), closer (27') to the wetland than allowed 250'. Property is located on South Road in the "RM" Zone, Tax Lot 235-027-000-000.

1. The variance will not be contrary to the public interest because: Propane is a gaseous substance and proximity to the property line is irrelevant to its hazards that might affect the public interest. This proposal will ensure that the public has water for a greater period of time if there is a loss of power.
2. The spirit of the ordinance is observed because: Propane is a gaseous substance and proximity to the property line is irrelevant to its hazards that might affect the public interest. This proposal will ensure that the public has water for a greater period of time if there is a loss of power.
3. Substantial justice will be done because: Benefit to the individual should not be outweighed by harm to the public. The entire project is for the benefit of the public.
4. The variance would not diminish the value of surrounding properties because: The site is in a remote forested area with no residence nearby.
5. Owing to special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in unnecessary hardship because of the following:
 - (a) No fair and substantial relationship exists between the general public purpose of the ordinance provision and the specific application of that provision to the property because: The relation with the general purpose is to not change the character, this is not in the neighborhood, and the substance being stored is a gaseous substance.
 - (b) The proposed use is a reasonable one because: This is a request to enhance the service to the public.
6. Additional conditions:
 - (a) All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
 - (b) The applicant and owner are solely responsible to comply with the approved plan and conditions of approval. Contractors should be sufficiently warned regarding same.
 - (c) Approval expires on 11/16/24 if use is not substantially acted on and if an extension is not granted. Approval also expires if use ceases for more than two years.
 - (d) The applicant must observe all state, national and local code monitoring protocols for similar systems.

The motion was seconded by N. Patten and carried. (4-0)

APPROVAL OF MINUTES:

MOTION: N. Patten moved to approve the minutes of October 26, 2022 as written. The motion was seconded by S. Ciampi and carried. (4-0)

STAFF REPORT:

None

OTHER BUSINESS:

S. Ciampi requested that J. Froumy attend the December meeting and take her spot, as she will not be able to attend.

ADJOURNMENT:

MOTION: J. Froumy moved to adjourn at 6:58 pm. The motion was seconded by S. Ciampi and carried. (4-0)

Respectfully submitted,

Susan M. Austin
Land Use Administrative Assistant