Wednesday, January 22, 2020
Belmont Corner Meeting House
Belmont, NH 03220

Members Present: Chairman Peter Harris; Vice Chair Norma Patten; Members Mark Mastenbrook, John Froumy and David Dunham.
Alternates Absent: Marshall Ford (E).
Staff: Elaine Murphy and Dari Sassan.

The Chairman opened the meeting at 6pm and welcomed those in attendance.

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.

ABUTTERS HEARING – DONALD & LISA SIMPSON: Request for:

A. A Special Exception of Article 11.A.3.c of the Zoning Ordinance to create useable space (floor area in excess of 48” in height) within the preexisting nonconforming section of the structure. ZBA # 0120Z

B. A Variance of Article 5 Table 2 of the Zoning Ordinance to construct a porch closer (34.7’) to the front property line than allowed (50’). ZBA # 0220Z

Property is located at 13 Linda Drive in an “RS” Zone, Tax Lot 107-059-000-000.

MOTION: M. Mastenbrook moved that the proposal does not have a potential regional impact.

The motion was seconded by N. Patten and carried. (5-0)

Mr. Bryan Bailey and Mr. Donald Simpson presented the application. The members that viewed the site were: Peter Harris, Norma Patten, Mark Mastenbrook, John Froumy and David Dunham.
Mr. Bailey explained they are excavating for a full foundation instead of a having a crawl space. They are also adding a porch that will not meet the setbacks. The house is being raised vertically in the existing footprint and is not encroaching horizontally in the setbacks. The 14’ x 14’ deck has been withdrawn from this application.

Mr. Bailey explained the proposal is to expand the existing home creating useable space by elevating the structure by 5’6”. They are constructing a 2’ x 6’ stick-built wall on top of the existing concrete wall. The addition will create a full basement with a ceiling height of 8’8”. They also want to construct a 10’ x 32’ enclosed porch.

Mr. Bailey addressed the criteria for a special exception. The proposal is not incompatible to other uses in the area through the creation of noise, fumes, dust, odor, lighting, smoke or other impacts because it will not create or have any incompatible use that is not typical of the residential neighborhood. The addition increases the ceiling height and will transform the existing crawl space into a full basement with the standing height of 8’8” within the existing footprint.

The proposed location is of adequate size because the expansion location is necessary to elevate the home in a level manner. The existing crawl space foundation requires the entire home be elevated to provide a standard full foundation. The additional basement ceiling height transforms a crawl space into a full basement.

The proposal does not create undue traffic congestion or unduly impair vehicular or pedestrian safety because it will not impair or add any additional vehicular or pedestrian traffic. The addition will allow for better utilization of the home. The elevation does not impair traffic or pedestrians because Linda Drive is a dead-end street and they are located at the end of it.

The proposal does not overload any existing water, drainage, sewer or other system, nor will there be any significant increase in stormwater runoff. The proposal has been reviewed and approved by NH DES Shoreland Permit. The permit application includes the construction of a rain garden to control and filter on-site stormwater treatment and includes the conversion of 620sf of the existing driveway into permeable pavers. There will be no grade change.

The proposal will enhance the developed residential lot and does not require any additional municipal services.

The proposal does not create hazards to the health, safety or general welfare of the public because the property is a single-family lot located in a residential zone. The lot predates zoning.

J. Froumy wanted to know if they are on municipal water and sewer or if they have a septic and private well. Mr. Simpson stated he has municipal sewer.

D. Dunham stated that he was across the street last year visiting a site for a Zoning Board application and thought there was excavation going on at this site. Mr. Simpson stated there has been no excavation on his site. The only thing that has been done is he planted a garden. Mr. Dunham stated it may have been next door.
J. Froumy stated the note referring to the 14’ x 14’ open deck needs to be removed from the plan.

The chairman opened the hearing to public comment. There being no questions or comments the chairman closed the public hearing.

P. Harris stated that agent has been fair working with applicant without affecting the town road. The setbacks are in place so roads can be improved. This is a small request and improves the safety of the structure and neighborhood.

J. Froumy stated that the size of the house has to be taken into consideration the size of the house. It clearly is a small house. The purpose of the ordinance is to protect the public safety and welfare and a denial would not be keeping with the intent of the ordinance because of the size of the house. The proposal is in keeping with the neighborhood.

**MOTION:** J. Froumy moved to grant a Special Exception of Article 11.A.3.c of the Zoning Ordinance to create useable space (floor area in excess of 48” in height) within the preexisting nonconforming section of the structure as it meets the following criteria.

1. The proposal is specifically authorized as a Special Exception by the ordinance.
2. The proposal satisfies applicable 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 because the use will remain single family. There will be no additional occupancy of the residence and no change in the use.
4. The proposed location is of adequate size. The single-family upward expansion fits on the property. Any dimensional relief for expanding the footprint will be addressed by a Variance.
5. The proposal does not create undue traffic congestion or unduly impair vehicular or pedestrian safety. This is a single-family residence and there is no indication that the occupancy will increase.
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 nor is the occupancy. They have NH DES approval on the condition that a rain garden be installed.
7. The proposal does not create excessive demand for municipal services and facilities. The lot is serviced by municipal sewer and water. The use will not be expanding. There will be no increase on Town services.
8. The proposal does not create hazards to the health, safety or general welfare of the public. It is in a residential zone and the use will remain residential.

Additional conditions:

1. All setbacks certified at the commencement of construction and as may otherwise be required.
2. All decks, steps, landings & stairs must be shown on the building permit application and no other structures or additions (incl. decks, porches, landings, etc.) that do not meet setback are allowed by this approval.

3. Comply with all conditions of Shoreland Protection permit.

4. Comply with Floodplain Ordinance.

5. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.

6. The applicant and owner are solely responsible to comply with the approved plan and conditions of approval. Contractors should be sufficiently warned regarding same.

7. Revise notation #2 on plan to remove “Expand existing 10’ x 10’ open deck to 14’ x 14’” as it is not included in this application.

8. Approval expires on 1/22/22 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 M. Mastenbrook and carried (5-0)

Mr. Bailey stated that they are adding a 10’ x 32’ enclosed porch that will infringe on the side setback.

He addressed the criteria for the variance. The variance is not contrary to the public interest because enclosing the porch on the front of the existing home will not interfere with any public view or use of the public road. It will not cause any abutting home any ill effect or safety concerns.

The spirit of the ordinance is observed because the single-family home was created prior to the current setback requirements. The proposed addition is in keeping with the established buildings in the neighborhood. The proposal is in keeping with the layout of the abutting structures on either side of the home and the neighborhood.

Substantial justice will be done because it would allow the owner similar amenities that are common to residential use.

The variance would not diminish the value of surrounding properties because building a porch will add market value to the home and neighborhood.

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 purpose of setbacks is to allow for sufficient clearance of view by the traveling public. The property fronts on a dead-end road and the proposal does nothing to impair the traveling public view or safety from fire by adequate separation between homes. The addition goes forward and not closer to side neighbors and it is a dead end road.

The proposed use is a reasonable one because it is an allowed single-family use.

The chairman opened the hearing to public comment. There being no questions or comments the chairman closed the public hearing.
M. Mastenbrook wanted to know if they thought about moving the house back when they are lifting it to create the full basement. It would not be encroaching on the road 50’ setback. They would not be overcrowding the road and be better for fire safety. Mr. Simpson stated it would be a lot more work. The property line is at an angle so it would still encroach on the property line. Mr. Bailey stated that could destroy the foundation and they would be disturbing more land. This proposal will be less costly, less damaging and have a less impact on the neighborhood.

J. Froumy stated if they moved the house closer to the driveway it would infringe on the driveway and render it and the garage useless. P. Harris stated there are other residences that are closer to the road. Mr. Simpson stated that he measured other houses on the street and not one house on the street meet the 50’ setback, they are more like 25’ from the road.

J. Froumy stated there are things to consider when making a decision. One is substantial justice. Does denying the variance do greater harm to applicant than a gain to the public. The hardship is the small size of the property compared to others in town. All the lots are the same size on the entire street but are different from other areas in town. The house and lot are very small and other houses in the area are closer to the road than this proposal.

**BOARD ACTION – DONALD & LISA SIMPSON:**

**MOTION:**  J. Froumy moved to grant a Variance of Article 5 Table 2 of the Zoning Ordinance to construct a porch closer (34.7’) to the front property line than allowed (50’) as it meets the following criteria.

1. The variance will not be contrary to the public interest because the intent of the ordinance is to protect the health, safety and general welfare of the public and this proposal will not interfere with those rights.
2. The spirit of the ordinance is observed because the intent of the ordinance is to protect the health, safety and general welfare of the public and this proposal will not interfere with those rights.
3. Substantial justice will be done because any loss to the individual is not outweighed by a gain to the general public thus a denial would represent an injustice.
4. The variance would not diminish the value of surrounding properties because the surrounding properties include front porches with the same proximity to the road as this proposal.
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 lot is quite small and the proposal will not interfere with the property rights of others. The size of the lot is smaller than other properties of adequate size in other areas of Town.
   and
   b. the proposed use is a reasonable one because the use will continue to be used as a single-family residence. The use will not change.
Additional conditions:

1. All setbacks certified at the commencement of construction and as may otherwise be required.
2. All decks, steps, landings & stairs must be shown on the building permit application and No other structures or additions (incl. decks, porches, landings, etc.) that do not meet setback are allowed by this approval.
3. Comply with all conditions of Shoreland Protection permit.
4. Comply with Floodplain Ordinance.
5. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
6. The applicant and owner are solely responsible to comply with the approved plan and conditions of approval. Contractors should be sufficiently warned regarding same.
7. Revise notation #2 on plan to remove “Expand existing 10’ x 10’ open deck to 14’ x 14” as it is not included in this application.
8. Approval expires on 1/22/22 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 M. Mastenbrook and carried (5-0)

**ABUTTERS’ HEARING – JOSEPH LOGRASSO:** Request for a Special Exception of Article 11.A.3.c of the Zoning Ordinance to create usable space (second story) within a preexisting nonconforming footprint. Property is located at 212 Gardners Grove Road in an “RS” Zone, Tax Lot 119-016-000, ZBA #0320Z.

P. Harris stated that the staff calculates the size of proposed addition within the setback to be 85% of existing structure. Increases the floor area within the existing footprint regulated by Article 11.A.3.c are not subject to the “40% rule” established in Article 11.A.3.d.

The proposal is an expansion within the existing footprint, new floor area will be created inside both the public water setback and the side setback. Increases in floor area within the existing footprint is regulated by Article 11.A.3.c 9 are addressed through a single request, even when they encroach more than one setback area

The property is within the Aquifer Protection District and in the Floodplain. They obtained a NH DES Shoreland Permit by Notification.

**MOTION:** M. Mastenbrook moved that the proposal does not have a potential regional impact.

The motion was seconded by N. Patten and carried. (5-0)

Mr. Dale Yasharian and Mr. Joseph Lograsso were present for this application. The members that viewed the site were: Peter Harris, Norma Patten, Mark Mastenbrook, John Froumy and David Dunham.
Mr. Yashari stated they are adding a second story for a master bedroom and bathroom in the existing footprint. They are also adding a seasonal porch in the existing footprint and moving the side deck to the front of the house.

The proposal is not incompatible to other uses in the area through the creation of noise, fumes, dust, odor, lighting, smoke or other impacts because they are just adding a second floor to the existing house.

The proposed location is of adequate size because it is the same size as the existing house.

The proposal does not create undue traffic congestion or unduly impair vehicular or pedestrian safety.

The proposal does not overload any existing water, drainage, sewer or other system, nor will there be significant increase in stormwater runoff onto adjacent property or street because the dwelling will only be two bedrooms and the addition will be within the existing footprint. They are not increasing the footprint so the amount of runoff will remain the same.

The proposal does not create excessive demand for municipal services and facilities because it will remain a single-family structure.

The proposal does not create hazards to the health, safety or general welfare of the public because it will remain a single-family residence. They received shoreland approval from the State.

N. Patten wanted to know if the footprint for the second floor is the same as the first floor. Mr. Yasharian stated the footprint is the same, they are just going up. They are moving the deck from the side to the front so they can have access to the second floor. D. Sassan explained that the 4’ x 4’ deck is exempt from setback requirements.

Mr. Lewis Loud, 210 Gardners Grove Road, stated he is an abutter and has no objections to Mr. Simpson moving the deck. Actually, it might give him more room without the deck on that side.

The chairman opened the hearing to public comment.

There being no further questions or comments the chairman closed the public hearing.

J. Froumy stated the site is on municipal sewer and private well. P. Harris wanted to know the height of the roof. Mr. Yasharin stated it is 26’. J. Froumy stated that the abutting lot is the road and you can’t build there. The height of the structure will not obstruct or block anyone’s view.

P. Harris stated this proposal addresses the safety, health and welfare of the public by improving the wiring and plumbing of the structure. Mr. Yasharian stated it will add value to the neighborhood.

**BOARD ACTION – JOSEPH LOGRASSO:**
MOTION: N. Patten moved to grant a Special Exception of Article 11.A.3.c of the Zoning Ordinance to create useable space (second story) within a preexisting nonconforming footprint as it meets the following criteria:

1. The proposal is specifically authorized as a special exception by the ordinance.
2. The proposal satisfies applicable 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.
4. The proposed location is of adequate size.
5. The proposal does not create undue traffic congestion or unduly impair vehicular or pedestrian safety.
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.
7. The proposal does not create excessive demand for municipal services and facilities.
8. The proposal does not create hazards to the health, safety or general welfare of the public.

Additional conditions.

1. All setbacks certified at the commencement of construction and as may otherwise be required.
2. Comply with all conditions of Shoreland Protection permit.
3. Comply with Floodplain Ordinance.
4. All decks, steps, landings & stairs must be shown on the building permit application and no other structures or additions (incl. decks, porches, landings, etc.) that do not meet setback are allowed by this approval.
5. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
6. The applicant and owner are solely responsible to comply with the approved plan and conditions of approval. Contractors should be sufficiently warned regarding same.
7. Approval expires on 1/22/22 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 M. Mastenbrook and carried (5-0)

OTHER BUSINESS:

BOARD'S ACTION -MINUTES:

MOTION: On a motion by M. Mastenbrook, seconded by J. Froumy it was voted unanimously to accept the minutes of November 20, 2019 as written. (5-0)

ELECTIONS:
D. Sassan reminded the Board the candidate’s filing period for the election is January 22, 2020 to January 31, 2020. He also reminded the Board that there are open alternate positions on the Zoning Board.

ADJOURNMENT:

MOTION: On a motion by M. Mastenbrook seconded by N. Patten it was voted unanimously to adjourn at 6:55pm. (5-0)

Respectfully submitted,

Elaine M. Murphy
Administrative Assistant