



ZONING BOARD OF ADJUSTMENT BELMONT, NH

Wednesday, February 24, 2021
Remotely by Zoom

Members Present: Chairman Peter Harris; Vice Chair Norma Patten; Members Mark Mastenbrook, John Froumy and David Dunham.
Staff: Elaine Murphy and Dari Sassan.

The Chairman opened the meeting at 6:10 pm and welcomed those in attendance.

He announced that as Chairman of the Belmont Zoning Board of Adjustment, he finds that due to the state of emergency declared by the governor, 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 113, and the meeting will be recessed until access can be restored for all parties.

The Chairman asked that the Board start the meeting by taking a roll call attendance, with each attendee stating their name and that they report if anyone else is attending the meeting from that same location.

Chairman Peter Harris, home, alone
Vice Chair Norma Patten, home, alone
Mark Mastenbrook, home, alone
John Froumy, home, alone
David Dunham, home, alone
Town Planner, Dari Sassan stated he is at the Belmont Town Hall with Elaine Murphy.
Mr. Jon Rokeh, home, alone
Ms. Stacy Clark, home, alone
Ms. Betsy Kudlinski home, with bluetooth

D. Sassan said that, as always, Chairman Harris shall direct and control the meeting, but that as the administrator of the digital meeting platform, he himself would assist with calling on those who wish to speak. He explained that those that call in press *9 star on the phone to raise their hand. Press *6 to toggle in and out of mute.

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 – STACY CLARK: Request for a Variance of Article 5 Table 2 of the Zoning Ordinance to construct a garage closer (29.5) to the front setback than allowed (50'). Property is located at 39 Breck Shore Road in an "RS" Zone, Tax Lot 114-019-000-000, ZBA # 0821Z.

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

The motion was seconded by J. Froumy and carried (5-0) Roll call: Peter Harris yes, Norman Patten yes, Mark Mastenbrook yes, David Dunham yes and John Froumy yes.

P. Harris read the history of the lot. The current owner purchased the property in 2017. The lot was subdivided in 1971. There was a Wetland Permit in 1994 for a seasonal dock. A Boundary Line Adjustment was done in 2007. There was a Wetland Permit in 2012 to replace the cement pad for the dock in 2012. In 2018 they received approval for two variances and two special exceptions to replace, relocate and enlarge a preexisting nonconforming 1-story single family dwelling with a full basement and relocate shed. The applicant now wishes to reconfigure the garage to occupy previously unapproved footprint within the front setback.

P. Harris stated that there were no comments from the Department Heads except the Code Enforcement Officer. His concerns were the Building codes concerning the dwelling and garage openings and penetrations, windows and glazing in doors.

Mr. Jon Rokeh presented the application.

Mr. Rokeh explained that in 2018 Ms. Clark got two variances and two special exceptions along with a shoreland permit. The project is almost done. The 2018 approval for the garage that was a square box that had no architectural features. The current proposal has the front edge of garage outside the approved front setbacks. It was approved for 28.9' from the front property line and now it will be further back 31.5' from the front property line. This proposal is more conforming than the previous one. He has talked to the Shoreland Protection Bureau and submitted a new Shoreland Permit today

J. Froumy wanted to know if the reason for the change is to fit the cars depicted in the diagram, in the garage. It looks like in the previous approval those cars might not fit in and they could be impeded by the garage doors. J. Rokeh stated a full-size car fits better in the garage with this proposal. The applicant has a large SUV that will fit better in the garage with the proposed

changes. It is the applicant's personal preference on which side she parks her car on. In the future they may be limited on the type of cars that would be able to fit into the previously approved garage. J. Froumy stated the new footprint will make the garage more useable where the previous approval would limit the size of vehicles that would fit in. J. Rokeh stated the garage will be more attractive from the road and is an improvement to the neighborhood. J. Froumy reiterated that the changes are for aesthetic reasons and make it more appropriate to fit larger vehicles in it.

The chairman opened the hearing to public comment.

P. Harris stated the reason the applicant had to come before the Board tonight is to prevent any problems with deeds and approvals in the future.

D. Sassan suggested a slight change to the approval conditions in reference to the Shoreland Permit. He stated that as Mr. Rokeh stated the Shoreland Permit was resubmitted today to reflect the changes. If the application is approved, he would suggest that the condition of approval include changes to item 4 under additional conditions to read "Obtain an updated Shoreland Protection permit and comply with permit conditions."

J. Froumy stated that this is similar to a continuation of the October 2018 approval and he has read the minutes of that meeting and that information is included in his thought process and taken into consideration when reviewing this application. He has reflected on the testimony at the 2018 meeting.

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

BOARD ACTION – STACY CLARK:

MOTION: J. Froumy moved to grant approval to construct a garage closer (29.5) to the front setback than allowed (50') as it meets all the criteria.

1. The variance will not be contrary to the public interest because this is a minor modification to the garage and does not conflict with the 2018 approval. The proposal adds to the essential character of the garage and is similar to the prior approval.
2. The spirit of the ordinance is observed because this is a minor modification to the garage and does not conflict with the 2018 approval. The proposal adds to the essential character of the garage and is similar to the prior approval.
3. Substantial justice will be done because denying the application will create an unnecessary hardship on the applicant and will not be outweighed by the gain to the general public.
4. The variance would not diminish the value of surrounding properties because of the proximity to the lake. They are improving the conditions and aesthetics of the property and might improve property values.
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 purpose of the ordinance is to protect the public. This is a narrow property encumbered by the road and lake which is hard to overcome. The owner has tried to work within the regulations with this and the previous application.
- and
- b. the proposed use is a reasonable one because this is a minor change to a residential garage. It will improve the aesthetics of the garage and make it more useable and is similar to others in the neighborhood.

Additional conditions:

1. 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.
2. All setbacks certified at the commencement of construction and as may otherwise be required.
3. For reduced setbacks between structures, no fuel source or accessory structure shall be placed between the structures.
4. Obtain an updated Shoreland Protection permit and comply with permit conditions.
5. Comply with Floodplain Ordinance.
6. All representations made by the applicant during the public hearing are incorporated as a condition of this approval.
7. The applicant and owner are solely responsible to comply with the approved plan and conditions of approval. Contractors should be sufficiently warned regarding same.
8. Approval expires on 2/24/2023 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 (5-0) Roll call: Peter Harris yes, Norman Patten yes, Mark Mastenbrook yes, David Dunham yes and John Froumy yes.

OTHER BUSINESS:

BOARD'S ACTION -MINUTES:

MOTION: On a motion by P. Harris, seconded by D. Dunham it was voted unanimously to accept the minutes of January 27, 2021 as written. (5-0) Roll call: Peter Harris yes, Norman Patten yes, Mark Mastenbrook yes, David Dunham yes and John Froumy yes.

LAKES REGION PLANNING COMMISSION(LRPC):

D. Sassan stated that Mr. George Condodemetraky has resigned as Belmont's representative on commission. There is an opening on the commission if any Board member would like to be Belmont's representative or knows of anyone that would be interested in the position. Contact the Land Use office if interested.

CELL TOWER APPLICATION:

D. Sassan informed the Board that there will be an application for a cell tower at next month's meeting. The last cell tower application was in 2002. There is extensive language in ordinance about cell towers and he will be providing addition information and send out a memo to help the members understand the criteria and process needed for a cell tower. The application is in the office and available for members to pick up at their convenience.

ADJOURNMENT:

MOTION: On a motion by P. Harris seconded by D. Dunham it was voted unanimously to adjourn at 6:45pm. (5-0) Roll call: Peter Harris yes, Norman Patten yes, Mark Mastenbrook yes, David Dunham yes and John Froumy yes.

Respectfully submitted,

Elaine M. Murphy
Administrative Assistant