

**TOWN OF NEW HAMPTON
ZONING BOARD OF ADJUSTMENT
MEETING MINUTES**

Town Office, 2nd floor meeting room
6 Pinnacle Hill Road, NEW HAMPTON, NH 03256

October 2, 2024

MEMBERS PRESENT Regular members: Mr. Newman, Mr. Akers, Ms. Gattermann, and Mr. Heckman.
Alternate member: Mr. Tierney

OTHERS PRESENT Land Use Administrator Mrs. Vose

CALL TO ORDER Chair Mr. Newman called the meeting to order at 7:00 PM.
Mr. Newman appointed Mr. Tierney to act as a regular member.

PUBLIC HEARING Christina and son, Jake Smith were present.

Christina Smith, 11 Pemi Point, Tax Map U-9, Lot 13, for 2 Variances – Article IV, Section A.4.iii. and Article VI, Section A.4.v. of the New Hampton Zoning Ordinance.

Mrs. Vose read the notice into record which stated the applicant, Christina Smith, has requested a Public Hearing in accordance with RSA 676:7, for two (2) Variances. The first Variance requested is under Article IV, Section A.4.iii. of the New Hampton Zoning Ordinance to construct a carport within the 20-foot setback of the western side property line, at 10.5 feet at its closest point. The second Variance requested is under Article IV, Section A.4.v. of the New Hampton Zoning Ordinance, to allow for a maximum lot coverage of 31% of impermeable area, which is more than the 20% allowed. The property belonging to Christina Smith is located at 11 Pemi Point, Tax Map U-09, Lot #13, in the General Residential, Agricultural and Rural District.

Mr. Newman confirmed with the members that they had read the application and asked if the Board felt this application had a regional impact and they agreed it did not.

Mr. Tierney advised that the notice reads the impermeable area is currently existing at 31% according to a survey done by Bailey Associates. Mr. Newman said the applicant - in their application and documents submitted, has written that she would perform mitigation to further reduce the impermeable area. Mrs. Vose advised she wrote the notice based on existing conditions, as what is anticipated for impermeable area upon mitigation, is unknown.

Ms. Smith said in her marked-up plan done by Bailey Associates, she shows the 223 sq. ft. carport being moved forward towards the road, reducing the length of the driveway, making it narrower, and turning another portion of the driveway into permeable area. Ms. Smith calculated it would be 24% after mitigation. Mr. Newman confirmed with Ms. Smith that she was agreeable to obtaining an “as-built” plan, if approved, as soon as she moves the carport, which she plans to do immediately. Mr. Newman asked what the areas Ms. Smith plans to mitigate would become,

and Ms. Smith said it would be the same as the forest floor. The Board noted that the proposed driveway width after mitigation would be 6 feet, and that the Town regulations don't specify the width of a driveway, only parking space size. Mrs. Vose advised the home requires 2 parking spaces at 200 sq ft each. The Board agreed Ms. Smith has the space needed in the driveway and under the carport. There was discussion on a date specific for "as-built" plans if the variance was approved. Mr. Heckman said in his review of NHDES Shoreland Protection regulations, it states with impermeable area above 20% it requires the property owner to have a mitigation plan for stormwater run-off of the increased percentage. Mrs. Vose advised she spoke with NHDES about their regulation and learned that above 20% it does require landowner mitigation plan for run-off and if it exceeds 30% it then requires an engineer to create a mitigation plan. Mrs. Vose said in 2013 the survey of impermeable area, prior to Ms. Smith's construction of an addition, calculated to 29%, which was also supposed to match the post-construction calculation. The Board reviewed the NHDES Wetlands Permit Ms. Smith obtained in 2013. Ms. Gattermann said that if Ms. Smith reduces the impermeable further it would not likely be over the 2013 percentage of 29%. Mr. Smith said while they can mitigate area currently considered impermeable, they would likely not be able to reach the 20% regulation. Mr. Newman said the closer to the 20% calculation they can get through mitigation, the closer to meeting the "spirit of the ordinance" this application achieves.

Ms. Smith said she would like to move the carport even further from the side property line, but did not think she could accomplish this. She said it may be even closer to the property line than the 10.5 feet she noted on her drawing, but will know once the surveyor determines that side property line. Ms. Smith said she would like to have the surveyor determine the western property line before she goes to the expense of having the carport moved to its proposed location. She was cautioned that if after moving the carport it does not meet the distance shown on the plan, it would then require enforcement by the Selectmen. Mr. Tierney asked Ms. Smith if she found the property boundaries and she said she found the pins but running a line through the woods is very difficult due to trees and slopes. Ms. Smith asked if she could reduce the measurements of 10.5 and 14.25 feet in her drawing, and the Board said she could not as the hearing was publicly noticed for those distances; the distances could become greater, but not lesser. Ms. Smith clarified that the survey plan copy she marked up, shows areas in green that she plans to mitigate, by scraping the gravel off. Mr. Tierney asked if she was planning to mitigate the area where the carport is presently located. She said she would mitigate that, but the Board advised that area was not highlighted in green. Mr. Smith had another version of the marked-up plan which showed the existing carport location as being mitigated. The Board agreed that with the present carport location planned for mitigation the percentage may drop below 24% of impermeable area.

The Board went into deliberations on the first Variance for the carport distance to the property line, as there were no other questions and no abutters present.

The variance will not be contrary to the public interest: The Board

agreed, especially given this is a substandard lot. Mr. Tierney said the applicant has worked hard to come more into compliance.

The spirit of the ordinance is observed: Mr. Newman said there are not many locations to put this carport on the small lot and the Board agreed.

Substantial justice is done: Mr. Newman pointed out the substandard lot and the Board agreed this criterion is met.

The values of surrounding properties are not diminished: the Board agreed the location of the carport would not diminish abutting parcels.

Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because special conditions of the property distinguish it from other properties in the area: Mr. Newman said with the size of the lot and it being a reasonable request to have a carport, felt this criterion was met, and the Board agreed.

Ms. Gattermann made a motion, seconded by Mr. Tierney to approve the Variance for the carport to be no closer than 10.5 feet at it closest, and 14.25 feet from its furthest point – to the western side property line. Vote was unanimous. Relative to an “as-built” plan, the Board discussed this as being necessary by the end of 2024. Mr. Heckman asked what happens if the applicant does not provide the plan by 12/31/24 and Mr. Newman advised enforcement would be handled by the Selectmen. Ms. Gattermann made a motion, seconded by Mr. Tierney to amend the motion to include the condition that a surveyed “as-built” plan is submitted to the Town by 12/31/24, which shows the carport is not any closer to the property line that what was shown on the application. Vote was unanimous.

The Board went into deliberations on the Variance for the percentage of impermeable area. Mr. Newman advised the applicant submitted the survey which shows current impermeable area at 31% but recognize that the applicant will be taking steps to further mitigate this area, reducing the overall impermeable percentage to 24% and possibly lower, much closer to the 20% regulation. Mr. Heckman confirmed that the Variance being considered is based on the 24% calculation. The Board came out of deliberations to ask Ms. Smith if she wanted to submit the amended, marked-up drawing her son had, which shows the current carport gravel area being mitigated, which she did so Ms. Vose made a copy of this version for the hearing record. There was discussion on considering the variance for 21.9% with the amended drawing calculation. Mrs. Vose cautioned the Board on considering the variance at the 21.9%, because if survey is done of the mitigated area Ms. Smith creates, and it doesn't meet the 21.9%, she would then be faced with further enforcement by the Town. The Board agreed to consider the variance at 24% with the “as-built” plan very likely to come in less than that, given the applicant follow the amended, marked-up drawing. The Board went back into deliberations.

The variance will not be contrary to the public interest: Mr. Tierney said outcome of the impermeable area after the applicant performs further mitigation will be more compliant than the existing conditions.

The spirit of the ordinance is observed: Mr. Newman said the applicant will be more compliant in the impermeable area and the Board agreed.

Substantial justice is done: Mr. Newman said it's difficult to situate structures on this substandard lot, and the applicant will come closer to the 20% limitation.

The values of surrounding properties are not diminished: the Board agreed.

Literal enforcement of the provisions of the ordinance would result in an unnecessary hardship because special conditions of the property distinguish it from other properties in the area: Mr. Newman said based on it being a substandard lot and that the applicant will mitigate impermeable area further, to be evidenced by an "as-built" survey, this criterion is met, and the Board agreed.

Mr. Tierney made a motion, seconded by Mr. Akers to approve the Variance for the impermeable area on the lot to calculate to no more than 24% as outlined on the amended drawing submitted at this hearing. Vote was unanimous. Mr. Tierney made a motion, seconded by Mr. Akers to add the condition that one surveyed "as-built" plan is submitted to the Town by 12/31/24, containing the distances for the carport from the side property line and the calculation of impermeable area after the applicant mitigates the areas shown on the marked-up drawing, as amended at this hearing, and to contact Mrs. Vose if the plan cannot be submitted by 12/31/24. Vote was unanimous.

MINUTES

The minutes of 8/7/24 were held.

ADJOURNMENT

Mr. Heckman made a motion, seconded by Ms. Gattermann, to adjourn at 8:04 pm. Vote was unanimous.

Respectfully Submitted,

Pam Vose, Land Use Administrator