

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

**Town Office, 2<sup>nd</sup> floor meeting room  
6 Pinnacle Hill Road, NEW HAMPTON, NH 03256**

November 8, 2023

- MEMBERS PRESENT** Regular members: Mr. Newman, Mr. Heckman, & Mr. Akers.  
Alternate member: Mr. Tierney
- OTHERS PRESENT** Land Use Administrator Mrs. Vose and Ms. Smith
- CALL TO ORDER** Chair Mr. Newman called the meeting to order at 7:00 PM.  
Mr. Newman appointed Mr. Tierney to vote on behalf of Ms. Gattermann.
- PUBLIC HEARING  
(continuation)**  
*Christina Smith, 11 Pemi Point, Tax Map U-9, Lot 13, for 3 Variances – Article IV, Section A.4.iii. of the New Hampton Zoning Ordinance.*
- Mr. Newman advised this was a continuation of the hearing that began on 11/1/23. He said he spoke with Town counsel about the prior variance and the condition the shed not be moved. Counsel advised that this is a new variance, so the past variance no longer matters.
- Mrs. Vose read into record an email from abutter Mr. Walters who expressed concerns with the current total amount of impervious area. He said a stone walkway was added to the property after 2013. He said the new carport can be moved again and that the plot plan for the location of the carport is lacking some dimensions to property lines. Mr. Walters said there are multiple variances being requested, in addition to the one already approved years ago. He asked the ZBA to put off a decision until all information has been provided by the applicant.
- Mr. Newman asked if anyone had any questions before they go into deliberations.
- Mr. Tierney asked if the stone walkway that the abutter mentions was part of the calculations done for the Shoreland Permit in 2013 and Ms. Smith said the walkway was done in 2017 and showed where it is located on the 2013 plan submitted to NHDES. Mr. Newman said he visited the property earlier in the day, after contacting Ms. Smith. He submitted photos he took to avoid the need for a site visit by the Board.
- Mr. Newman advised the board would go back into deliberations, picking up from where discussion ended on 11/1/23, as input was needed from Town counsel after that meeting.
- Mr. Newman said they should discuss the location of the carport and the driveway as marked on the plans that were submitted to NHDES for the Shoreland Permit because it appears the gravel area exceeds what is indicated on the plan from 2013 so it is likely the impermeable percentage on the lot has increased. Mr. Newman said this information may change how the ZBA handles the variance request for the carport. Mrs. Vose said if the impervious area is now over the NHDES limitation the bigger issue

may be with them and any mitigation they may require, something that may need addressing prior to the ZBA discussing any variance on the carport. Mr. Newman said he did not take any measurements during his visit so he does not know how much more impervious would be added. The ZBA made a rough calculation, adding the carport at 240 sq. ft., with the impermeable area calculating at 31.5%, not including any other possible increases to impermeable area including the walkway.

Mr. Tierney advised it is not the job of the ZBA to determine the impervious area on the lot, which should be determined by a surveyor, so he recommended the hearing be continued so the applicant can engage a professional to determine impermeable area on the lot. Mr. Tierney asked what the NHDES limitation was and Mrs. Vose said she looked briefly at their regulations and the limitation of impervious area is between 20-30%, within 250' of the body of water, which the Board noted encompasses the entire lot. Mr. Tierney said NHDES would have to allow the increase in impermeable area prior to the ZBA making any determination.

Mr. Newman recommended the Board consider the variances for the shed, separating it from the carport. Mr. Tierney said he recalled Ms. Smith saying she could move the shed 5' back from the right-of-way and 7' west of its current position to be compliant with the setbacks to the property lines. Mr. Newman said after visiting the property he does not see this relocation as a problem, especially given the abutting parcel and structures close to their property line.

The board reviewed the criteria.

**The variance will not be contrary to the public interest and the spirit of the ordinance is observed** – The Board agreed these criteria were met with Mr. Tierney advising that if the abutting condominium property being affected was different, this may not have been the case.

**Substantial justice is done** – The Board agreed.

**The values of surrounding properties are not diminished** – The Board agreed this was true.

**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 that due the shape and size of the property and the location of the septic system, this use is reasonable and the Board agreed. Mr. Tierney said the hardship is the shape and size.

Mr. Newman noted that the 2 variances for the shed were addressed by the criterion.

Mr. Tierney made a motion, seconded by Mr. Akers to approve the applicant's request for a variance for the shed to be located 13 feet from the eastside property line, and 31 feet from the front right-of-way. Vote was unanimous.

There was some discussion on how to continue this hearing. Mrs. Vose advised that if the ZBA were to deny the variance on the carport, Ms. Smith would be required to re-apply with new application and abutter's fees. The Board discussed a 3-month continuation. It was noted the other option is to remove the carport and withdraw the application.

Mr. Tierney made a motion, seconded by Mr. Akers to continue the hearing on the variance to 2/7/24, for the carport due to insufficient information, allowing the applicant the opportunity to engage a licensed engineer/surveyor to determine the impermeable area on the lot. Vote was unanimous.

Ms. Smith was asked to update the Selectmen's Office as to the status of obtaining this information in case the Board needs to continue the hearing to a different date.

Ms. Smith said she remains at 29% of impermeable area, which is where the carport is located, based on the documentation presented to NHDES and 2013. The Board explained to her that the drawings do not show the driveway/parking area extending back towards the lake as much as it appears to be currently, as seen by Mr. Newman when he visited the property. Ms. Smith said that portion was always impermeable and the Board advised that it was not – according to the plan provided to DES at that time. Mr. Newman pointed out that the photos submitted to DES in 2013 also showed trees on the side of the house where the carport is now, which have been removed and that area graveled. Mrs. Vose explained the 2013 which showed pre-construction and post-construction impermeable areas, including what they based their calculations on. Ms. Smith asked what would happen if she ended up over 30% impermeable area. The Board advised that the engineer/surveyor or NHDES may be able to advise her on mitigation of impervious area. Ms. Smith said she is not required to remove impervious area from her lot. Ms. Smith said she cannot spend the money to engage a surveyor and said she is only putting a small carport on area that is already impervious. Mr. Newman said the ZBA cannot decide without this information, so would likely deny the variance, and suggested she reconsider. Mr. Tierney said if the ZBA deny the application, the Selectmen would then need to enforce the regulations and ask Ms. Smith to remove the carport. Ms. Smith said she did speak with DES who said that if she was putting this carport on existing impermeable area, it was not an issue for them, but the Board advised that according to the 2013 that area was not impermeable, something that DES was not aware of. Mr. Tierney said she also has the option to withdraw her application. Ms. Smith said she would think about her options. Mr. Newman reminded her to provide the office with updates.

#### **OTHER BUSINESS**

Mr. Tierney advised that he wants to remain as an Alternate to the ZBA. The Board recognized that another 1-2 members were needed.

#### **ADJOURNMENT**

Mr. Heckman made a motion, seconded by Mr. Tierney, to adjourn at 8:19 pm. Vote was unanimous.

Respectfully Submitted,  
Pam Vose, Land Use Administrator