

ZONING BOARD OF ADJUSTMENT
TOWN OF PETERBOROUGH
Monday, June 2, 2014 – 7:00 p.m.
1 Grove Street, Peterborough, New Hampshire

Board Present: Jim Stewart, Sharon Monahan, David Sobe, Peter LaRoche, Peter Leishman and Loretta Laurenitis

Staff Present: Laura Norton, Office of Community Development and Dario Carrara, Code Enforcement Officer

Chair Stewart called the meeting to order at 7:00 p.m. “Good evening and welcome” he said adding “this is the June stated ZBA meeting. I am Jim Stewart and I am the Chair.” Chair Stewart went on to introduce the members and staff.

Chair Stewart then told the Board “with the stated June meeting one of the required duties is to elect officers (Chairman and Vice Chairman) for the year.” Mr. Leishman interjected “I think we should keep it the same with Mr. Sobe adding “that sounds good to me.” A motion was made/seconded (Leishman/Sobe) to re-elect Jim Stewart as Chairman and Sharon Monahan as Vice Chairman of the Zoning Board of Adjustment with all in favor.

Chair Stewart continued with the appointment of an alternate to the Board. He said “we have one formal request for an alternate position” noting Loretta Laurenitis had submitted an application and a motion was made/seconded (Leishman/LaRoche) to appoint Ms. Laurenitis an alternate with all in favor.

Chair Stewart told the members they had two cases scheduled for the evening and read the Rules of Procedure for the meeting. He reviewed the process of reading the application followed by a presentation by the applicant; questions from the Board; questions/concerns from the audience (in favor then opposed); rebuttal and closure of the hearing followed by deliberation and decision. He concluded by noting anyone interested in speaking about the case please state their name, address, and relationship (abutter, agent, concerned citizen) for the record.

He also told the Board he had received a continuance request for Case No. 1205: The Temple Mountain Buddhist Mediation Center. “So I am going to switch the agenda a bit” he said. Chair Stewart then read the request for a Special Exception and Variance as follows:

Case No. 1205 The Temple Mountain Buddhist Mediation Center requests a variance and special exception. The special exception is requested to allow the use of a Religious Institution or Facility, as regulated by the zoning ordinance in Article II, Section 245-8 B (4); the variance is requested to construct a temple and parking lot, with appurtenant grading and storm water management within the fifty (50) foot Wetland Protection Overlay Zone, as regulated by the zoning ordinance in Article III, Section 245-15. The property is located at 729 Wilton Road, Parcel No. R001-014-000, in the Rural District.

When done he looked up and asked “are there any corrections to the notice?” Ms. Monahan pointed out the notice read “a *Mediation* Center” and asked “shouldn’t it be *Meditation* Center?” Dawn Tuomala of Manodnock Survey, Inc. replied “I think so, yes.” Ms. Monahan replied “well, that confused me.”

Chair Stewart noted he would like to continue the case to a date and time certain. He looked to Ms. Tuomala and asked “I expect that would be the stated July meeting?” Ms. Tuomala replied “yes, please.”

Mr. Leishman then pointed out for the record that the application showed the request as being a *Mediation* Center.

A motion was made/seconded (Stewart/LaRoche) to continue Case No. 1205 to the July ZBA meeting with all in favor.

Chair Stewart read the next case. “Case No. 1204 Lloyd Walker requests a variance to reduce the side building setback to ten (10) feet to expand an attached garage, as regulated by the zoning ordinance in Article II, Section 245-6 B (2). The property is located at 70 Pine Street, Parcel No. U019-022-000, in the Family District.

When done he asked “are there any corrections or changes to the notice?” With none Lloyd Walker introduced himself. He told the members he owned a home at 70 Pine Street with 3 acres of mostly landscaped gardens. “It is on the market because my wife and I are trying to downsize and the big complaint has been that people want a two-car garage.” He told the Board he would like to put on a garage that would end up being 10 feet away from the boundary line. He added “my neighbor’s garage is currently 5 feet away from my boundary line.”

He went to say “it makes sense to put it on the side and not destroy the landscaping by putting it in the back.” He showed several photographs of the lot and where he would like to construct the garage addition. He also told the Board that he had talked to each and every one of his abutters and that no one had any problem with his request.

Mr. Leishman noted that it appeared that there had been a two or three-car garage in the past and asked what the area directly to the right of the current garage was used for. Mr. Walker replied the space was mainly used for storage and that its use as a garage was not appropriate due to its proximity to the front steps of the house. Chair Stewart interjected “It looks small” with Mr. Walker replying “it is eight feet wide.” Ms. Monahan asked how wide the addition would be with Mr. Walker replying “15 feet.” When Chair Stewart asked if the area to the left of the current garage was already an impervious space Mr. Walker replied “yes it is paved.”

Mr. Sobe asked if there were other variances for setbacks on the property. Code Enforcement Officer Dario Carrara noted he did not recall any in that area. “I am not sure about the Crowe garage but it has been there for such a long time I did not look into it” he said.

Chair Stewart suggested Mr. Walker review the criteria necessary for granting a variance with Mr. Walker reading the criteria responses he had prepared for the application.

Chair Stewart asked if there were a map of the neighborhood to review. Mr. Carrara projected a map with Chair Stewart noting “almost everything is nonconforming in one way or another.”

They pointed out Parcel No. U019-029-000 (the closest abutter) with Mr. Walker reporting he had spoken with the neighbor (Adam Arnone) and that he had no problem with the garage. "They cannot see my house" he said. Mr. Carrara noted that the Crowe garage did not show on the map and that he would investigate why that was.

Chair Stewart asked if there were any other questions from the Board. With none he asked if they felt a site visit was necessary. The Board did not feel a site visit was necessary and agreed they were ready to move to deliberation.

A motion was made/seconded (Stewart/Leishman) to close the hearing and move into the deliberative session with all in favor. Ms. Laurenitis left the table and sat in the audience.

Chair Stewart read the Rules of Procedure for deliberation (the Board was moving into a deliberative session and that no additional information or testimony would be heard, but the Board reserved the right to ask for additional information at their discretion if necessary). He continued with "we will start with a straw poll like we usually do." He began with "I feel they meet the criteria, it is not a hardship but it will improve the neighborhood and have no negative impact on the neighborhood." He looked to the Vice Chairman and said "Sharon?" Ms. Monahan replied "I agree." Chair Stewart then looked to Mr. Leishman who said "I have no problem with that Mr. Chairman." Mr. Sobe and Mr. LaRoche both agreed as well.

A motion was made/seconded (LaRoche/Stewart) to approve the Variance request with all in favor.

Other Business:

Ms. Monahan asked when the revised zoning amendments (Chapter 245) would be available. It was noted that information would be distributed as soon as it was updated. Chair Stewart also asked the most recent Rules of Procedure be distributed to the Board.

Minutes:

A motion was made/seconded (Monahan/Stewart) to approve the Minutes of April 7, 2014 as written with all in favor.

The meeting adjourned at 8:05 p.m.

Respectfully submitted,

Laura Norton

Administrative Assistant

ZONING BOARD OF ADJUSTMENT

NOTICE OF DECISION

You are hereby notified that the request of Lloyd Walker, for a **Variance** to Article II, Section 245-6 B (2) of the Zoning Ordinance, to reduce the side building setback to ten (10) feet for an attached garage, on property located at 70 Pine Street, parcel number U19-022-000, in the Family District, is hereby **GRANTED**.

In reaching the variance decision, the Board finds that:

1. The variance will not be contrary to the public interest because:
The proposed garage will be located in an existing paved parking space and will be consistent with the character and setbacks in the neighborhood.
2. The spirit of the ordinance is observed because:
The garage addition will not increase the density and is consistent with the setbacks in the neighborhood. The proposed garage addition is considerably setback from Pine Street and will not be noticeable from the street. The adjacent abutter has a garage less than ten feet from the property line.
3. Substantial justice is done because:
There is no public benefit from denying the applicant because the driveway and parking already exists.
4. The values of surrounding properties are not diminished because:
Bringing this property up to modern standards will increase the value of the property and thus the surrounding properties. The existing buffer will be maintained to adjacent properties.
5. Unnecessary hardship
Special conditions of the property include:
 - The proposed garage addition is considerably setback from Pine Street.
 - It will not impact a landscaped area of the yard but will utilize the existing conditions.
 - The garage is not up to modern building standards of two car garages.
 - a. Owing to the special conditions of the property that distinguish it from other properties in the area, denial of the variance would result in an unnecessary hardship because:
 - i. There is not a fair and substantial relationship between the general purposes of the zoning ordinance and the specific application of that provision on the property because:
A 25 foot setback is not necessary because a driveway and parking already exists 10 feet from the property line. The street already has

numerous exceptions to the setback requirement, hence the variance will not alter the look and feel of the neighborhood.

- ii. The proposed use is a reasonable one because:
The unique characteristics of the property previously mentioned.

In granting this variance, the Board imposes the following conditions:

1. The north side building setback will be a minimum of 10 feet.
2. The proposed garage will be consistent with the existing garage and character of the neighborhood.

Signed,

James Stewart, Chair

Note: An application for rehearing on any question of the above determination may be taken within 30 days of said determination by any party to the action or person directly affected thereby according to the provisions of New Hampshire Revised Statutes Annotated, Chapter 677. Decisions for Variances and Special Exceptions shall become null and void in two years if substantial compliance with said decision or substantial completion of the improvements allowed by said decision has not been undertaken after the date of approval. If this decision becomes null and void, the owner must reapply to the Board of Adjustment for a Variance or Special Exception as provided for in §245-42 of the Peterborough Zoning Ordinance.