

ZONING BOARD OF ADJUSTMENT
TOWN OF PETERBOROUGH
Monday, February 5, 2018 – 7:00 p.m.
1 Grove Street, Peterborough, New Hampshire

Board Present: James Stewart, Loretta Laurenitis, Peggy Leedberg, Peter LaRoche and Seth Chatfield

Staff Present: Laura Norton and Peter Throop, Office of Community Development

Chair Stewart called the meeting to order at 7:00 p.m. “Good evening” he said “this is the stated February meeting of the ZBA.” He then introduced the Members and Staff, read the Rules of Procedure, appointed Ms. Laurenitis to sit and read the only case for the night:

Case No. 1243 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 finished Chair Stewart looked up and asked “are there any corrections or changes to this notice?” With none he asked the applicant to proceed.

Brad Quimby of Monadnock Home Works, LLC stood and introduced himself as the representative for applicants Patrick and Alexandra Curtin. He told the members the request was exactly the same request the Board had approved in 2014 (Case No. 1204) when it had been applied for by (then) homeowner Lloyd Walker. He noted the garage had not been substantially expanded and the approval had expired. He reiterated the application was exactly the same and the newest homeowners wanted to complete the project. “Nothing has changed” he said.

“Any questions from the Board?” asked Chair Stewart. With none he reiterated the Variance was for a reduction of the side building setback to ten (10) feet to expand an attached garage and that nothing has changed. Ms. Laurenitis confirmed it was an existing parking space, and that there was no addition to the building. “It is the same” interjected Chair Stewart.

A motion was made/seconded (Stewart/Chatfield) to go in to deliberation with all in favor.

Deliberation:

Chair Stewart read the deliberative statement and began with a straw poll. He said “I see no issue with it” and each of the members quickly agreed.

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

ZONING BOARD OF ADJUSTMENT

NOTICE OF DECISION

Case Number 1243

February 5, 2018

You are hereby notified that the request of Patrick and Alexandra Curtin, 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

Other Business:

Office of Community Development Director Peter Throop was present to update the Board. "Dario Carrara is no longer here" he said adding "he has gone to the City of Concord and we wish him well." Mr. Throop went on to tell the members Mr. Carrara had agreed to participate in the meetings over the next couple months to assist with the transition. "We appreciate that" he said. He noted the Code Officer position had been

posted and the deadline for resumes was last Friday “with four or five responses.” he told the members “we will be moving through the process of evaluating them. Our goal is to get a full-timer in here as soon as possible.”

Mr. Throop then noted he had two items to discuss, specifically his guidance and assistance in supporting a new Chairman (Chair Stewart is not seeking re-election and his term ends in May) and training for the Board.

Chair Stewart noted training the members had received in the past through the OEP (Office of Energy and Planning). Mr. Throop told the members he wanted to make sure they were up to speed and suggested Town Attorney John Ratigan come in for training through the transition. He went on to note the proposed amendments to the zoning ordinance for 2018. “When we sent the amendment to John (Ratigan) for review he identified the zoning board section of the ordinance as being quite out of date.” “What?” replied Chair Stewart with Mr. Throop noting “it does not reflect the statutory changes” adding “and the Appeals section and Special Exceptions are all lumped in together.” Ms. Laurenitis noted the current Special Exception Criteria “are extensive compared to other towns” with Mr. Throop replying “one criteria is so onerous it is more than what a Variance requires.”

Mr. Chatfield asked “why have we not heard anything about this earlier?” Chair Stewart followed by stating “John works for us, how did this come up?” He went on to ask Mr. Throop “did you initiate this? do you have concerns?” Mr. Throop replied “I did not, I gave him the ordinance which was reorganized and re-codified to make it easier and more accessible.” He, in turn noted we needed to spend some time looking at the Special Exception criteria.

Chair Stewart sat back and said “John (Ratigan) has been our attorney for fifteen years. I find it hard to believe what you are saying. That being said we have an obligation to fulfill what is in the ordinances but modifying the ordinances is not our job, we just enforce them. Zoning and proposed zoning is *not* our job.” Mr. Chatfield agreed and asked “why is he coming through you?” Mr. Throop explained “I am the staff support for you and this Board now. My job is to make sure your needs are being met.”

A brief discussion about zoning changes and the role of the Planning Board followed with Chair Stewart reiterating “the Zoning Board has no authority to modify anything. We act on the rules passed by court documents and history.” Chair Stewart also noted he felt the proposed zoning changes were far more complex than what exists.

Mr. Throop reiterated the goal was to include the Zoning Board in the zoning sections of the ordinance. Chair Stewart noted the members, as individual members of the community should be involved “but not as a Board, not as a collaborative, it is not our jurisdiction” he said.

Mr. Throop once again noted the goal of having the Zoning Board provide input to the process. “How would we do that?” asked Chair Stewart. Mr. Throop noted a creation of a subcommittee to review what other towns have done and come up with proposals. “It is *intended* to be a collaborative process” he said adding “you can provide input on what works and what does not work.” Chair Stewart described the Board as a quasi-judicial Board “that should not be writing what they are destined to interpret.” “I agree” interjected Ms. Leedberg adding “the Zoning Board should not have visible blessing on it. That is something we should not have.”

Chair Stewart abruptly announced “I think we should table this, I want to talk to John.” He then asked “do you think he could come to our next meeting? Mr. Throop replied “yes, I think so.” Ms. Laurenitis asked if the meeting should be non-public with Chair Stewart adamantly insisting the meeting be public. “The more people know, the better” he said.

Mr. LaRoche suggested not only meeting with the town attorney at the next meeting but having training provided as well. The members agreed.

Minutes: A motion was made/seconded (Stewart/LaRoche) to approve the Minutes of December 4, 2017 as written with all in favor.

Next Meeting: March 5, 2018 at 6:00 p.m. (Note time change)

The meeting adjourned at 7:40 p.m.

Respectfully submitted,

Laura Norton

Administrative Assistant