

ZONING BOARD OF ADJUSTMENT
TOWN OF PETERBOROUGH
Monday, July 6, 2015 – 7:00 p.m.
1 Grove Street, Peterborough, New Hampshire

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

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” he said “this is the July stated meeting of the Zoning Board of Adjustment. I am Jim Stewart and I am the Chair.” Chair Stewart went on to introduce the members and staff and read the Rules of Procedure.

With four members in attendance Chair Stewart then told the first applicant that per their Rules of Procedure he had an opportunity to opt for a full 5-member Board and if he preferred that option his case could be continued. Mr. Walker agreed to be heard this evening and Chair Stewart read the first case.

Case No. 1216 Lloyd & Lorraine Walker are requesting a Variance to reduce the side building setback to 5 feet as regulated by Chapter 245, Article II, Section 8 (D) (2) of the zoning ordinance. The property is located at 11 Field Road, Parcel No. R002-008-001 in the Rural District.

Chair Stewart looked up and asked “are there any corrections or changes to this posting?” Lloyd “Butch” Walker introduced himself and noted the original application stated the reduction of the side building setback was five feet. He told the members after his neighbor and abutter William Bass assisted him in finding his second property line marker “it is actually fifteen feet” he said. Chair Stewart acknowledged the change to the posted notice to reflect fifteen feet.

Mr. Walker told the members “Field Road is a dead-end road about 1/10 of a mile long.” He went to note there were three land owners on the road and two houses. He told the member his only abutter, William Bass owns 75 acres without a house on the land. “His land surrounds my house” he said. He went on to say the only other house on the road belonged to Ruth Carr, who just recently passed away. “That property s 132 acres” he said adding “and her daughter Dina Nelson intends

to keep it in the family.” He concluded by reiterating “we have 210 acres, two houses and three landowners.”

Chair Stewart asked if the addition would be in the character of the house with Mr. Walker relying “oh yeah, if you knew my wife, yes.”

A brief discussion about the dimensions and jog-outs of the addition as well as the restraints of the lot (yard, garden and driveway) and where it could be constructed followed. Chair Stewart asked about screening with Mr. Walker noting his abutters had no concerns. “If anything they are happy it blocks the (above ground) LP Tank” he said.

Ms. Laurenitis asked about the height of the addition. Mr. Walker noted the structure would be at the same roof-line as the house. Chair Stewart noted the five criteria for a Variance and asked if Mr. Walker had anything to add to what he had provided on the application. Mr. Walker reiterated the shape (narrow) of the lot and the constraints that placed the addition where it was.

Opening the case up to the audience Chair Stewart asked if there was anyone in the audience who would like to speak. Ms. Monahan asked if there were any abutters in the audience with Mr. Walker reiterating he only had two abutters, one living in New Jersey and the other in Massachusetts but neither had any objections.

A motion was made/seconded (Monahan/Laurenitis) to go into Deliberation with all in favor. Chair Stewart appointed Alternate Laurenitis to sit.

Deliberation:

Chair Stewart read the Deliberative Session Statement. He looked up and said “we can take a straw poll to see how people are feeling” adding “I don’t see an issue. It is a very narrow lot with setback and property location restrictions. I don’t see an issue with it.”

Ms. Laurenitis agreed noting “I don’t either” adding “I was a bit concerned with the original five foot setback but that was determined to be fifteen feet and it *is* the only logical place to have it. It is pretty isolated and impact is minimal.”

Ms. Monahan was in agreement with Ms. Laurenitis “especially the fifteen feet” she said. She also noted she now understood the hardships associated with the confines of the lot.

Mr. LaRoche also agree citing the narrow nature of the lot and the area chosen was the only logical place to put it.

A motion was made/seconded (Stewart/Laurenitis) to approve a Variance to reduce the side building setback to 15 feet as regulated by Chapter 245, Article II, Section 8 (D) (2) of the zoning ordinance with all in favor.

NOTICE OF DECISION

Case Number 1216

July 6, 2015

You are hereby notified that the request of Lloyd and Lorraine Walker, for a variance to Article II, Section 245-8 (D) (2) of the Zoning Ordinance, to reduce the side building setback to 15 feet for a porch addition, on property located at 11 Field Road, parcel number R002-008-001, in the Rural District, is hereby **GRANTED**.

In **granting** the variance, the Board finds that:

1. The variance **WILL NOT** be contrary to the public interest because:
The proposed porch will not alter the character of the neighborhood or threaten public safety.
2. The spirit of the ordinance **IS** observed because:
The setback of 15 feet to the adjacent undeveloped lot is reasonable based on the narrow shape of the lot.
3. Substantial justice **IS** done because:
The proposed placement of the porch is the most logical and practical spot due to the layout of the existing house and the location on the lot.
4. The values of surrounding properties **ARE NOT** diminished because:
Testimony and the record support no objections to the proposal.
5. Unnecessary hardship
Special conditions of the property are:
 - Narrow lot.
 - Non-conforming front setback.
 - Garage and driveway location.
 - There are only 2 houses on this dead end road.
 - 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:
This is the most practical and reasonable location to place the proposed screen porch.
- ii. The proposed use **IS** a reasonable one because:
It does not alter the character of the neighborhood. It is the only reasonable and logical place to put the porch without undue hardship.

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

1. The porch will be in substantial compliance with the plans and testimony submitted and will be no higher than the existing house.

Signed,
James Stewart, Chair

Chair Stewart read the second case.

Case No. 1217 Town of Peterborough and Northern NE Telephone Ops, LLC are requesting: A Variance to build a storage building within the 25 foot side and rear building setback, as regulated by Chapter 245, Article II, Section 7 (C) (3) of the zoning ordinance. A Variance to allow buildings to cover more than 25% of the parcel, as regulated by Chapter 245, Article II, Section 7 (C) (8) of the zoning ordinance and a Variance to allow impervious surfaces to exceed 20% of the land area, as regulated by Article III, Section 14 (E) (1) of the zoning ordinance. The property is located at 18 Concord Street, Parcel No. U017-142-000 in the General Residence District.

Chair Stewart asked “are there any corrections or changes to this posting?” With no response Chair Stewart continued “with that being said I will reiterate the opportunity to opt for a full 5-member Board.”

DPW Director Rodney Bartlett introduced himself and told the Chairman a 4-member Board was adequate. He then pointed out an authorization from Northern New England Operations LLC (Fairpoint Communications) to appoint a representative from the town to represent them. “I am that representative. That is

why I am here tonight” he said. Chair Stewart re-read the Rules of Procedure and asked Mr. Bartlett to continue.

Variance to build a storage building within the 25 foot side and rear building setback: Mr. Bartlett gave a brief history of the events leading up to the meeting. “The effort to acquire this property goes back to 2011” he said adding “the 1833 Society and the Trustees of the Library of the Future see parking as a critical aspect to their plan.” He pointed out the location of the Library between Concord Street, Main Street and the Contoocook River. “The most logical place to look was to the north at Fairpoint” he said.

Mr. Bartlett noted both Phase I and Phase II of the environmental site assessment revealed some asbestos that would have to be mitigated but no other contaminants in the area of the back lot. “The 1833 Society and Fairpoint signed a long-negotiated Purchase & Sales agreement October 14, 2014” he said.

Mr. Bartlett then reviewed *RSA 41:14-a* explaining anytime a town acquires property (by gift or purchase) or wishes to dispose of a property it must do so through *RSA 41:14-a Acquisition of Sale of Land, Buildings, or both*. He briefly described the Boundary Line Adjustment application by the town to acquire 14,000 square feet of land from the Fairpoint Building (Northern NE Telephone Ops, LLC) and append it to the Keyes Sage building and then merge that lot with the Library. He reported the Planning Board had met and voted unanimously to recommend the Board of Selectmen accept the parcel purchased by the 1833 Society on June 15th and that the Conservation Commission was in support of the acquisition as well. He reviewed the process and timing of the public hearings (one completed (June 23, 2015), the second scheduled for July 7, 2015 at 5:30 p.m. and a vote by the Board of Selectman scheduled for July 21, 2015).

Mr. Bartlett went on to review the subdivision planned for the site. He briefly pointed out storage areas, parking and the location of a generator and a box trailer (10 by 25 feet) to be maintained by Fairpoint for both day-to-day operations and emergency response.

Mr. Bartlett reviewed the impervious surface area as well and the lot coverage calculations done by Meridian Land Services. He noted no net changes adding “with the subdivision there will be a percentage in change individual ownership but the overall percentage does not change. He told the members “the box trailer is reported to be 10 by 25 feet but most are 8 feet wide to fit on a flatbed truck” adding “so there is even a potential for less impervious surface when we get all done.”

Ms. Laurenitis asked about the storage of hazardous materials with Mr. Bartlett noting there was no evidence of anything hazardous was found. "Supplies storage only" he said. He then reviewed the criteria for the Variance and reiterated the uniqueness of the location noting "this is the only direction the Library of the Future can go to remain contiguous with the current site." He concluded by noting the new parking area was necessary for the Library to function correctly. "The architects have confirmed that with us" he said. Mr. LaRoche asked how many spaces would be created with Mr. Bartlett replying "26 or 28. It is in a conceptual phase right now."

Variance to allow buildings to cover more than 25% of the parcel:

Mr. Bartlett reviewed the lot coverage calculations with several of the members wondering if a Variance was in fact needed in the first place. Mr. Bartlett reviewed the building and box trailer total square footage of 3,614 feet. The members agreed an approval for a Variance would give the applicant flexibility.

Variance to allow impervious surfaces to exceed 20% of the land area:

Mr. Bartlett reiterated the intention to have the same amount of impervious surface "that exists today, a net zero change in the impervious surface."

Chair Stewart opened the public hearing up to the audience. John Bowes introduced himself as an abutter (13 Summer Street). He told the members he would like to see the design of the parking lot as his back view looks directly at the lot being discussed. He cordially asked about screening and lighting (specifically streetlights). Chair Stewart noted his concerns were Planning Board issues and while this was not the appropriate forum his concerns were genuine.

Ron McIntire introduced himself as the Chairman of the 1833 Society. He told the members "this has been a long and dawn out negotiation" adding "and we should recognize Fairpoint as a good neighbor." He went on to say "they have been cooperative and negotiated in good faith."

Mr. McIntire gave a brief review of the two years of work "that went into getting this far" adding "and it is very, very important to the architectural design of the new Library building." He told the members the new design would "allow us to realign the building with the River rather than Concord Street (and) be totally AHA compliant. He told the members (currently) if a person with a disability or an elderly patron wished to get downstairs without using the stairs they would have to go outside, through the parking lot and enter the back of the building. "The new

building will have an elevator to access any level of the Library from the main entrance” he said.

He concluded by noting the new building will be aesthetically pleasing “we do not have that quality now. We have some big plans and this is a very important landmark for us, and hope you approve these requests for Variances.”

“Anyone else?” asked Chair Stewart. With no response the members seemed surprised at such a large audience had so little to say.

Ron Bowman introduced himself as a Library Trustee and told the members “we are all interested parties” adding “we are here to show support of the organization, show our commitment and be of assistance by answering any questions *you* may have.”

A motion was made/seconded (Stewart/Laurenitis) to close the hearing and go into deliberation with all in favor. Chair Stewart appointed Alternate Laurenitis to sit.

Deliberation

Chair Stewart began with “I think the lots are so nonconforming now that it is an improvement. I don’t see an issue with it, I even question whether or not Variances are needed for each request.”

Ms. Laurenitis noted “I agree with all three as well” adding “and if the lot were not an option, the Library may not accomplish their plan. That is a hardship.”

Ms. Monahan agreed. “I support it” she said, but added, “even though I have a problem with Peterborough proposing parking lots next to the River.” She acknowledged “conditions exist and there is no net change in the impervious surface so I support all three requests.” She also noted Mr. Bowes’ concerns were very legitimate concerns and should be addressed.

Mr. LaRoche said “I support it.”

A motion was made/seconded (Laurenitis/LaRoche) to approve a Variance to build a storage building within the 25 foot side and rear building setback, as regulated by Chapter 245, Article II, Section 7 (C) (3) of the zoning ordinance. A Variance to allow buildings to cover more than 25% of the parcel, as regulated by Chapter 245, Article II, Section 7 (C) (8) of the zoning ordinance and a Variance

to allow impervious surfaces to exceed 20% of the land area, as regulated by Article III, Section 14 (E) (1) of the zoning ordinance with all in favor.

Chair Stewart noted they address Ms. Monahan's suggestions for Conditions (screening, landscaping and lighting) with the suggestion that they recommend these issues be addressed (to) Planning Board specifications and not be specific. "To the satisfaction of the Planning Board" he said. Ms. Laurenitis pointed out the letter of authorization from Fairpoint did not give authorization for the appointed representative to agree to any conditions without their approval.

NOTICE OF DECISION

Case Number 1217

July 6, 2015

You are hereby notified that the request of Northern NE Telephone Ops, LLC and the Town of Peterborough, NH, for:

1. A variance to Article II, Section 245-7 (C) (3) of the Zoning Ordinance, to reduce the side and rear building setback to build a storage building.
2. A variance to Article II, Section 245-7 (C) (8) of the Zoning Ordinance, to allow buildings to cover more than 25% of a parcel.
3. A variance to Article III, Section 245-14 (E) (1) of the Zoning Ordinance, to allow total impervious surfaces t exceed 20% of the land area.

on property located at 18 Concord Street, parcel number U017-142-000, in the General Residence District, are hereby **GRANTED**.

In **granting** the variances, the Board finds that:

6. The variances **WILL NOT** be contrary to the public interest because:
They are necessary for the growth and support of the public Town library. The Planning Board, Conservation Commission and the Select Board are in support of the proposal.
7. The spirit of the ordinance **IS** observed because:
Impervious surface area remains the same because the existing garage will become a parking area. The proposed storage facility will abut the new parking area and a landscape screen will be included.
8. Substantial justice **IS** done because:

No additional dwellings or buildings are proposed. The overall impact is consistent with current impacts. The existing 3,100 square feet of garage storage will be reduced to 250 square feet. The new parking area allows for the redesign of the current library making it more aesthetically pleasing, functional, and will provide greater accessibility.

9. The values of surrounding properties **ARE NOT** diminished because:
The proposed use is consistent with existing conditions and non-residential uses.

10. Unnecessary hardship

The existing special conditions of the property are:

- This proposal is the only way to provide contiguous parking for the library.
 - All existing lots are non-conforming in use, including building setbacks and parking facility setbacks.
 - Placement of the proposed storage trailer will be no closer to the side building setback than the existing building.
 - Regarding variance #2 the margin of error in calculating the impervious coverage may result in exactly the existing 25% of coverage.
 - Regarding the request for variance #3, there is no change in net impervious surface area; the changes have to do with lot sizing from the subdivision process.
- 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:
It would be a hardship for the community and Town library if parking could not be provided contiguous to the current site.
 - ii. The proposed use **IS** a reasonable one because of the special conditions of the properties and the needs of the community.

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

2. Stormwater management, vegetative screening, and lighting are to be addressed by the Planning Board.
3. Substantial compliance with the testimony and plans presented.

Signed,

James Stewart, Chair

Minutes:

A motion was made/seconded (Stewart/LaRoche) to approve the Minutes of June 1, 2015 as written with all in favor.

The meeting adjourned at 9:20 p.m.

Respectfully submitted,

Laura Norton
Administrative Assistant