

**ZONING BOARD OF ADJUSTMENT  
TOWN OF PETERBOROUGH**

Monday, December 4, 2017 – 7:00 p.m.  
1 Grove Street, Peterborough, New Hampshire

**Board Present:** James Stewart, Sharon Monahan, Peter Leishman, Peggy Leedberg, Peter LaRoche and Seth Chatfield

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

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Chair Stewart called the meeting to order at 7:00 p.m. “Good evening” he said “this is the stated December meeting of the ZBA.” He then introduced the Members and Staff and read the Rules of Procedure that would govern the cases. Chair Stewart read the first case:

**Case No. 1240 John Wolfskill** is requesting a Variance to reduce the front building setback to 37 feet in order to add a porch to the front of the house, as regulated by Chapter 245, Article II, Section 8, D, 2 of the zoning ordinance. The property is located at 546 Greenfield Road, Parcel No. R012-021-000, in the Rural District.

After reading the case Chair Stewart looked up and asked “are there any changes or corrections to this notice?” With none he asked Mr. Wolfskill to present his case.

John Wolfskill introduced himself and began by holding up a picture of a house with a front porch. “This is what we’d like to do” he said. He cited the facsimile of the small porch as what the addition would look like. “It is 8 by 12 feet” he said adding “and it does not infringe more than a couple of inches further than the front steps do now. My house was built before the setback from zoning was enacted.”

Mr. Wolfskill told the members “we are not asking for a very large porch, we are getting up in years and we feel it would be safer to get in and out of the house in the snow and ice without falling on our fannies (and) we would like to sit outside in the summer time when it is warm. That is about it.” Noting he was “a bit stymied” by the criteria questions he went on to read the criteria.

When done Chair Stewart asked if the members had any questions. Ms. Monahan asked what the setback was with Chair Stewart replying “50 feet.” Mr. Wolfskill noted his house currently was approximately 45 feet from the front setback. Ms. Monahan then asked if the final setback would be 31 or 37 feet for the front as the application differed from the plan. Code Enforcement Officer and ZBA Liaison Dario Carrara suggested they note that the setback would now be 8 feet closer to the road. “And you don’t count the steps” he said.

Chair Stewart opened the hearing to the audience with no questions or concerns.

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

***Deliberation:***

Ms. Monahan went to sit in the audience as Chair Stewart began with a straw poll. “I see no issues with it” he said adding “it is already nonconforming.” Mr. Chatfield agreed, as did Mr. LaRoche, Ms. Leedberg and Mr. Leishman.

A motion was made/seconded (Stewart/Leedberg) to approve a Variance to reduce the front building setback to allow the addition of a porch which would reduce the current setback by 8 feet to the front of the house, and that the addition be substantially compliant to the plan submitted December 4, 2017 with all in favor.

## NOTICE OF DECISION

Case Number 1240

December 4, 2017

You are hereby notified that the request of John Wolfskill, for a **Variance** to Chapter 245, Article II, Section 8, D, 2 of the Zoning Ordinance, to reduce the front building setback to 31’, on property located at 546 Greenfield Road, Parcel No. R012-021-000, 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:

If properly constructed, we think a porch addition is not a safety or public health hazard. It will not have an unsightly impact on the neighborhood, but instead will enhance the look of the neighborhood. The applicant takes pride in the appearance of their property.

2. The spirit of the ordinance **IS** observed because:

The porch, in its entirety, will not extend in depth beyond the existing steps and sidewalk landing area of the home. By keeping the porch small, the spirit of the setback regulation is observed.

3. Substantial justice **IS** done because:

Granting of the variance would allow the applicant to create an entryway shelter free of ice, and snow.

4. The values of surrounding properties **ARE NOT** diminished because:

The proposed addition would not alter the character of the area.

5. Literal enforcement of the provisions of the ordinance **WOULD** result in an unnecessary hardship.

The house was constructed before the current setback regulation was enacted, which makes the situation unique with respect to a new home. Not granting the variance will cause a hardship by not allowing the applicant to enhance the usefulness of their property, and make the home a safer place in which to live.

And, the proposed use is a reasonable one since:

(a)

(b) If the criteria in subparagraph (a) are not established, an unnecessary hardship will be deemed to exist if, and only if, owing to special conditions of the property that distinguish it from other properties in the area, the property cannot be reasonably used in strict conformance with the ordinance, and a variance is therefore necessary to enable a reasonable use of it.

(i) The following special conditions of the property make the variance necessary in order to enable a reasonable use of it:

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

1. Substantial compliance to plans submitted.

Signed,

James Stewart, Chair

Mr. Stewart read the second case:

**Case No. 1241 Gloria Anderson** is requesting a Variance to reduce the side building setback to 11 feet to expand the existing attached garage, as regulated by Chapter 245, Article II, Section 6, B, 2 of the zoning ordinance. The property is located at 2 MacDowell Road, Parcel No. U024-053-000, in the Family District.

Mr. Chatfield recused himself as he is a direct abutter to this property. Chair Stewart appointed Ms. Monahan to sit for the hearing and asked if there any changes or corrections to the notice. With none he asked the applicant to proceed.

Phil Runyon stood and introduced himself as Ms. Anderson's representative. He added Ms. Anderson was also present and was now the owner of the property.

Mr. Runyon pointed out the property on MacDowell Road noting it was cape that sat back from the road with a single car garage. "We would like to add another bay making it a two-car garage which will reduce the side setback to 11 feet" he said. He noted Mr. Chatfield's home was to the north of Ms. Andersons home. He then distributed a proposed decision to the members and reviewed the Variance criteria. One point made by Mr. Runyon was the fact that if the request was for a new build it would fall into the Traditional Neighborhood Overlay Zone (TNOZ) that would allow a side setback to 10 feet. He noted the overlay district did not apply however "because it is an addition not a new build, but if you could do it with a new house it is reasonable to do it with a building that already exists." He told the members a two-car garage was keeping with the neighborhood and that Ms. Anderson had met with the abutters personally with none having a problem with her request.

Ms. Leedberg asked for clarification that this was an addition and not a tear down of the existing garage. Chair Stewart asked about the style of the addition and Mr. Leishman noted the house across the street appeared to have a setback closer that the applicant's request. It was noted many of the homes in the neighborhood were nonconforming as they were built before zoning went into effect. Ms. Monahan questioned why they had not applied for a Conditional Use Permit from the Planning Board. Mr. Runyon reiterated that TNOZ was for new construction only. "That is my point" he said adding "that ordinance should be amended but that is not the focus tonight."

Chair Stewart opened the hearing to the audience. Linda Sutton introduced herself as the abutter to the south (4 MacDowell Road). Ms. Sutton's main concern was the increase of height to the garage and how that may affect her gardens. "Is it going to be

two stories?” she asked. Mr. Runyon noted the current garage was a one-story with a small attic. A brief discussion about the standard style cape being one and a half stories high followed. “It will not be any higher than the present garage” said Mr. Runyon with Ms. Sutton noting “the addition would be on the sunny side of her home “and a two story structure would make a huge difference” she said, Mr. Runyon replied “we are sensitive to the height of the garage, we want to be a good neighbor.”

Sarah Stenberg Heller introduced herself as an abutter and noted she had no problem whatsoever with the request.

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

***Deliberation:***

Chair Stewart began with a straw poll noting “there are many other houses with two-car garages on the street and we have granted similar requests in the past. A two-car garage is reasonable, I have no issue with it.” Mr. LaRoche added “I have no issue for the exact same reasons.” Ms. Monahan agreed as did Ms. Leedberg (who noted she would have liked more detail on the garage) and Mr. Leishman.

A motion was made/seconded (Stewart/LaRoche) to approve Variance to reduce the side building setback to 11 feet to expand the existing attached garage, and that the garage be substantially compliant to the plan submitted December 4, 2017 with all in favor.

## NOTICE OF DECISION

Case Number 1241

December 4, 2017

You are hereby notified that the request of Gloria Anderson, for a **Variance** to Chapter 245, Article II, Section 6, B, 2 of the Zoning Ordinance, to reduce the side building setback to 11’, on property located at 2 MacDowell Road, parcel identification number U024-053-000, in the Family 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 neighbors support this request, which is the best indicator of the public interest in this particular neighborhood.

2. The spirit of the ordinance **IS** observed because:

This request is entirely consistent with the single-family nature of the Family District

3. Substantial justice **IS** done because:

Many other residences in the neighborhood already have two-car garages, and a number of other applications for similar setback variances have been granted without any detrimental impact on surrounding properties.

4. The values of surrounding properties **ARE NOT** diminished because:

Having an additional garage will allow the owners' vehicles to be parked out-of-sight, rather than on the street or in the driveway, thereby enhancing the value of this property and perhaps even enhancing the value of the surrounding residences in this established neighborhood where many already have two-car garages.

5. Literal enforcement of the provisions of the ordinance **WOULD** result in an unnecessary hardship.

- a. The proposed location next to the existing garage is the only reasonable location for a second garage.
- b. This property is located in the Traditional Neighborhood Overlay Zone provided for in Section 245-15.3, the purpose of which is to "allow for the infilling of lots and additional residential housing in close proximity to the Downtown Area in sections of town where there are established subdivided neighborhoods." That zone allows for side setbacks of as little as 10 feet; however, qualifying under that provision is unavailable here, because this request is not for construction of a new residence, but for an addition to an existing residence. That distinction unfairly discriminates against an owner who wants to increase the potential occupancy of an existing residence by adding new living spaces, which the applicant is also doing without need for a variance. That distinction without a meaningful difference thus creates a hardship that is unique to this kind of property with an existing residence already located on it.

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

1. In substantial compliance with the plans presented.
2. The ridgeline of the garage, with the addition, shall not exceed the ridgeline of the house.

Signed,

James Stewart, Chair

Chair Stewart read the last case:

**Case No. 1242 The Peterborough Town Library** is requesting a Variance to reduce the parking facility perimeter setbacks to 2 feet, as regulated by Chapter 245, Article VII, Section 32, B, 1 of the zoning ordinance. The property is located at 14 and 18 Concord Street, Parcel No. U017-139-000 and U017-141-000, in the General Residence and Rural Districts.

Mr. LaRoche recused himself and Chair Stewart appointed Ms. Monahan to sit for the hearing, He asked if there were any changes or corrections to the notice. With none he asked the applicant to proceed.

Tina Kriebel introduced herself and library Director Chronopoulos and gave a brief orientation of the Library lot dimensions and the setback they were requesting. “We have been before you before for Variances and since then we have moved forward” she said. She went on to review the current conditions of the lot including the impervious surfaces that would be decreased by at least 700 square feet if the Variance was approved. “There will be a new lot further from the river than the existing building is now” she said. When Ms. Monahan asked what the setback was Ms. Kriebel replied “currently the setback is at the retaining wall.” Ms. Monahan went on to ask about acquiring a Conditional Use Permit from the Planning Board. Ms. Chronopoulos reported they had been before the Planning Board in February and had reviewed the plan.

Mr. Chatfield interjected “So the request is to reduce the setback from 5 feet to 2 feet?” “For one corner, yes” replied Ms. Chronopoulos with Mr. LaRoche adding “and it is *not* the corner toward the river.”

Ms. Kriebel concluded by reading the Variance criteria to the Board. When done Ms. Monahan noted “I have a questions for Dario (Carrara)” and asked “isn’t this lot in the

Groundwater Protection Overlay?” Mr. Carrara replied it was, Ms. Monahan then asked “so does the 20% lot coverage apply?” Chair Stewart interjected “it does not really apply” with Mr. Carrara adding “that is not what they are asking for, they are talking about the parking lot perimeter and setback relief.” Ms. Monahan asked “isn’t a Variance required for the Groundwater Protection Overlay?” Chair Stewart replied “current conditions exceed it now and they will actually be reducing it but that is not before us tonight.” Mr. Leishman asked if the storm water runoff would be treated with the proposed plan. “All water would be treated” replied Ms. Kriebel. “Just wanted to hear you say that” replied Mr. Leishman with a smile. He then asked about snow storage and removal with Ms. Kriebel noting adequate plans for snow disposal.

Chair Stewart opened the hearing to the audience with no questions or concerns.

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

***Deliberation:***

Chair Stewart began by noting the substantial improvement to what is currently on the site with better layout for public safety and environmental issues. “I am for it” he said. Mr. Chatfield agreed as did Ms. Leedberg, Ms. Monahan and Mr. Leishman.

A motion was made/seconded (Stewart/Leishman) to approve a Variance to reduce the parking facility perimeter setbacks to 2 feet, and that the setback be substantially compliant to the plan submitted December 4, 2017 with all in favor.

## NOTICE OF DECISION

Case Number 1242

December 4, 2017

You are hereby notified that the request of the **Town of Peterborough**, for a **Variance** to Chapter 245, Article VII, Section 32, B, 1 of the Zoning Ordinance, to reduce the parking facility perimeter setbacks to 2’, on property located at 14 and 18 Concord Street, parcel identification number U017-139-000 and U017-141-000, in the General Residence and Rural Districts, is hereby **GRANTED**.

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

1. The variance **WILL NOT** be contrary to the public interest because:

It is suggested that the requested variance is not only not contrary to the public interest, but is affirmatively in the public interest because:

6. The impervious surface area will be placed at a greater distance from the river than proposed in the previous plan.
- 7.
8. The total impervious surface area will be reduced by more than 700 feet. It will be possible to install an improved runoff treatment plan. The spirit of the ordinance **IS** observed because:

The requested variance is compatible with the spirit of the ordinance as the extension of the parking area does not affect the "health, safety or general welfare of community." The use of the property will remain the same. The parking area as originally planned and as proposed will be visible only from the neighboring Blodgett, Makechnie & Lawrence law office. Again, the revised plan makes possible less adverse environmental impact as noted in section 1 above.

9. Substantial justice **IS** done because:

This requirement has been interpreted to mean that any loss to the library project by denying the application that is not outweighed by a gain to the general public is an injustice. There is no gain to the public by denying the variance; rather the public benefits by the above-recited environmental improvements which become available if a variance is granted.

10. The values of surrounding properties **ARE NOT** diminished because:

The values of surrounding properties are not diminished. The direct abutter (Christian Science Church) to the property does not have a direct view of the site from its building. The site is visible from the office of Blodgett, Makechnie & Lawrence. No diminution in valuation of its property has been identified.

11. Literal enforcement of the provisions of the ordinance **WOULD** result in an unnecessary hardship.

- a. Special Conditions

The Board has previously determined that special conditions of the property distinguish it from other properties in the area as follows:

- (1) The only land available to the library, given its location, bounded by the Contoocook River, Main Street, Concord Street, and the FairPoint property, for possible expansion of parking facilities is the relatively underused rear portion of the FairPoint property. The remaining FairPoint land is needed to maintain telephone operations. The land is adequate for such purpose.
- (2) There is to be no change in the use of the property and there will be no negative impact on neighbor's property

or the community, and the variance will permit the parking area to cause less environmental impact than envisioned by the prior plan.

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

1. In substantial compliance with plans presented.

Signed,

James Stewart, Chair

**Minutes:**

A motion was made/seconded (Leishman/LaRoche) to approve the minutes of October 2, 2017 as written with all in favor.

**Other Business:**

Ms. Leedberg gave a brief overview of zoning workshop she and Ms. Monahan had attended in Temple, NH on October 26th. “It was presented by Attorney Stephen Buckley, sponsored by the New Hampshire Municipal Association” she said adding “and it was wonderful. We learned a lot, we’d like to see the whole Board go through it.” When Chair Stewart asked what was so different about that training versus the (for instance OEP trainings) Ms. Leedberg replied “because it was *personal*.” Ms. Monahan agreed noting it was a full afternoon “Not just a 45 minute session with hundreds of people.” Ms. Leedberg noted the information on recusing, emails and what constitutes a meeting was valuable. “Little things like that” she said. “Sounds great” replied Mr. Chatfield.

Ms. Monahan announced two meetings, the first being the Subcommittee meeting on the proposed zoning amendments December 11th at 8:30 p.m. in the Board of Selectmen’s meeting room (after the Planning Board stated December meeting) and then the following Monday, December 18th at 6:30 p.m., a Planning Board Zoning Amendment Workshop at Reynolds Hall (All Saints Church) in Peterborough.

Mr. Carrara reminded the members his door is always open if they had questions or concerns on any zoning issues.

The meeting adjourned at 8:05 p.m.

Respectfully submitted,

Laura Norton

Administrative Assistant